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

May 2010

In this issue...

In praise of section 282 discharges — but beware of the fish hooks!

One of the most powerful tools in New Zealand's youth justice system is the section 282 discharge. That section empowers the Court to acknowledge genuine and significant transformation in a young person who has been through the youth justice system.

Under section 282 the Youth Court can, after inquiry into the circumstances of the offence, discharge the information. The information is then deemed never to have been laid.

This special order reflects the principles of the Act. It recognises that due to their lack of maturity, young people who respond positively after their offending often deserve a second chance.

The discharge is potentially available in respect of every offence except purely indictable offences. Note that it will be extended to purely indictable offending by children aged 12 and 13 years old who are charged in the Youth Court under the new Children, Young Persons and Their Families (Youth Court Jurisdiction and Orders) Act 2010 due to come into force in October this year.

More than 90 percent of young people who are charged in the Youth Court, do not deny their offending. Typically, a family group conference will be held to discuss the offending, the impact on the victim, how the young person should account for that impact, and how to address any needs that led to the offending.

The family group conference will create a plan for the young person involving a number actions that the young person must undertake in order to account for their offending. Often the plan will recommend that if the young person satisfactorily completes their plan, they should be offered a section 282 discharge.

The prospect of a section 282 discharge provides a powerful incentive for the young person to work hard to fulfil the elements of their plan, and thereby accept responsibility for their offending.

When the plan is completed, the young person will appear for the final time before the Youth Court. A family group conference recommendation to discharge the young person under section 282 is usually accepted by the Youth Court Judge if he or she accepts that the young person has adequately accounted for his or her offending. In many cases, it can be a powerful gift to a young person, recognising their hard and successful work in addressing the causes of their offending.

This edition of Court in the Act begins with a special feature on section 282 discharges. We discuss what appears on a young person's criminal record after a section 282 discharge, and the circumstances in which it may adversely affect the young person's future. We also look at some of the more difficult legal aspects of the application of the section 282 discharges.

Section 282 Statistics

The Ministry of Justice has recently released it's updated publication *Child and Youth Offending Statistics in New Zealand: 1992—2008.* The full report can be found at http://www.justice.govt.nz/publications. The following statistics on section 282 discharges can be found at pages 104—109.

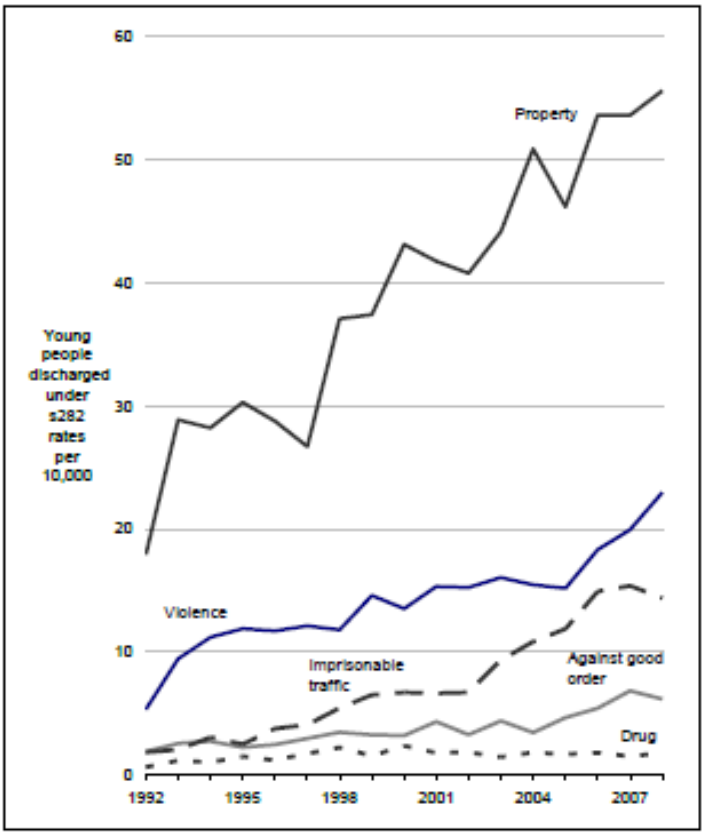
Highlights

- Since 2000, a section 282 discharge has been the most common outcome for prosecuted cases in the Youth Court.
- The rate of young people receiving section 282 discharges in the Youth Court has increased markedly, from a low of 28 per 10,000 of the population in 1992, to 104 in 2008.
- In 2008, 53% of the total number of section 282 discharges were for property offences. Property offences comprised 61% of all young apprehensions in that year.

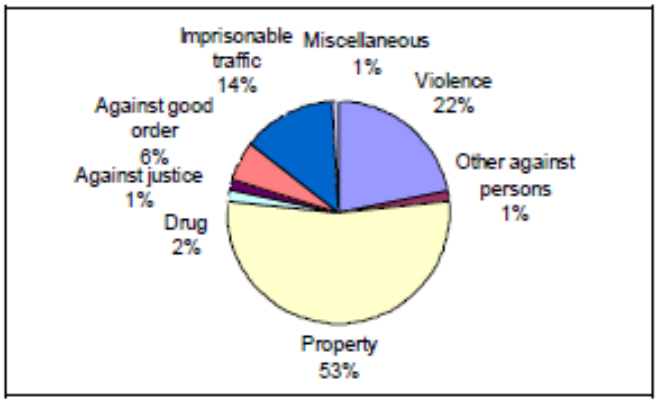
Number of young people discharged under section 282 for all offences except non-imprisonable traffic offences, by age and offence category, 2008

Offence category	14 years		15 years		16 years	
	No.	%	No.	%	No.	%
Violence	120	*26*	150	*23*	166	*19*
Other against persons	4	*1*	6	*1*	16	*2*
Property	284	*62*	399	*60*	373	*43*
Drug	4	*1*	9	*1*	21	*2*
Against justice	7	*2*	10	*2*	10	*1*
Against good order	22	*5*	31	*5*	64	*7*
Imprisonable traffic[3]	8	*2*	57	*9*	208	*24*
Miscellaneous	6	*1*	4	*1*	4	*0*
Total	455	*100*	666	*100*	862	*100*

Young people discharged under section 282 as rates per 10,000 population for all offences except non-imprisonable traffic offences, by offence category, 1992 to 2008



Percentage of young people discharged under section 282 for all offences except non-imprisonable traffic offences, by offence category, 2008



Forthcoming legislative changes to the application of section 282

The Children, Young Persons and Their Families (Youth Court Jurisdiction and Orders) Act 2010, which will come into force on 1 October 2010 will result in the following changes to the operation of section 282 discharges—

- Section 282 discharges will be available in respect of purely indictable offences committed by 12 or 13 year olds who have their cases dealt with in the Youth Court.
- Split sentencing—the Court may make an order under s283(e) to (j) either when it discharges the information or earlier (after it has inquired into the circumstances of the case).

What impact does a section 282 discharge have on a young person's future?

Despite the fact that section 282(2) provides that an information discharged under section 282(1) shall be deemed never to have been laid, it is not the case that a section 282 discharge is never a relevant matter in a young person's future.

A section 282 discharge does not appear on a young person's criminal record, but it remains part of their behavioural history and may be relevant in some future situations.

Sentencing
In the Youth Court, section 282 discharges are not relevant to sentencing decisions due to the application of section 284(1)(g) CYPF Act. That section provides that, in making a sentencing order under section 283, the Youth Court must have regard to any previous offence committed by the young person, unless a section 282 discharge was ordered in respect of that offence.

In the adult court however, section 282 discharges may be relevant to sentencing decisions.

In *Kotere v Police* (1994) 11 CRNZ 442, Anderson J held that proceedings in the Youth Court and any steps taken to assist young people there, are part of a person's behavioural history. Whilst that history does not amount to prior convictions, it can have some relevance in determining what is an appropriate sentence in the District Court.

This case did not discuss section 282 discharges specifically, but it is arguable that they would amount to "steps taken to assist young people" in that Court.

Bail decisions
As section 282 discharges are part of the young person's "behavioural history", they may also be relevant to other decisions of a Court, particularly to bail decisions.

Criminal Investigations (Bodily Samples) Act
A databank compulsion notice requiring the provision of a DNA sample is of no effect if a section 282 discharge is ordered in respect of the relevant offence.

Section 40(1) of the Criminal Investigations (Bodily Samples) Act provides that a databank compulsion notice ceases to have effect if the conviction is "quashed" before the DNA is taken.

Police v JL [2006] DCR 404, discussed whether a section 282 discharge amounted to a "conviction" as was required for the issuing of a databank compulsion notice, and if so, whether it also amounted to a quashing of that conviction.

Judge Mill held that -

- Section 2 of the Criminal Investigations (Bodily Samples) Act 1995 defines "conviction" as including a finding by a Youth Court that a charge against a young person is proved - entry by the Judge of an admission in this case was a "finding" and therefore a "conviction" in terms of that section; and
- Section 282(2) of the Children, Young Persons and Their Families Act 1989 provides that on discharge an information shall be deemed never to have been laid - this is very strong language and sufficiently clear to mean that the charge has been quashed. When this occurs after the notice but before the sample is taken, the notice is of no effect.

What appears on a young person's criminal record when a s282 order is made together with a disqualification or reparation order?

Section 282(3) empowers the Youth Court, when making a section 282 discharge, to also make an order under section 283(e) to (j), if it is satisfied that the charge is proved.

The Court might, for example, make an order for reparation under section 283(f) or an order disqualifying a young person from driving under section 283(i), at the same time as a section 282 discharge order.

The Children, Young Persons and Their Families (Youth Court Jurisdiction and Orders) Act 2010, due to commence in October this year will allow split sentencing. This will mean that the Youth Court could also make the section 283(e) - (j) order on a date before the section 282 discharge.

When the reparation or disqualification order is made at the same time as the section 282 discharge, neither order appears on the criminal history generated by the Ministry of Justice's Case Management System. This is not a problem for the Police. They do not rely on the CMS generated criminal history to determine whether there is an active disqualification against an individual. They rely instead on the Driver Licence Register (DLR) maintained by the New Zealand Transport Agency for information on whether a driver is disqualified.

If the reparation or disqualification order is made before the section 282 discharge, then it will appear on the criminal history report until the date on which the section 282 order is made. On the date of the section 282 discharge, the other order is removed from that record.

What is the difference between a section 282 discharge and a section 283(a) discharge?

As mentioned earlier, section 282 (2) provides that an information discharged under section 282(1) shall be deemed never to have been laid. This is an absolute discharge.

The Youth Court may also order a discharge under section 283(a). This second type of discharge involves no further penalty, but the young person will have a recorded Court appearance, and it does constitute a formal order.

In deciding which discharge is appropriate, Judges usually focus on whether it is appropriate to enter a formal order and record of the offending. They must also consider-

- The factors to be taken into account on sentencing in section 284;
- The objects of the CYPF Act in section 4;
- The principles of the CYPF Act in section 5, and the principles of Parts 4 & 5 of that Act in section 208 (including due regard to the interests of any victims).

The seriousness of the offending is highly relevant, but not necessarily determinative. Very serious offending may still justify a section 282 discharge where there is great remorse and excellent cooperation with the family group conference plan.

The following principles, gleaned from the available case law, may be helpful—

- A section 282 discharge should not be ordered to "hide" offending from the authorities, *Police v M* (2 September 1991, YC, Auckland, CRN 1204003795-97);
- The rehabilitative aspects of section 282 are important but should be balanced against the interests of the victim, *Police v P* (7 January 2002, YC, Auckland CRN 1204003769).
- A section 283(a) discharge should be ordered where it is considered necessary to keep a record of the offending - to punish the young person and/or maintain a record in the public interest, *GTH v New Zealand Police* (16 May 2006, HC, Tauranga, CRI 2006-470-11);
- The young person's response to the family group conference plan and measures he or she has taken to make amends are highly relevant, *Police v SF* (15 June 2005, YC, Wellington, CRI 2004-285-000133); *New Zealand Police v HGBH (22 May 2006, YC, Porirua, CRI 2005-291-106).*

Can a section 282 discharge be ordered when a family group conference has not been held?

When might this situation arise?
This question sometimes arises in relation to (very) minor offending and where Police are reluctant to withdraw the charges, but suggest a section 282 discharge instead.

The answer
There is no legal bar to making a section 282 discharge without a family group conference having been held, unless the charges have been found to be "proved".

However, withdrawal of the charges, instead of a section 282 discharge, is thought to be the more appropriate and better practice.

The preconditions to a section 282 discharge
Under section 282(1) a discharge can be ordered if –

1. An information has been laid;
2. It is not a purely indictable offence*;
3. The Youth Court has inquired into the "circumstances of the case";
4. Regard has been given to the general principles and objects in sections 4, 5 and 208; and
5. If the charge has been "proved", then an additional precondition is that a family group conference (FGC) has been held (s281(1)), but there is no general requirement that a section 282 order is dependent upon the charge being proved.

Section 281
Section 281 requires that -

> "where a charge against a young person is proved before a Youth Court, the Court shall not make any order under section 282 or section 283 of this Act unless a family group conference has had an opportunity to consider ways in which the Court might deal with the young person in relation to the charge" (emphasis added).

This section only requires a family group conference before a section 282 order is made, if a finding of "proof" has also been made. Therefore, strictly speaking, where there has been no finding of proof, a family group conference is not required before a section 282 discharge order is made.

Finding of proof
There are three ways in which the Youth Court may make a finding that a charge is proved—

1. A young person admits offending at a family group conference and the Youth Court subsequently notes on the information that it is "proven by admission at family group conference" or

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"PAFGC";

2. The Youth Court makes a finding that a charge has been proved after a defended hearing;

3. In limited circumstances, a formal admission of guilt may be entered on the record.

Withdrawal of the charges
Conceptually, it may be more appropriate to withdraw the charges than to give a section 282 discharge. A withdrawal implies that, with the benefit of hindsight (or even with the benefit of new information), the circumstances are such that charges should not have been laid in the first place. Withdrawal in this scenario reflects the principle in section 208(a) that –

> "unless the public interest requires otherwise, criminal proceedings should not be instituted against a child or young person if there is an alternative means of dealing with the matter."

A withdrawal sends the clear message that charges should not have been laid and that it is now considered to have been "inappropriate" to lay them. On the other hand, a section 282 order does rather suggest that the Police were perfectly justified in laying charges and that some form of offending took place.

It seems clear that, as a matter of "best practice" –

- Section 282 discharges should not be used as a de facto form of withdrawal;
- Section 282 discharges should usually only follow a FGC; and
- Inquiries into the circumstances of the case should be reasonably thorough.

* Note - After the commencement of the Children, Young Persons and Their Families (Youth Court Jurisdiction and Orders) Act 2010 in October, a section 282 discharge could be ordered in respect of a 12 or 13 year old charged in the Youth Court with a purely indictable offence.

Is a section 282 discharge considered to be a "conviction" for the purposes of section 65 of the Land Transport Act 1998?

The answer
Section 282 orders are never relevant to a determination under section 65 Land Transport Act 1989 (LTA). If a section 283 (e)-(j) order is made at the same time as a section 282 order, that section 283 order is also not relevant.

Section 283 orders are otherwise relevant to section 65 determinations in the Youth Court, but not in the District Court.

Discussion
Section 65 of the LTA requires the Court to order indefinite disqualification if a person is convicted for the second or third time of a relevant drink driving offence (only two convictions are required if the blood or breath alcohol levels for one of those convictions meet the high levels specified in section 65 (3)).

Youth Court orders are not convictions (apart from an order under section 283(o)) so would not normally be relevant to section 65 determinations. However, section 293A(1) of the Children, Young Persons and Their Families Act 1989 (the CYPF Act) empowers the Youth Court to make a section 65 order for indefinite disqualification if the drink driving charge against the young person is proved, and the District Court would have been required to make a section 65 order if the young person was an adult appearing before the District Court. If those conditions are satisfied the Youth Court has a discretion to make a section 65 order, in contrast to the District Court where there is no discretion.

Section 293A(4) of the CYPF Act states that, for the purposes of making the determination under s293A (1) as to indefinite disqualification, a (previous) finding by the Youth Court that a relevant offence is proved, is deemed to be a conviction, unless a section 282 order was made in respect of that offence.

Therefore, a Youth Court may make a s65 order if it finds a relevant drink driving offence is proved and the young person has had two previous findings of proof in respect of relevant drink driving offences (and neither resulted in a section 282 discharge).

However section 293A CYPF Act only applies to the Youth Court. So when a person appears before the District Court in respect of a relevant drink driving offence, any previous findings of proof of drink driving offences in the Youth Court, are irrelevant (unless they resulted in a section 283(o) conviction and transfer to the District Court for sentencing).

This principle was confirmed in *Jones v Police* [1999] DCR 182 where Judge Abbott in the District Court held that the disposition of a drink driving charge in the Youth Court was not a conviction for the purpose of triggering the District Court's jurisdiction under section 65.

That decision is entirely consistent with *Fallen v Police* (HC, Wellington AP 267/00, 12 December 2000, Doogue J) where for the purposes of establishing a third or subsequent offence, exposing the driver to increased penalties, a Youth Court appearance could not be taken into account.

Should a young person receive more than one section 282 discharge?

This issue is controversial and there are different views. The starting point is that whether a young person should be granted a second or subsequent section 282 discharge, is a matter for judicial discretion.

Some people begin from the perspective that a young person's process of maturation is frequently bumpy. They will not always learn their lesson the first time. A second or subsequent section 282 discharge could reflect the fact that, despite making mistakes, there is still confidence that the young person is turning his or her life around and that overall, there is positive and significant progress.

Other people believe that offering a section 282 discharge more than once undermines the special character of the order. Sending a message that a young person could be given a third or fourth chance lessens the motivation to not re-offend.

Court in the Act is reluctant to suggest a hard and fast rule on this issue. There will always be circumstances which justify a break from any rule of thumb.

Judges must make their own decision on the facts of the case before them, after hearing argument from all the parties.

Some recent section 282 sentencing decisions

Some recent decisions from Judge Fitzgerald and Judge Taumaunu demonstrate the application of section 282 .

Police v AK

23 November 2009, Youth Court, Auckland, Judge Fitzgerald, CRI 2007,004,000438

Sentencing—Intensive Monitoring Group.

More than two years previously, AK was accepted into the Intensive Monitoring Group of the Auckland Youth Court after being charged with sexual violation, kidnapping, indecent assault, and threatening to do grievous bodily harm.

This sentencing note records AK's successful completion of his family group conference plan. For more than two years AK's progress has been monitored by regular appearances before the Court (fortnightly for the first year, and monthly after that).

AK successfully completed the SAFE programme for sexual offenders. At the start he was assessed as at high risk of reoffending. He applied himself to the programme which was not easy, and was subsequently assessed as a moderate to low risk of reoffending. AK regularly put aside money to pay reparation, did not reoffended in any way, did not breach his bail conditions, increasingly demonstrated a mature and responsible attitude, and was soon due to finish his apprenticeship.

AK's effort was recognised by the Police's agreement to a section 282 discharge in relation to two charges, instead of a section 283(a) discharge.

Decision

The Court ordered a section 283(a) discharge on the sexual violation and kidnapping charges, and a section 282 discharge on the indecent assault and threatening to do grievous bodily harm charges.

Police v RH

11 December 2009, Youth Court, Gisborne, Judge Taumaunu, CRI 2008-216-000200

Sentencing—Burglary

RH appeared for final disposition on a number of burglary charges. When he first came to court it was expected that the most serious Youth Court orders would be made against him. RH had previously had a section 282 discharge ordered in relation to other burglaries.

The family group conference recommended a section 283(1) discharge. The Court held that a section 282 discharge was more appropriate.

"What has become clear […] is that you have performed this [FGC] plan properly. You have been greatly assisted by your family, by your grandparents, by all of your family members who are here today and, to put it in a nutshell, you have changed your life around. That is what has happened. You have steadily worked away at your plan. If I remember correctly you have done more than you were actually asked to do. You earnt the money that was required to pay the victims of your offending. So you come here today with everything finished. There was quite a major plan in place here. Not only have you done the plan, but what impresses me the most is that you have stayed out of trouble. You have turned over a new leaf, and next year (one hopes) you will continue along that same path that you have now set for yourself".

Decision

A section 282 discharge was ordered on all the charges.

Did you know...?

Ephebiphobia

The fear of youth is called ephebiphobia. First coined as the "fear and loathing of teenagers," today the phenomenon is recognized as the inaccurate, exaggerated and sensational characterization of young people in a range of settings around the world. Studies of the fear of youth occur in sociology and youth studies.

(Source—http://en.wikipedia.org/wiki/Fear_of_youth)

Youth Justice professionals grow frustrated at a lack of programmes for violent young females

Hastings youth justice professionals, like others around the country, have noticed a recent increase in serious violent offending by young females, and they feel frustrated by the lack of high-end programmes addressing violence in girls.

Sergeant Ross Stewart, responsible for Youth Services in Hastings says that he has been working in the area of youth justice for 28 years. In his early days, female offending generally involved shoplifting. He cannot recall females coming to attention for serious violent offending.

Nowadays, they are increasingly dealing with very serious violence by young females. Sergeant Stewart says, "Typically, the violence stems from ongoing disputes involving boys and sex. A girl feels aggrieved that her boyfriend is now with another girl and she attacks that other girl. Interestingly, her anger is usually directed at the other girl, not the boy. The tit-for-tat nature of these disputes is fuelled by texting and by alcohol."

Donna Carter, Child Youth and Family Service, Youth Justice Supervisor says that violent offending by girls is usually quite different than violent offending by boys. "It is often perpetrated by girls in groups, the girls are often very intoxicated, and the offending is often very, very violent. Girls are less likely to back down, less likely to engage with police or other agencies, and less likely to take responsibility for their actions. Girls maintain an attitude, and are therefore a lot more difficult to work with," she says.

Currently the only intervention available in Hastings for violent females is a programme called "Wahine Toa" run by Constable Sue Robinson, Senior Constable Sue Guy and Youth Advocate Kristen Monk. They take girls who are victims of sexual abuse and work with them to build self esteem and take charge of their lives in a positive way. Most of the girls in this programme have been through the Youth Court system. Sergeant Stewart says, " We see a change in behaviour in the bulk of the girls who have been through this programme, but we need more high-level interventions targeting violent female girls.

"We have excellent programmes for violent men, including 'Youth to men' and the 'Dove' programme. But where are the female equivalents?" he asks.

Donna Carter says, " The issue of violent offending by females is one that is nationwide, however I believe that with a collaborative approach between government agencies, communities and persons who have knowledge in this area we must be able to figure out a way to deal with this problem.

"The Hawkes Bay Youth Justice team intend to hold a workshop with stakeholders to do just that; to discuss 'what does work' for female offenders and then put this into practice in our area.

"The challenge is then for everyone else to do the same."

Study tackles violence by girls

The following article first appeared in The Nelson Mail, and has been reproduced here with its kind permission.
Pioneering research on violence and anti-social behaviour by young girls in the Nelson region has the potential to make a huge difference to rates of youth violence in New Zealand. Sally Kidson reports.

If you're a parent of a teenage daughter who's matured early, isn't engaged with school or hobbies and has a much older boyfriend, then alarm bells should be ringing, social anthropologist Donna Swift says.

"I would be watching for warning signs if the boyfriend is out of school and there is a bit age difference of say four to five years," she said.

Dr Swift, from Upper Moutere, is researching why young girls use violent or anti-social behaviour by talking to thousands of girls in the top of the South Island. She is only part way through her research, but says interesting patterns are emerging.

Dr Swift says one common factor is that many of the girls referred to her by police, because they are violent or have been tossed out of schools, often have much older boyfriends. When you talk to them on a one-on-one basis, there is a pattern; that is girls that are in trouble and older guys kind of go together," she said.

The girls she talked to had often physically matured quite early, but weren't confident with their new-found sexuality, she said.

Because of their maturity the girls often didn't relate t the sporty or

Continued

Unique study: Dr Donna Swift, social anthropologist at the launch of The Girls' Project

Continued

studious girls at school which meant in turn they didn't have strong ties to schools. They also often lacked other interests.

Having an older boyfriend was frequently the one thing that made them feel better, and they were willing to stay in relationships, because due to societal and media pressure they considered it better to be ina relationship than "single", she said.

Dr Swift said a scary aspect of the relationships is that there is often a level of dating violence to the relationships, which meant those young girls of 14-16, or maybe even younger, were basically in domestic violence-type relationships with their boyfriends.

This not only eroded the girls' self-esteem but provided them with poor role models or experiences of what relationships were about. Many of the girls came from families where violence was prevalent, she said.

"I guess violence breeds violence./"

Many of the girls came from families where their parents had "a lot going on" and weren't able to provide the support or structure the girls needed, and sometimes parents supported their daughters' relationships with the older males, not recognising that they were actually illegal.

She said violence between girls was frequently over males and sometimes men were playing two girls off against each other. Men either got an ego boost or found the fights titillating, she said.

"Somewhere in the world the message has gone out there is a shortage of boys and we've got to scrap over them and we can't be selective—we've got to scrap over them as it's better to have a boyfriend than not."

She was concerned where these young girls would end up and worried that without help they would end up pregnant, bouncing from man to man on a low income and the cycle of violence would repeat itself.

While the phenomenon of older men dating much younger girls is not new, Dr Swift's research into what is driving young New Zealand girls to be violent and anti-social is new. Research on violence and young women has been carried out internationally, but little has been done on girls in New Zealand.

Dr Swift said this could be partly explained by the fact boys were responsible for the lion's share of youth violence and therefore soaked up most of the funding for research and intervention projects.

In the Tasman police district, which covers the top of the South Island, girls account for 30 per cent of the reported youth violence, up from 25 per cent a few years ago.

Dr Swift is a third of the way through her ground-breaking two-year project into violence and anti-social behaviour by girls aged 13-17 in the Tasman police district.

The project is canvassing about 3000 teenage girls, using face-to-face interviews, questionnaires and focus groups, to try and unravel the complex, contradictory and confusing world of teenage girls. The Girls' Project will investigate why, how and how often girls are violent and the impact on society and their peers.

Importantly, it aims to develop prevention and intervention strategies for young girls from the research; an area where little work has been undertaken.

Dr Swift said she started her work with girls out of the frustration of police, teachers and parents who needed help to understand their behaviour.

The Girls' Project is being hosted and funded by Stopping Violence Services through a $224,000 grant the Nelson-based organisation received from the Lottery Community Research Fund.

Stopping Violence Services manager Ian Gault said those considering the fund application were blown away by the quality of the project's application and the fact the study was unique.

Senior sergeant Ross Lienert, the Tasman police district youth services and family violence co-ordinator, said Dr Swift's research had the potential to make a big difference to rates of youth violence in the region and nationally.

Mr Lienert said little New Zealand-based information existed so the results would be important for developing female specific intervention programmes. "It's ground breading in that sense."

He said intervention programmes aimed at young women could make a big difference to breaking the cycles of violence, as mothers were the ones who often remained with the children and had the biggest chance to have an influence on their lives.

He said a longitudinal study to come out of Christchurch had shown that 90 per cent of dysfunctional kids were born to mothers under 19, and the mothers were often single.

"So you've got that captive group, a group smaller in number than males but who invariably will go on to produce the next generation but are being inadequately equipped for it. It give us a great opportunity to intervene with that captive group."

Mr Lienert said the indications from the United States were that the number of young girls involved in violence had significantly increased, and the girls were getting younger.

Therefore, new Zealand had a good opportunity to intervene before that happened. He was confident the results from Dr Swift's survey would be "eye-opening" and fill a huge gap.

Youth Justice Reparation Accord

The Youth Justice team at Child, Youth and Family National Office, together with the New Zealand Council of Victim Support Groups Inc has collaborated to design a new system for receiving and dispursing reparation payments in the youth justice system.

Since the inception of the Children, Young Persons, and Their Families Act 1989, managing the payment of reparation monies has been a ongoing problem for the Youth Justice Family Group Conference (FGC).

Reparation is a key component of the FGC outcome – victims deserve (and expect) to be recompensed for their losses and these payments reinforce the restorative element of the FGC

Failure to pay reparation often results in the child or young person defaulting on their plan which can result in a referral to Youth Court and further FGCs.

The Youth Justice Reparation Accord (YJRA) has been developed by the Youth Justice team in Child, Youth and Family (CYF) National Office in partnership with the New Zealand Council of Victim Support Groups Inc (Victim Support) and is designed to collect and disburse reparation payments in a robust and transparent way.

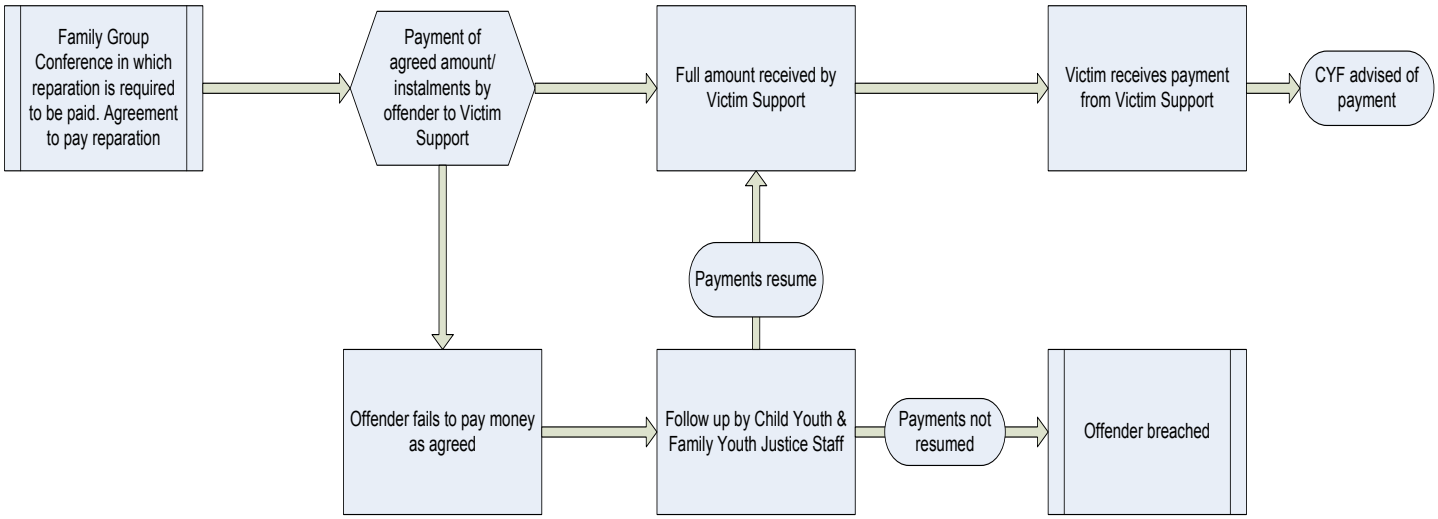
There will be a national bank account operated and managed by Victim Support. This account will be available exclusively to young offenders through the FGC process to pay any agreed reparation. Payments agreed at FGC will be monitored by the referring CYF site and Victim Support will pay out to victims once the full amount has been collected.

The YJRA will significantly increase the rate of FGC plan completion by offering a workable and sustainable way of collecting and disbursing the agreed reparation. The cost to CYF is expected to be minimal and would be more than recouped by the savings anticipated in a reduction in reconvened FGCs and Youth Court appearances for children and young people.

The Accord can also be used to manage the payments of donations which are often used in FGC plans as a monetary penalty similar to fines in the District Court system.

CYF is currently running 3 pilots of the YJRA in the Bay of Plenty (Tauranga and Rotorua YJ), Christchurch (Christchurch and Sydenham YJ) and Wellington (Hutt and Capital Coast YJ) to test the viability of the model, after which, it will be evaluated with a view to making it available to all Youth Justice Teams. The initial feed back from the pilot sites has been positive.

For further information, contact Peter McIntosh, YJ Team, CYF National Office, 04 918 9161 or peter.mcintosh002@cyf.govt.nz



Hastings takes a collaborative approach to children and young people causing concern

Hastings youth justice professionals are demonstrating a strong commitment to best practice by holding weekly meetings and taking a collaborative approach to children and young people causing concern.

Every Wednesday in Hastings, youth justice professionals meet to discuss practical ways to keep young people out of court. These collaborative meetings are attended by the CYFS youth justice supervisor, Police Youth Aid, social workers from either youth justice or care and protection, a Ministry of Education special education representative, and sometimes community agencies. The meetings discuss any child or young person that an agency has identified is a cause for concern either because they are offending, or because they have such care and protection issues that they are at risk of offending.

The meeting takes a collaborative approach on how best to handle each individual case, with the goal of preventing offending.

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Donna Carter, Child Youth and Family Service, Youth Justice Supervisor says, "These meetings promote early intervention, as opposed to waiting for an offence to take place. We identify areas of concern early, and the most appropriate action that needs to be taken. Most importantly, the meetings provide an opportunity for healthy debate instead of a silo approach".

The meetings generate a plan for each child discussed, with people taking responsibility for specific tasks. The variety of outcomes is wide ranging, but can include -

- Re-convening a family group conference;
- Referrals for alcohol and drug assessment;
- Referrals for a parenting programme;
- Providing other community support for the family;
- Interventions by Care and Protection staff;
- Interventions to re-engage a young person with education.

Agencies are held to account for their tasks by the need to report back to the group at the next meeting. Sometimes the meetings have identified training options for agencies and social workers.

Donna Carter says, "These meetings are hugely beneficial because they are all about working in the best interests of the child, young person and their families. They promote good collaboration and communication between stakeholders and the community and provide an opportunity to discuss interagency issues in a non-threatening environment.

"The outcomes we agree on allow all the systems put in place by each agency to flow with transparency and integrity. This results in the best practice and ultimately the best outcomes for children and young people. Everybody is working towards the same goal."

Springboard partners with CYF and Police to reduce Youth Crime in North Rodney

Springboard Community Works is helping to reduce youth crime in North Rodney, and reconnecting young people with their community. Sean MacKinnon from Springboard Community Works reports.

Springboard provides a range of services all aimed at empowering at-risk youth and their families to take responsibility for their actions and build positive futures.

Their approach is grounded in building quality, long-term relationships which address the young people's social, emotional, physical, and spiritual needs.

It seems to be working. North Rodney's Youth Aid Officer, John Williams, observes a marked reduction in the reoffending rates of young people who have had been on Springboard's programmes.

In partnership with local police and Child, Youth and Family, Springboard's GO 180° programme supports youth offenders as they pay their debt to society, challenging dysfunctional attitudes and assisting them into education, work training or employment.

Mark Darling, the Youth Justice Manager for Child, Youth and Family's North Harbour area has been encouraged to see Springboard come on board and proactively create local solutions that work for North Rodney. Mr Darling says

Young offenders learn work skills through Springboard's GO180° programme.

'While Child, Youth and Family social workers have a key role to play in working with young offenders, tackling youth offending requires a whole-of-community response and Springboard is rising to this challenge.'

'Keeping young people on track with plans to address their offending can be challenging, especially when they live in communities located some distance away from the nearest Child, Youth and Family site and don't have access to the range of services available in Auckland' says Mr Darling.

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Thanks largely to Springboard, local employers are now supporting young offenders to gain valuable work experience and volunteer mentors are equipping offenders with an array work and life skills. To date, 100% of young people on the programme have completed their Family Group Conference (FGC) plans and re-offending has drastically reduced.

Springboard also runs an intensive alternative education programme providing young people who are removed from mainstream education a vital opportunity to build a future. Last year, 50% of their senior students achieved NCEA level 1 – a result well above the 2% achieved by alternative education students nationally. Springboard also provide a range of family services including professional counselling, parenting courses, food parcels and clothing which help build trust with the young people's family/whanau. Springboard believe investing in positive relationships provides a powerful catalyst and platform for lasting change.

Springboard is a registered charitable trust, and with five staff and a team of community volunteers. With sufficient funding, Springboard plan to expand their service platform in 2010 to include a mentoring programme for young marginalised kids. For more info contact: mail@springboard.org.nz

STOP PRESS

Key Statistics on child and youth offending—just released

The Ministry of Justice has recently released it's updated publication *Child and Youth Offending Statistics in New Zealand: 1992—2008.* The full report can be found at http://www.justice.govt.nz/publications. The following are some of the key updated statistics.

Overall child and youth apprehension rates

- Child (10 to 13 year olds) and youth (14 to 16 year olds) apprehension rates declined over the 1995 to 2008 period, especially in the last three years.
- The child apprehension rate was highest in 1996 at 543, dropping to 336 in 2008. The youth apprehension rate was also highest in 1996 at 1,926, declining to 1,572 in 2008.

Child and youth apprehension rates by offence categories

- Property offences consistently comprised the largest proportion of child and youth apprehensions over the 1995 to 2008 period. In 2008, 69% of child apprehensions and 61% of youth apprehensions were for property offences.
- Since 1995, the lowest child and youth apprehension rates for property offences were recorded in 2007 and 2008.
- Over the 1995 to 2008 period, violence apprehension rates increased for youth and adults, while the children's rate remained relatively stable.
- The youth apprehension rate for violence has been increasing; the 2008 rate of 198 per 10,000 population was 13% above the average for the period.
- By comparison, the 2008 violence apprehension rate for adults aged 17 to 50, of 177, was up 30% on the average for the 1992 to 2008 period. The comparatively lower apprehension rate of the 31 to 50 age group dilutes the overall apprehension rate of 17 to 50 year olds.

Child and youth apprehension rates by sex and ethnicity

- Since 1995 apprehension rates for both sexes have trended down for children and youth; however the decline has been more gradual for females. As a result a greater proportion of apprehensions is now attributable to females although their actual rate has changed little.
- Māori chil dren's apprehension rate is more than five times that of Pacific or NZ European children, while Māori youth's apprehension rate is more than three times that of Pacific or NZ European youth.

Resolutions of child and youth apprehensions

- There has been a marked decline in child and youth apprehensions dealt with by Police Youth Aid alternative action, particularly in the last three years, with a small upswing in 2008.
- Prosecutions of 14 to 16 year olds have increased sharply, particularly in the last four years.
- Warnings and cautions of children and youth declined over the 1995 to 2008 period.
- Referrals to youth justice Family Group Conferences (FGCs) for children have declined overall, with the highest rate of 26 in 1997, declining to 12 in 2008. Youth referrals to 'intention to charge FGCs' have also declined markedly from 175 in 1995, to 95 in 2008.

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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.

Editor: Tim Hall, Linda McIver
Phone (0064) 04 914 3465