

COURT IN THE ACT

THE YOUTH COURT OF NEW ZEALAND

TE KŌTI TAIOHI O AOTEAROA

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FEATURE

This issue we shine a spotlight on one of our youth services.

Raechel Osborne, CEO of Kapiti Youth Services (KYS), outlines the programmes that are made available to young people in the Kapiti region, as well as the recent developments and approaches to ensuring that young people are well-supported.

See page 6 for more.

Court in the Act is a national newsletter coordinated by the Office of the Principal Youth Court Judge. For any suggestions, feedback or contributions, please contact: courtintheact@justice.govt.nz.

EDITORIAL

THE NEED FOR LONG TERM INTERVENTIONS

Principal Youth Court Judge, John Walker.



When a young person is engaged in an intensive residential programme, whether it is in a Youth Justice Residence, an activity programme, or residential drug treatment, we see in most cases that huge progress is being made. In these places I have seen young people living structured lives, surrounded by positive support, being well fed, nurtured, and gaining skills in work experience on farms and the like.

They are exposed to an entirely new way of life. They see what the world has to offer, and they see their own potential to be part of that world. But then what?

Young people will inevitably gravitate back to family, and that is where they belong. However, in many cases that family environment may perpetuate the underlying causes of the offending itself.

(Continued overleaf.)

KEY DATES FOR 2018

July 4-7:

Te Hunga Rōia Māori Kura Reo, The Māori Law Society meeting, Auckland.

August 27-28:

Youth Advocate Conference, Auckland.

September 22:

10th Anniversary of the Rangatahi Courts.

While the young person has been shown another way of living, nothing will have changed at home.

If the home is still under the pressures of deprivation, continues to be a place of alcohol and other drug use, where family violence or gang violence still feature, how can we expect a young person to put into effect what they have learned? How can we expect the change in the young person to be sustainable?

It seems to me, that much more needs to be done to change the environment to which the young person will return, while they are away. We need to adopt an approach which will effect change for the young person's whole home environment. The factors in the home which have contributed to offending behaviour need to be addressed if long term change is to be achieved.

**"THEY ARE EXPOSED TO AN ENTIRELY
NEW WAY OF LIFE ... BUT THEN WHAT?"**

JUDGE WALKER

More also needs to be done to transition a young person from a residential programme back into their community. There is a level of cruelty at play when we show a young person how life can be so much better, only to return them to drift hopelessly in their old environment. If they have been shown their potential then it is only fair that a pathway to realising that potential is opened up for them, and they are well-supported down that path.

Having a job to go to would in many cases be a great start. In an ideal world, a pathway to employment will have been created while in the programme, the work experience completed, and an employer found. A mentor or social worker will have been organised to walk alongside them in those first critical months after discharge, ensuring that they get to appointments, getting them to work every day until it becomes a habit, and supporting the employers who have taken on the challenge of employing a young person with little understanding of employment.

A recent example of a successful transition, is a young man in Christchurch who had been a resident at Te Puna Wai o Tuhinapo. For three weeks prior to his departure, options were discussed with staff, and work experience was undertaken doing earthmoving and construction. Several months on, he is now in full time, paid employment and thriving in this new environment, with a supportive employer.

The community is full of like-minded employers who want to give young people a chance. Whenever I speak to employers and paint the picture of those young people who offend, the very first question I am often asked is "how can I help?". We need to foster this, and provide a pathway for communities to help.

Sustainable change will not happen unless the environment of the young person is improved and the young person is supported to implement long term to change.

When we look at the myriad of issues confronting a young person, which will have confronted them for many years before coming to court, we cannot expect that change will happen just because a programme has been completed. The programme will only be the start. Intervention needs to be in for the long haul.

There will often be very large investment in the provision of a residential programme: money; human effort and commitment; investment by the young person too. This investment is likely to be wasted if the long-term commitment is not there.

We are often playing "catch up" in the Youth Court. By that I mean that we are confronted with issues compounding over a lifetime, which need to be addressed in a very short time frame. We have one chance to make a difference. We cannot afford to squander that chance by relying on a short term intervention.

YOUTH COURT NEWS

REMAND OPTION INVESTIGATION TOOL

AN UPDATE BY JASON EDWARDS, ORANGA TAMARIKI

The "Remand Option Investigation Tool", is a tool being developed for use by youth justice sector agencies at the remand stage of the youth justice process. The intention of the Tool is to foster multi-agency information gathering, and information assessment, prior to putting options to the Judge for the young person's remand. It is designed to gather information relating to the young person's identity, consider risk factors, and to assist decision-making by providing recommendations for remand. The following is an update of the latest developments:

The 8 week pilot of the Remand Option Investigation Tool in Counties Manukau concluded on Friday 2nd of February. The focus now shifts to evaluating the Counties Manukau pilot and the Christchurch pilot, which commenced on the 26th of February.

Independent evaluators are in the process of conducting interviews and workshops with the practitioners in Counties Manukau, which will be critical to understanding more about their experiences using the tool, the design of it and what would be needed to support the full implementation of the tool.

While the evaluation will focus on the user experiences, processes and design of the tool, some of the early results for young people are promising. During the pilot there were 17 instances where a young person was arrested and bail was opposed by police and the tool was applied 15 times.

The next phase of the pilot commenced on the 26th of February in Christchurch. A workshop was held with the Christchurch youth justice sector practitioners on the 18th of January to collectively design the local processes that will be needed to support the Christchurch pilot. Currently the design team are preparing to brief the Youth Justice Social Workers, Youth Aid Officers, Advocates and Lay Advocates as well as the Crown Solicitor.

Oranga Tamariki would like to thank all of the people involved in the 8 week pilot of the ROIT in Counties Manukau for their support, guidance and willingness to get involved in the pilot.

The following is a short summary of the information that has been collated during the Counties Manukau pilot:

- 7 out of the 15 young people were Māori, while 7 were Pacific Islanders with one young person identifying as both Maori and Pacific Island;
- 2 (11%) were female;
- The tool was applied 13 times at the 08:30 pre-court meeting and on 2 occasions while the young person was at court;
- Of the 15 times the tool was applied at either the 8:30am pre-court meeting or at court, bail was recommended on 5 occasions;
- In 8 instances the sector practitioners could not agree on a remand recommendation. This was mainly due to the need for additional information that was not known about the young person. In two of these cases agreement was reached at court which resulted in bail being recommended while the remaining 6 cases proceeded without an agreed ROIT recommendation.
- Of these 6 cases where there was no agreement between agencies 5 of the young people were remanded into custody.

YOUTH ADVOCATE CONFERENCE

The 2018 Youth Advocates Conference is scheduled to be held on Monday 27 August and Tuesday 28 August at the Ellerslie Events Centre, Auckland, chaired by Clare Bennett.

The Conference will introduce a number of key speakers, and provide useful insights and a valuable opportunity to meet other Youth Advocates from around the country.

To find out more, please contact:

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WHANGĀREI RANGATAHI COURT OPENING

Saturday 24 February, 2018 marked the opening of the fifteenth Rangatahi Court in Whangārei. The occasion was attended by over 200 people, including iwi leaders, dignitaries, judges, youth justice officials and ministers. The success of the day was a credit to the hard work put in by many to establish Te Kōti Rangatahi ki Whangārei.

For full coverage, please see the Rangatahi Court Newsletter, March edition.



Clockwise from left, Judge Taumaunu, Judge Clark, Judge Davis, Judge Walker and Minister of Justice, Andrew Little, address the gathering at the opening, on Saturday 24 February, 2018.

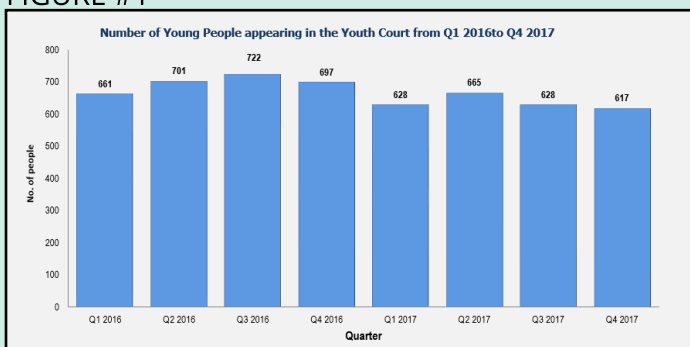


STATISTICS

Observations

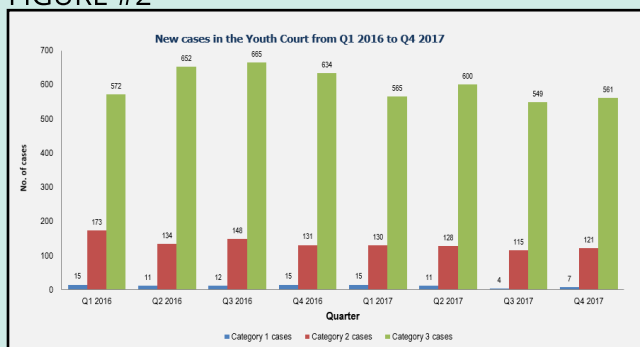
- 617 young people appeared in the Youth Court in the final quarter of 2017. This is an increase of 11 since Quarter 3. It is the lowest number of young people appearing in a quarter across 2016 and 2017.
- The average number of charges per person for young people appearing in the Youth Court in Quarter 4 2017 was 2.9.
- Category 3 cases accounted for 81% of new cases into the Youth Court during Quarter 4. Category 3 cases have consistently accounted for around 80% of cases in the Youth Court since Q2 of 2016. Previously, Category 3 cases accounted for around 75% of cases in the Youth Court. While the number of cases coming into the Youth Court per quarter has generally been decreasing, Category 2 cases have decreased at a higher rate than Category 3 cases.
- The number of young people appearing in the Youth Court decreased by 6.8% (128 fewer young people) between 2016 and 2017.

FIGURE #1



Data analysis provided by Ministry of Justice.

FIGURE #2



FEATURE: KAPITI YOUTH SERVICES (KYS)

Rachel Osborne CEO

Kapiti Youth Services (KYS) is an amalgamation of important services that are made available for youth in the Kapiti region. Principal Youth Court Judge John Walker and Phil Dinham, Director, Youth Justice System Development, Oranga Tamariki recently visited KYS, to see first-hand its model of care.

A fundamental part of the visit was for Judge Walker to meet with KYS staff to discuss KYS' way of working and the programmes being delivered for young people. It was also to be introduced to TOMM - The Outcome Measurement Model. This was developed by KYS and Luvly Ltd, who are responsible for the digital development.

KYS has been operating for over 21 years, and is part of the YOSS (Youth One Stop Shop) network. KYS is a primary source of health and social support, for more than 5400 youth in the Kapiti Coast region. This is approximately 76% of the youth population in Kapiti. Young people accessing our services include medical and nursing services, clinical psychology, counselling, alcohol and drug services, social work, mentoring, parenting, peer support, transition to work, youth development and education programmes.

Services include supporting young people and young parents receiving a benefit and the 16 & 17 year old NEETS (Not in Education or Employment).

All services are provided free of charge for young people aged 10 – 24 years.

KYS staff currently work at over five sites within the Kapiti district and employ 39 full and part time staff.

Staff are passionate about providing services which truly make a difference. This includes not only working closely with the young person but also with families/whanau and the community. The holistic "one stop shop" model of care improves access to a wide range of services in a friendly setting and this allows KYS staff to build strong enduring relationships with young people. This holistic approach removes siloes and improves a young person's engagement with services. KYS acknowledges that adopting an integrated, strength based, youth development approach produces good outcomes that create sustainable change.

Below: Judge Walker (centre) meets with Rachel Osborne (third from left) and KYS staff in February 2018.



KYS' integrated approach has been a driver to trialling a three way partnership with Police and Oranga Tamariki Youth Justice; this involves a Youth Aid Officer and Youth Justice Social Worker working from the KYS site. The purpose of this is to ensure greater collaboration between the three organisations, to ensure effective appropriate services are provided more readily and to reduce the fragmentation and duplication of services.

KYS has fully adopted and integrates the PARTH model as a practice orientation. PARTH focuses on 'HOW' practitioners work with young people so that they are the decision makers. The interventions build on the young person's existing resources and capacities.

PARTH stands for the Pathways to Resilience Research project, led in New Zealand by Professor Robyn Munford and Jackie Sanders from Massey University. The aim of this project was to identify services and strategies that are successful in assisting young people to achieve positive outcomes in their lives. PARTH is a set of practice orientations that have been identified from their research. When applied, they lead to better outcomes when working with vulnerable young people.

The partnership between KYS and Luvly Ltd that led to the company TOMM is unique in that it combines practice and digital development.

TOMM is underpinned by the Domains Framework which provides a shared language describing a young person's health and well-being, and enables the assessors to make a judgment (assessment) in a systematic, consistent and transparent manner while mitigating value-laden assessments. The Domains Framework is framed by Te Whare Tapa Wha which was developed by Mason Durie and which is widely accepted and applied. TOMM tracks outcomes over time and does this by providing a holistic, comprehensive framework of measurements from which the young person's progress is benchmarked over the duration of their engagement with the service.

KYS staff are not only utilising TOMM as an outcomes measure but also to inform the holistic framework for programme development and delivery. The program then becomes specific to a young person's individual needs and can also be applied to groups of young people with common needs.

TOMM recently won two business awards, for Emerging Business and the New Thinking achievement award.

SEEKING PARTICIPANTS FOR STUDY

Are you a lay advocate, youth justice coordinator, court registrar or social worker? I would like to hear from you if a young person you have worked with has been supported by a communication assistant. Your views are important to me.

I am a clinical psychology doctoral student and am conducting evaluative research into the new and evolving role of the communication assistant (usually a speech language therapist) in the criminal justice system. Communication assistants are being appointed in increasing numbers to support the oral language needs of young people who offend. I would like to hear your views – the good, the bad – the impact it had on the young person, your role, and the process.

As a participant, you would take part in a one hour interview. Interviews will be audio-recorded and take place at a time and accessible location of your choosing. I am based in Auckland, but can travel to your location within New Zealand.

In appreciation of your time, you will receive a \$20 petrol voucher. If you are interested in participating or would like more information, please contact me via e-mail, Kelly Scott: kelly.scott@auckland.ac.nz

Approved by the University Of Auckland Human Participants Ethics Committee on 4 September for three years. Reference Number 019002.

RECENT RESEARCH AND PUBLICATIONS

NEW ZEALAND

New Zealand Youth Fitness to Stand Trial: The Impact of Age, Immaturity and Diagnosis on Evaluator Opinions and Court Determinations

Author(s): Davin Tan, Susan Hatters Friedman, Caleb Armstrong, Judge Tony Fitzgerald & Chelsea Neumann

Source: Journal of Psychiatry, Psychology and Law, November 2017.

Abstract: International research suggests that a proportion of youth facing legal charges are at risk of being unfit (or incompetent) to stand trial. In New Zealand, only a fraction of youth coming before Youth Court are referred for fitness to stand trial evaluations. Amid debate surrounding notions that youth offending could be deterred by providing harsher penalties, it is important to consider fitness to stand trial in youth facing criminal proceedings. This study sought to capture a cross-sectional view of how fitness (competency) to stand trial is addressed in the Youth Court, and how evaluator opinions relate to ultimate court findings. A retrospective review of reports for fitness to stand trial in 79 youth consecutively referred to the Regional Youth Forensic Service from 2010 to 2015 was conducted. Data were combined with Youth Court outcomes obtained from the Ministry of Justice. The mean age is 15.6 years. Intellectual disability is associated with unfit opinions and legal findings ($p = .002$ and $p = .03$, respectively), and cases disposed through the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003. Immaturity itself does not appear to have a significant effect on evaluator opinions or court findings of fitness to stand trial. The majority of the referred youth were both opined and found fit.

Tough Talk: Youth Offenders' perceptions of communicating in the Youth Justice system in New Zealand

Author(s): Sarah A Lount, Linda Hand, Suzanne C Purdy, Alan France.

Source: Australian and New Zealand Journal of Criminology, 2017.

Abstract: Youth Justice procedures rely heavily on oral language. International research suggests young people in the Youth Justice system have poorer language skills than their non-offending peers, which has implications for their participation in Youth Justice processes and rehabilitation programmes. Most research of youth offenders' communication skills focuses on standardised assessments

and quantitative measures, with little known of young people's perceptions of communicating within the highly verbally mediated Youth Justice setting. This exploratory study used semi-structured interviews of eight males, of unknown language-skill status, from one Youth Justice residence in New Zealand. Results suggested the young people felt they had no control or 'voice' in court, or with adults whose roles, or with whom, they were not familiar. Communicating in court was an area of significant difficulty for nearly all the participants; they reported feeling unable to say what they wanted or understand what was going on. Confidence and participation varied with some participants lacking the confidence to use communication strategies in court, whereas others would 'just say what they wanted'. The relationship with their communication partner, especially trust and familiarity, was very important to facilitate communication, and most young people could identify strategies that could help communication breakdowns, although not all reported using them. To facilitate full participation and access to court processes and Youth Justice programmes, the communication barriers identified in this study should be considered in any intervention or support developed for young people who offend.

Emotion and Language in Restorative Youth Justice

Author(s): Hennessey Hayes

Source: The Palgrave Handbook of Australian and New Zealand Criminology, Crime and Justice pp 407-419.

Abstract: Both Australia and New Zealand have developed crime prevention and response strategies specifically to address youth offending. This chapter explores one form of restorative justice (conferencing) and questions why this type of response to youthful offending may have had limited success in achieving key aims. It links the requirements and expectations of restorative justice processes with the potentially limited emotional and language development of youth to show that sometimes unrealistic expectations by some restorative justice conference participants can have adverse outcomes for youth. The chapter concludes with the suggestion that better knowledge of young offenders' language capacities will likely lead to better restorative justice conference outcomes for both young offenders and victims of crime.

Screening for mental health needs of New Zealand youth in secure care facilities using the MAYSI-2

Author(s): Sean McArdle, Dr Ian Lambie

Source: Criminal Behaviour and Mental Health Journal, Dec. 2017.

Abstract: Background: Young people admitted to secure facilities generally have particularly high rates of mental, emotional and behavioural problems, but little is known about the mental health needs of this group in New Zealand.

Aims: To describe prevalence of probable mental health disorder and related needs among young people in secure facilities in New Zealand.

Methods: Massachusetts youth screening instrument – second version (MAYSI-2) data were obtained from the records of young people admitted to one secure care facility ($n= 204$) within a 12 month period. We used descriptive statistics to determine prevalence of problems overall and multivariate analysis of variance to compare MAYSI-2 scores between gender and ethnic groups.

Results: Nearly 80% of these young people scored above the 'caution' or 'warning' cut-off on the MAYSI-2, a substantially higher proportion than reported in studies in other countries. There was a tendency for girls and for Maori and Pacific Islander subgroups to have a higher rate of probable psychopathology.

AUSTRALIA

Measuring the Impact of Juvenile Justice Interventions: What Works, What Helps and What Matters?

Author(s): Brian Sout, Heather Dalby, Ingrid Schraner

Source: Youth Justice Journal, Vol 17, Issue 3, 2017

Abstract: This article considers the findings of three different research studies on one juvenile justice intervention. In 2015, Juvenile Justice New South Wales received three different research findings on the same programme, the Intensive Supervision Program (ISP). The Bureau of Crime Statistics Research (BOCSAR) provided a report on the re-offending rates of those young people who underwent the programme. A team of researchers from Western Sydney University produced a report in two parts: first, a qualitative study that told the story of the young people's path towards desistance, and second, a related economic analysis plotting the possible economic benefits to society of this programme producing desistance in participants. It is a rare situation to have three such different research reports on the same programme so this article will consider the wider implications of this and how to best judge whether a criminal justice intervention is successful and worth pursuing.

ENGLAND

Sentencing Children for Sexual Offending: A Prequel Case Study

Author(s): Nigel Stone

Source: Youth Justice Journal, Vol 17, Issue 3, 2017

Abstract: The most recent Commentary ([Stone, 2017](#)) reviewed the Sentencing Council's ([SC, 2017](#)) *Sentencing Children and Young People: Definitive Guideline* and future Commentaries will be alert to the application of that guidance and any discernible impact on the ethos of youth justice in England and Wales. In the meantime, a recent Court of Appeal judgement, in *R v. W. (Attorney General's Reference)*(2016) EWCA Crim 2115; (2017) 1 Cr. App. R. (S.) 37, decided while the new Guideline was still in draft form, it provides an opportunity to consider how the guidance may be applied, both in respect of generic principle and approach in Part 1 and more particularly the Sexual Offences Guideline (SOG) in Part 2.1.

UNITED STATES

Imprisoning 'Those' Kids: Neoliberal Logics and the Disciplinary Alternative School

Author(s): Kaitlyn J. Selman

Source: Youth Justice Journal, Vol 17, Issue 3, 2017

Abstract: Despite a perceived retrenchment of exclusionary school punishment, the disciplinary alternative school has emerged as a space in which to enforce upon marginalized students the logics of neoliberal carcerality. This article draws on the code of conduct handbooks of 15 Texas Disciplinary Alternative Education Programs to illustrate how this space seeks to reaffirm social and economic marginality for certain youth. Specific processes in the alternative school prepare youth for a life of imprisonment, often characterized by criminal justice system involvement, but also precarious (un)employment. As such, this article situates the disciplinary alternative school as one of many 'alternatives' to carcerality through which the carceral state maintains its power.

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