"Court in the Act"
A regular newsletter for the entire Youth Justice Community
THE YOUTH COURT OF NEW ZEALAND | TE KŌTI TAIOHI O AOTEAROA

January 2009

In this issue...

"2009 will be an interesting and challenging year for youth justice in New Zealand, with lots of new policy and legislation to be unveiled."

Judge Andrew Becroft
Principal Youth Court Judge for New Zealand

Electronic Bail Monitoring (EM Bail)

Electronic monitoring (EM bail) has now been introduced as a special condition for people awaiting trial, and it could also apply, in appropriate cases, to young people on remand.

This Police-led initiative is aimed at providing the Courts with an option to bail pre-trial remand offenders on electronic monitoring. Essentially, EM bail enables a prisoner to reside at home wearing an electronic monitoring anklet bracelet that shows that he or she is on the property they are confined to.

Unlike the court-imposed home detention sentence, the emphasis of EM bail is on containment rather than rehabilitation or reintegration. Another difference is, EM bail is managed by Police, whereas home detention is managed by Corrections.

EM bail assessors interview a defendant's family to assess the suitability of their home (its occupants and address) for EM bail, gather information that will help a judge decide whether a defendant is a good candidate for EM bail, and if granted, oversee the offender's progress and compliance.

Non-sworn police staff, called EM bail assessors and located in Police Prosecutions Service offices around the country help manage applications by defendants for release on EM bail.

In their inquiry, EM Bail Assessors check out factors such as the location of proposed EM Bail residence, area cell phone coverage and distance from the nearest 24-hour police station. The assessor must also seek consent from the occupants of the proposed residence. The views of the victim(s) will also be sought, and a range of other enquiries undertaken.

"EM bail is one of a range of interventions aimed at reducing both the crime rate and the prison population." *Graham Thomas, the National Manager of Police Prosecutions Service*.

"It is an extension of what Police do currently under the Bail Act 2000, where a person charged with an offence can be remanded in custody or released on bail until his or her trial."

Key considerations when granting EM bail are:

- The interests of victims and witnesses involved in the case.

- Community safety generally.

- The need to preserve the integrity of the trial process.

- The defendant re-offending.

- And if that risk can be adequately managed by the restraint of an electronic boundary.

This special bracelet sends a continuous signal to a monitoring unit located at their place of residence (and any other designated location), which in turn connects to a control centre which monitors and records the person's movements 24 hours a day.

If the person goes beyond the monitored vicinity of the unit for an unapproved reason an alarm will be raised. The police will respond to this alarm.

Electronically monitored bail has been introduced in Canada, the United States and the United Kingdom, and is currently being trialled in Scotland. It is also an option in some Australian authorities, including Western and South Australia.

See also:

http://www.corrections.govt.nz/news-and-publications/magazines-and-newsletters/corrections-news/2006/october-2006/electronic-monitoring-a-bail-option.html

http://www.police.govt.nz/service/embail/

http://www.police.govt.nz/service/embail/faq.html

Read on for more on EM Bail and young offenders...

Electronic Bail Monitoring & the Youth Court

By Judge Andrew Becroft

EM Bail is a policy initiative and is also available for use in the Youth Court. It is seldom being used in the Youth Court, but there is absolutely no reason why it can't be used. There us no apparent bar to a youth advocate applying for a young person to be admitted to EM Bail. There is certainly no legislative bar. The police will consider any application on its merits.

Factors to consider in respect of any EM Bail application by a young person:

1. Only those remanded into one of the three CYFS youth justices residences under s238(1)(d) would qualify.

2. This would be the only initial pathway into the EM Bail programme. Such young people would already have had time in a residence. They would have had time to settle, and other options for their custody would be available for consideration.

3. The Police would need at least 15 to 20 days to carry out full assessment as to the availability of an EM Bail release, although with the input of experienced Youth Aid Officers the time frame may be considerably shorter.

4. EM Bail would only be a part, and not the primary part, of an overall comprehensive release package, which would involve some form of community-based support and monitoring.

5. A home-based 24-hour a day, seven day a week curfew on EM Bail would not work given that young people are still maturing, and developmentally are at a stage where they would be prepared to take risks and act spontaneously etc. Effective 'home detention', which this sort of EM Bail would constitute, would be unworkable for more than a week. For EM Bail to work, there would need to be access to community-based programmes and support, probably provided by CYFS.

8. It could be argued that if such support/supervision could be put together, then EM Bail would simply be window dressing and that such a release on community supported bail, by itself, would be sufficient. This argument overlooks the reality that EM Bail is more than cosmetic. The system has integrity. Bail breaches are rapidly investigated and would result in re-entry back into a CYFS residence — on the basis that the ongoing risks of absconding would be too great. Most police concerns about the existing supported bail programmes usually relate to the integrity of any curfew and the unavailability of supported bail/ supervision in the evening. EM Bail might satisfy many existing police concerns about the use of supported bail programmes.

9. An EM Bail release from a s238(1)(d) remand could be in combination with entry into the supervised bail programme, but with the additional element of a curfew being monitored and enforced through EM Bail.

10. EM Bail would not be available to those remanded in a police cell. There would not be time for the package and assessment process to be put together.

NOTE. If ten young people remanded in a CYFS residence under s283(1)(d), were admitted to EM Bail, there may be up to 600 to 100 bed nights saved, which would indirectly have a significant, if not dramatic, effect on reducing the need for police cell remands of young people.

In support of EM Bail

Letter from a young offender recently sentenced to his fourth 's311' (supervision with residence order).

This letter was written after the young person spoke with Judge Becroft at a youth justice facility.

"I enjoyed our conversation the other day. It was good to be able to put the point of view of us young offenders."

"The things I have thought about electronic bail are:

That we young offenders get into trouble and then get put on a curfew.

The reason we break curfew is because we think that there is a chance we will get away with it. With e-bail we can't get away with it, no matter what and I feel it will give us more of a chance to prove that we can do it on the outside of residence."

"Personally I have done three 311s and I feel that 311s don't achieve a good outcome. The reason for this is that when we get out there is not much structure."

"E-bail should be able to stop us from doing the stuff that makes victims and families sad because it has the structure that we have needed for so long. Once you have dome 311s it is harder to fir in the outside world again and you can fall back into old habits."

"With e-bail you are proving that every new day you can cope with your life instead of committing crime."

Supported Bail — another community based option

Child Youth and Family have recently completed an evaluation report into the Supported Bail Pilot Programme 2005—2006. CIA distilled 10 main points from the Report's summary of key findings.

Supported Bail (like EM Bail) is intensive supervision for young people who would otherwise have been remanded in custody.

1. The evaluation researchers interviewed:

- 47 young people who had completed Supported Bail programmes.

- 49 family members.

- 88 stakeholders.

2. The evaluation researchers also looked at:

- Numbers of referrals vs numbers of acceptances.

- Rates of programme completion.

- Who got onto a Supported Bail programme.

- What was the nature of the support.

3. Who got onto Supported Bail programmes?

- 85% of those referred (112) were accepted.

- 80% were high risk offenders who would probably have been remanded in custody.

- 20% were chosen seemingly to help them avoid getting a custodial sentence down the track. 20% were first time offenders.

- Average number of previous CYF referrals – 10.

- Most were Maori males.

- Most living with one or more parents.

- Half were 16 yr olds.

- Most had emotional, educational, and drug and alcohol problems.

4. What happens on a Supported bail programme?

- Structured, routine, meaningful activities.

- 26 – 29 hours per week contact time between youth workers and young people.

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5. Completion and Reoffending
- 75% completed their programme (similar or better than overseas schemes).

- 66% did not reoffend whilst on the programme (for whole sample, completers and non-completers).

- Those that did reoffend did so less seriously, and less than when they weren't on the programme.

- Completers had better rates of reoffending than non-completers

6. What Supported Bail programmes did for young people
- Got them up in the mornings.

- Kept them busy during the day.

- Provided caring male role models (for young males).

- Focussed on their strengths, and improved their skills.

- Helped them feel better about themselves, and about others.

- Helped them to show more maturity, and cope better with life.

- Made them turn up to YC more, with less punitive outcomes, and better FGCs.

- Young people rated Supported Bail as working out well for them with a score of 9.3 out of 10.

7. What Supported Bail did for families of young people
- Families rated Supported Bail 8.8 out of 10.

- 80% said Supported Bail had helped them monitor their young person's bail conditions.

8. Strengths
- High quality youth workers, effective supervision, good plans, culturally appropriate, delivered by community agencies.

9. Areas for improvement
- Low referrals, more flexible referral criteria, continued support after programme ends, standard risk/needs assessment tool (these improvements were identified early and acted on before the evaluation had finished).

- Supervision in evenings and weekends, programme periods that take more account of youth justice timeframes (eg longer than 6 weeks), better programmes for girls (these improvements still need work).

10. Result
Supported Bail was funded til June 2008.

Supported Bail — "a good success story" but lack of nationwide extension "a great disappointment"

Comments on the Supported Bail Pilot Programme by Principal Youth Court Judge Andrew Becroft

Principal Youth Court Judge Andrew Becroft has responded to the release of the Child Youth and Family evaluation report into the Supported Bail pilot programme. Judge Becroft described the pilot programme as a good success story, a valuable option for Child Youth and Family, and a worthwhile pilot—the success of which is undeniable.

However, the Judge also commented that it is a great disappointment that the programme is not being 'rolled out' beyond the 7 centres in which it currently operates. These centres are Invercargill, New Plymouth, Napier/Hastings, Hamilton, Whangarei, Christchurch, and South Auckland.

Judge Becroft said that this lack of a nationwide rollout was all too typical of New Zealand policy generally, where a pilot programme proves to be successful, but no permanent countrywide implementation results.

Judge Becroft said that the country has a need for up to 20 more supported bail programmes, and, if supported bail was used in conjunction with electronically monitored bail (EM Bail), then the need for remands into youth justice residences might be somewhat reduced. This would, in turn, reduce the need for remands into Police cells because more youth justice residence beds would be available.

Youth Justice Law Reform: Children, Young Persons, and Their Families Amendment Bill (No 6)

This Bill was introduced to Parliament in December 2007, and was returned to the House following a report by the Social Services Select Committee in August 2008. The Bill has not yet received its second reading, but has been reinstated in the 49th Parliament.

The Children, Young Persons, and Their Families Amendment Bill (No 6) proposed some discrete changes aimed at giving better effect to the objectives and principles of the Act, mandating or directing best practice, and strengthening the effectiveness of family group conferences.

Key amendments in the Bill would:
- raise the age to include 17-year-olds

- clarify options for holding child offenders accountable for their behaviour

- enhance Youth Court orders, including the introduction of two new orders for persistent or serious offending by young people

- provide for better recognition of victim rights

- improve criteria for information sharing

- establish complaints and review procedures

- formalise the role of the Chief Social Worker

- allow different responses to reports of concerns of child abuse or neglect

- improve the participation of children and young persons

- ensure the timeliness of care and protection family group conferences

- recognise the support needs of those moving from care to independence

- improve disability provisions by ensuring appropriate and timely family group conferences and reviews.

The previous Government felt that the update of the Act was in line with best practice and would strengthen the application of its principles and the family decision-making model that underpins it. [The changes were consistent with contemporary international improvements to child welfare legislation, our own desire to support professional practice, and the accountability and transparency of government action.]

Changes to the CYPFAct would have been made in two phases:

Phase I would have included discrete additions and policy changes

Phase II would cover redrafting and other procedural amendments so that the Act was expressed in plain

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language wherever possible, and unnecessary and unhelpful complexity is removed. The Bill represented the first phase of the suite of amendments required to update the Act.

The updated Act was also designed to strengthen the Government's commitment to interagency collaboration and information sharing, and the participation of children, young people and their families.

Select Committee recommendations

The Social Services Select Committee (SSSC) has examined the Children, Young Persons, and Their Families Amendment Bill (No 6) and recommends, by majority, that it be passed with amendments .

Recommendations include:

- Young people charged jointly with adults — the SSSC recommends making it clear that cases where a young person is jointly charged with an adult for purely indictable offences, and cases tried by a jury, must be heard first in the Youth Court and not an adult Court. .

Victims offered information on offender's progress - the SSSC recommends that the title of new section 269A clearly indicates that the Chief Executive has a duty to inform victims of a child or young offender's progress, if the victims so wish.

Victims entitled to effectiveness reports - the SSSC recommends that the clause which allows the informant and the victim of a child or youth offender to receive a copy of an effectiveness report, be amended to clarify that section 339 of the principal Act applies to these reports.

Section 339 enables a court to limit the disclosure of reports provided to it, and making effectiveness reports subject to this section would afford some judicial protection for young offenders' privacy, particularly if some information in the report is irrelevant or should not be disclosed.

Liquor infringement notices (LIN) - the present uncertainty over whether young people under the age of 17 should be prosecuted in the Youth Court or an adult court should be clarified.

LINs are issued when someone under 18 years of age is caught purchasing liquor from licensed premises, found in a restricted area on licensed premises, or caught drinking liquor in a public place.

The SSC recommended that the Bill should be amended make it clear that these offences, for which an infringement notice may be given, will not come under the jurisdiction of the Youth Court, but an adult court.

Youth Justice Law Reform: National's action plan for the first hundred days

From a statement released by John Key on 4 November 2008, and policy announced on the National Party's website on 16 July 2008.

National Party leader John Key has announced his intention to introduce new law and order legislation within his government's first 100 days in office. This will include "legislation to tackle increasing violent youth crime by bolstering the Youth Court with a range of new interventions and sentences."

The National Party's youth justice policy published on their website on 16 July 2008 suggests that details of this new legislation may include:

- extending the jurisdiction of the Youth Court to include 12 and 13 year olds who are accused of serious offences.

- new Youth Court orders, including parenting orders, mentoring programmes, and drug and alcohol rehabilitation programmes.

- tougher Youth Court sentences for "the hardcore group of young criminals", including residential sentences of up to 6 months, 12 month intensive 'Fresh Start' programmes with a 3 month residential component, and supervision contracts that will result in monitoring by electronic ankle bracelet if not complied with.

On Tuesday January 20 the New Zealand Herald reported that legislation to enact these changes would be introduced into parliament in February, but the new residential programmes and longer sentences would not be available until 2010. This would give time for the select committee consultation process to occur, and the new youth justice residence at Rotorua to be completed.

Update of Guidelines for Lay Advocates in Youth Court

The Children, Young Persons and Their Families Act 1989 (CYPF Act) has provided for the use of lay advocates in the Youth Court since 1989. However, there has been limited use of thesde community experts. It is only recently that the involvement of lay advocates has increased, namely through the judicial initiative at Te Poho Rawiri Marae in Gisborne. It is expected that interest in the use of lay advocates in other parts of the country will increase due to the success experienced in Gisborne.
Principal Youth Court Judge Andrew Becroft has commented that making better use of lay advocates is a real challenge for the whole youth justice community.
The Ministry of Justice has responded with the view that the guidelines need to be reviewed and the revised guidelines communicated to court staff to improve provision of services to young people and their families. A more detailed response from the Ministry is set out below.

Core need or problem

The Ministry of Justice considers it timely to update the existing guidelines to support court staff in the services they provide to young people and their families. It is understood that the existing guidelines were never formally approved. As such, the guidelines are being reviewed so that consistent information can be communicated to court staff nationally.

The Ministry has also received some feedback from the judiciary. In particular, there is a need to clarify the section relating to criminal convictions. In addition, the New Zealand Law Society Youth Justice Committee has suggested that the requirement for lay advocates to have resided in New Zealand for five years be removed.

Key Success Criteria

- Nationally consistent guidelines for lay advocates that address the issues raised by stakeholders.

- Communications to court staff that will support staff to appoint lay advocates.

Desired Process Outcomes

The desired outcomes from this initiative are:

- Clear, and nationally consistent guidelines for lay advocates.

- Clarity around the appointment of lay advocates with criminal convictions.

- An opportunity to raise awareness of the lay advocate role via the distribution of the updated guidelines to court staff.

- A clear directive for staff, the judiciary and appointment panels as to the suitability of potential lay

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advocates.

Key Stakeholder Requirements

- Criminal and Youth Jurisdictions as part of the District Courts – focused on improving service delivery in the Youth Court.

- Judiciary – seeking clarification of whether there can also be some degree of flexibility relating to the appointment of lay advocates who have criminal convictions, so the best possible lay advocates can be appointed. The judiciary will continue to be consulted throughout the review.

- Criminal Caseflow Managers and Youth Court staff – are the voice of experience and will be able to provide valuable insight. Court staff need to be aware of the capacity for involvement of lay advocates in their court processes.

- Office of Legal Counsel (Ministry of Justice) – will need to ensure that Ministry guidelines and lay advocate appointment policy meets legal requirements.

Other stakeholders were involved in the 2004 working group focused on lay advocates in the Youth Court, including Child, Youth and Family Service, Ministries of Pacific Island Affairs, Ethnic Affairs and Te Puni Kōkiri, Police and the Law Society (Youth Advocates Committee).

The Judiciary are keen to increase the use of lay advocates, particularly following the success of the Te Poho Rawiri Marae initiative. The existing guidelines preclude the appointment as a lay advocate of anyone with criminal convictions. It has been proposed that some flexibility in the guidelines may be warranted, as some people with minor or older convictions may in fact be suitable lay advocates.

The appointment of lay advocates needs to be approached in a manner that is consistent across New Zealand. Lay advocate panel members expect to have access to clear guidelines that enable panel members to appoint the most appropriate lay advocates.

Anecdotally, it is understood that potential lay advocates have approached District Court staff to discuss the lay advocate role. Staff members have not been aware of the lay advocate role and were unable to provide any information. Updating the guidelines will also provide an opportunity to communicate information about the lay advocate role to court staff.

Juvenile Transfer Laws: An Effective Deterrent to Delinquency?

Summary of Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?* OJJDP Juvenile Justice Bulletin (August 2008).
www.ojp.usdoj.gov/ojjdp

This article provides an overview of research into the deterrent effects of transferring youth from YC to adult court.

Transfer laws in the USA

Since the 1980s reforms were aimed at 'getting tough on juvenile crime'. Reforms included revision of transfer laws including:

- Lowering of the minimum age for transfer

- Increasing the number of offences eligible for transfer

- Expanding prosecutorial discretion

- Reducing judicial discretion

By 2003, thirty-one States had automatic transfer statutes. The age at which YC jurisdiction ends was lowered to 15 or 16 in 13 States (some States have reduced the scope of transfer laws, and one has raised the age at which YC jurisdiction ends from 16 to 18)

The result is that the number of YP in adult prisons has increased, peaking mid-1990s (4,100 in 1999).

The studies have produced conflicting findings, but the bulk of empirical evidence suggests little or no general deterrent effect.

Summary of outcome of studies are presented below:

Transfer laws lower youth crime

Levitt, (1998) Multi-state analysis for 1978 to 1993 suggested that adult sanctions have a moderate effect on youth crime under certain circumstances.

Researchers found relative decreases in youth crime as Y.P reached the age of criminal responsibility, but only for States in which youth and criminal justice systems differed significantly in severity of punishments.

Transfer laws do not lower youth crime

1980s Jensen and Metsger (1994). Time-series analysis for 1976 to 1986 found 13% increase in arrest for 14-18 year olds in Idaho after that state introduced its transfer law in 1981.

Steiner and Wright (2006) Multi- state (14). Time-series 1975-2000. Transfer laws had no general deterrent effect. 13 either increased or stayed same. Michigan decreased.

Transfer laws have no effect

Singer and McDowall (1988) in time series analysis, New York no deterrent effect on youth crime 1974-1984.

Lee and McCary (2005) in Florida. YP did not lower their offending rates upon turning 18 (adult sanctions not a deterrent).

Deterrence

The following studies examined the increase in recidivism for YP transferred to adult courts compared to youth courts:

- Fagan (1996) examined 800 YO charged with burglary 1981-82. 91% recidivism compared 73% in YC.

- Bishop (1996) compared 1 year recidivism rate of 2,738 young offenders in Florida. Rearrest rates were higher among transferred youth (0.54 versus 0.32). The average time to reoffending was shorter also (135 versus 227 days)

- Myers (2001, 2003) examined 18 month recidivism of 494 young offenders in Pennsylvania in 1994. Transferred youth were 2 times more likely to be rearrested and to reoffend.

- OJJDP funded studies. Lanza-kaduce and colleagues (2005): 950 young adult offenders studied. Half had been transferred and half committed in a Youth Court. Overall offences – 49% of transferred offenders reoffended compared to 35% of those retained in a youth court.

Interviews conducted by the Florida Research Group

144 serious male offenders between 17 and 20 years, half of whom had been transferred and half retained were interviewed. Interviews were conducted in four 'deep-end' juvenile correctional institutions (9-36 month placements) in highly secure facilities in eight adult prisons in Florida.

- 58% rated the deep-end juvenile placements as beneficial

- 33% rated the adult prison placements as beneficial

- 20% rated the less restricted juvenile dispositions as beneficial

- 12% rated the adult probation as beneficial

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Why?
The deep-end juvenile placements rated well because they offered intensive, long- term job skills training and treatment. Longer sanctions allowed YP to consider their futures and the consequences of reoffending.

Those who rated the adult prison as beneficial cited their reasons as: pain and denigration; time spent in prison and fear of future consequences (esp. tougher sentences). Paradoxically, those who rated prison negatively cited same reasons (also that they learned more crime there).

Summary
Six large-scale studies found higher recidivism rates for young offenders transferred to the adult Court than for those retained in the Youth Court.

Why do youth tried as adults have higher recidivism rates?
- Stigmatization and the other negative effects of labelling young offenders as convicted felons.

- The sense of resentment and injustice young people feel about being tried and punished as adults.

- The learning of criminal mores and behaviour while in prison.

- The decreased focus on rehabilitation and family support in the adult system (Bazemore and Umbreit 1995, Myers 2003; Thomas and Bishop, 1984; Winner et al 1997)

- The loss of a number of civil rights and privileges, as well as the reduction in opportunities for employment and reintegration (Redding 2003).

- Criminal court processing – sense of injustice – feeling that transfer laws unfair (Fagan 1996; Fagan, Kupchik and Liberman, 2003; Sherman, 1993; Thomas & Bishop, 1984; Redding and Fuller, 2004)

- Reduced opportunities for meaningful rehabilitation in adult prisons (Forst, Fagan , Vivona 1989).

- Juvenile facilities are treatment oriented and employ a therapeutic model (Bishop and Frazier, 2000:265)/.

- Young people in adult prisons spend time learning criminal behaviour and are more fearful of being victimised than when in a youth facility (Beyer, 1997).

- The brutalising effect of adult prisons may teach the wrong lessons and may have the effect of increasing recidivism (Redding and Fuller, 2004).

David Major and the Prison Chaplaincy Service

David Major was a Salvation Army Officer for 22 years. He has worked world-wide in PNG, Fiji, Russia, Belarus and New Zealand. David has been married to Carol for 39 years and has three daughters and 7 grandchildren. This interview was recorded on 5 June 2008.
He currently works as the National Director of Prison Chaplaincy Service of Aotearoa New Zealand (PCS).

What is the PCS?
PCS was established in NZ over 50 years ago.

In the last 10 years PCS has been a separate body, comprising representatives of the mainstream churches of NZ. The PCS is part of the and integrated with the IOMS (Integrated offender management system) programmes in prisons. Prison Volunteer Service Operates (PVS) operates as part of PCS.

Where is PCS located? Is it nationwide?
It is a nationwide organisation and is linked to an international organisation IPCA, International Prison Chaplains' Association. David is the Oceania representative of the IPCA.

Who are the volunteers?
Most (85%) come from the church, a powerful resource. Most are older people who have the time, life experience and interest. They provide a valuable role-model which is often absent in the lives of young offenders.

How many volunteers and how long do they stay?
There are 3015 volunteers.

Many stay for many years (5-10), sometimes longer. Of course it doesn't suit everyone and so some leave after a short time.

How are they selected?
As I said, 85% are from faith-based churches. The Department of Corrections place a high value on volunteers. Three groups are in place specifically for volunteers:

- Prison volunteering advisory group

- National advisor for volunteers

- Volunteer co-ordinators/processes. These people work alongside the prison chaplains who supervise the day-to-day running of the PCS.

What training do the volunteer receive?
Health and Safety initially.

Critical training in relation to the prison environment.

Ongoing training.

Are volunteers matched to offender?
Wherever possible the PCS will try and match the offender to the volunteer.

How often do they visit?
Depends on the availability of the volunteer. They visit on a weekly basis, usually for 1-2 hours. Sometimes one–on-one, often in groups. Often prisoners will feel safer in a group situation. Prisoners involved are willing participants.

What kinds of things do volunteers do through PCS?

"From day one we like to ask the question – how can we move this person up a notch or two?"

David Major

Church services, Bible services, counselling, discussion groups (life issues), sometimes sporting or recreation activities.

While we are not ramming religion down peoples' throats, we use spiritual tools and mechanisms to bring a new understanding about life.

What would you say were the special needs of young prisoners?
Young offenders in prison are most likely to have never had a decent male role model. Their incarceration provides a unique opportunity for these young people to talk with a sensible

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male person regarding their future. It provides a chance to help these young people 'move up a notch or two.'

Many have very basic impediments. Literacy, language difficulties, problems with numeracy. Spelling is often a problem where these young people cannot fill in forms. Many have behavioural issues. Many have few or no close contacts and feel isolated. Vast numbers have no attachments and are at risk.

In terms of young offenders, what successes have the PVS had?
The main thing is the improvement of behaviour while in prison. There are many stories from Prison Officers, managers and others who have witnessed a change in behaviour as a result of that person's involvement with volunteers.

Do you have any thoughts on rehabilitation of young offenders? What (if anything) do you consider could be improved?
For a young offender, the law and that process will deal with the incident, but beyond that mechanisms need to be put in place to help a young offender move on to something better. Mentoring, support, encouragement and counselling are all critical to that change.

When a young person comes to the attention of the authorities it is often a "wakeup call" to that young person.

Is there any after-prison contact with young people?
This is an important issue and is the subject of a very high level 'Reintegration Conference' to look at this question. How can we do better after the system has finished with offenders? There are currently 7,500 prisoners in NZ and 9000 will be released this year (turn around rate of less than one year). This is where the emphasis should be. Consider the money spent on people in prison, the capital cost of prisons?

These people need:

- Accommodation

- A job

- A way to deal with their ongoing and particular issues – be that gang involvement, alcohol, drug problems or a combination of those factors.

Consider a young offender/first offender. We have the option to bring the full weight of the law down upon them **OR** marshall a whole effort in order to rehabilitate and turn around this young person. The latter requires the involvement of the whole community and this is where the volunteers contributions are invaluable.

Reduced timeframes for preliminary hearings/depositions in the Youth Court

Below, is a copy of a Practice Note issued in April 2008. This is a re-issue of the existing Preliminary Hearings Practice Note with the addition of paragraph 5 differentiating between the time limits for preliminary hearings of Youth Court matters which shall be 10 weeks rather than 12 weeks for other jurisdictions.

PRACTICE NOTE

Criminal Law
Preliminary Hearings

1. To expedite the hearing of committal proceedings the following Practice Note will come into force on 01 April 2008. The object of this Practice Note is to ensure all committal proceedings commence within twelve weeks of an accused first appearing in Court.

2. Where a Defendant is charged with a solely indictable offence or when an information is laid indictably then:

(a) At the first appearance of the defendant in the District Court the case shall be remanded for two weeks for issues of legal aid, legal representation and legal advice to be resolved.

(b) At the next appearance the proceedings shall be adjourned to a date not more than six weeks from the first appearance for the pre-deposition hearing by which stage it is expected discovery has been made.

(c) At the pre-deposition hearing:
(i) any pre-deposition applications by the prosecution or the defendant will be made and a date allocated for the hearing prior to the date for the preliminary hearing, and
(ii) those witnesses whose evidence can be given at the preliminary hearing by written brief will be identified (see Section 173(A) – Summary Proceedings Act) except where Section 185C (4) of the Summary Proceedings Act applies,
(iii) a date for the commencement of the preliminary hearing will be given within twelve weeks of charge. It is recognised that there may be exceptional situations where the complexity or special importance of the case may mean a preliminary hearing cannot be commenced at this time. It shall be the responsibility of counsel for the accused or prosecution to identify such cases at the pre-deposition hearing.

3. This Practice Note will not prevent an accused who wishes to plead guilty at any time requesting that he/she be brought before the Court to do so.

4. Where a charge is laid summarily (but trial can be elected) a defendant shall elect a mode of trial within fourteen days of his/her first appearance in the District Court. Once an election is made the provisions of paragraph 2b and c herein shall apply from the date of the election.

5. In the Youth Court, where a young person is charged with a "purely indictable offence" (as defined in the Children, Young Persons and Their Families Act 1989) including murder and manslaughter, or elects trial by jury, then the substance of this Practice Note applies save that the date for the commencement of the preliminary hearing shall be within ten weeks of charge.

RJ Johnson
Chief District Court Judge

"Court in the Act"
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We welcome contributions to the newsletter from anyone involved in youth justice in New Zealand or internationally.

Back copies of the newsletter can be viewed or downloaded from our website.

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