

# **"Court in the Act"**

A regular newsletter for the entire youth justice community

THE YOUTH COURT | TE KŌTI TAIOHI  
OF NEW ZEALAND | O AOTEAROA

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*"...this is a massive problem..."*

Judge Jane McMeeken  
Administrative Youth Court Judge  
Christchurch

*"...out of this tragedy and devastation could emerge exciting and inspirational new ideas for resurrecting the Youth Court in Christchurch..."*

Judge Andrew Becroft  
Principal Youth Court Judge

## **Youth Court after the earthquake - the Christchurch experience**

The earthquake in Christchurch on February 22 has created enormous challenges for the Youth Court there, according to local Administrative Youth Court Judge Jane McMeeken. Other youth justice services are "up and going" according to Judge McMeeken, but the Court still has a "massive problem" to deal with.

One issue is that judges and court staff are locked out of their offices because the Court building, along with the Registry, is within the central city's 'red zone' and therefore inaccessible. A temporary Christchurch District Court has been established at Rangiora, 25kms north of Christchurch. Unfortunately, competition for court space has meant Youth Court sittings at Rangiora are infrequent, and only amount to what Judge McMeeken calls "stopgap measures". In order to deal with other urgent cases involving young people, Judge McMeeken has organised special Youth Court sittings at Te Puna Wai (the Youth Justice Residence) and Odyssey House (drug and alcohol treatment center).

Despite the frustration of trying to deal with young people without a courtroom or registry, Judge McMeeken is full of praise for members of the youth justice community. She says Police Youth Aid, Youth Advocates and Youth Justice Social Workers are going out of their way to look after young people who might otherwise not be dealt with in the usual way due to the general disruption caused by the earthquake.

Some examples of disruption to normal Youth Court case management include: young people being arrested and placed on inappropriate 24 hour curfew, 16 year olds being bailed to appear after their 17th birthday, and family group conference plans unable to be approved. Judge McMeeken said it was interesting to see the extent to which the youth justice system relies on its infrastructure. In general, the lack of Youth Court space means a "huge bottle neck" is emerging, according to the Judge.

Principal Youth Court Judge Andrew Becroft said that all those in the New Zealand youth justice sector will understand, at least to some extent, the unprecedented pressures facing those in Christchurch. He saluted the dedication of all those involved in keeping the system going in Christchurch, and

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commented that, out of this tragedy and devastation could emerge exciting and inspirational new ideas for resurrecting the Youth Court there.

## Guest editorial

Principal of Kristin School in Auckland, Peter Clague, shares his thoughts about the fundamentals of caring, in the wake of the earthquake in Christchurch.

### Empathetic Capital

In this age of mass media and instant digital communication, it would be easy to believe that our individual responses to the devastating earthquake in Christchurch have been governed by how news of the tragedy was unveiled to us. In the face of saturation coverage, how could we not feel personally affected? Let me be the first to admit that in the past, I have been critical of both the intrusive distraction of digital technologies and of the dumbing-down of the New Zealand media, whose frenzy to use that technology so often leads to salacious or facile reporting. In the early coverage of the unfolding disaster however, I thought both excelled.

The immediacy of tweets, text messaging and emails undoubtedly saved lives and, for many others, offered timely reassurances and reduced the hours of anguish. News websites, web cams and personal blogs helped disseminate calls for assistance around the nation

and around the globe with remarkable speed. Satellite imagery, remote sensing equipment and ubiquitous cellphone coverage targeted responses and prioritised rescues.

And, as it made full use of that communications technology, I thought our media shone. It was as if the calamity were so great, they momentarily forgot the imperatives of deadlines, advertising compromises, political leanings, and sales targets. Instead, the personal shock of journalists and TV anchors gave their reporting gravitas, professionalism and humanity. Admittedly, the coverage was all-consuming and, in the end, it became unhealthy to stay glued to it. But whenever I checked back for an update it was, by and large, respectful not gratuitous, informative not vacuous, balanced not biased.

However, in the days after the initial stories radiated out from Christchurch, like human aftershocks of their own, what I pondered was whether my personal response had been purely a result of the media to which I have been exposed? For twenty years I taught a course on natural hazards to Geography students, so NZ's Alpine Fault, subduction zones and liquification are not new to me. And, as someone with an abiding interest in psychology, the manipulative power of a compelling story is not lost on me either. As Stalin once famously said, "The death of one man is a tragedy, the death of millions

is a statistic." As shocking as the rising death toll in Canterbury has been, it is through individual stories of death, injury and loss that we most deeply understand the horror of what has happened. Even the sheer volume of coverage is not unprecedented. I remember seemingly endless video loops after 9/11 and the London and Bali bombings. I recall gruelling images of destruction from the Boxing Day tsunami, Hurricane Katrina, and the Haiti earthquake. More recently, the ravages of nature inflicted upon Australia have also produced harrowing tales of loss.

So if it wasn't due to the persuasive and extensive media coverage, why do I, like so many others, feel so deeply moved by the calamity in Christchurch? Why do we have the overwhelming urge to just get on a plane and go there to lend a hand? To shovel silt, to cook in shelters, to retile roofs – anything. Like so many schools around the country, Kristin's response has been swift, generous and unreserved. I am proud of the help our community has offered and of the good that I know we will do. And yet.....

And yet, like most of you, I still feel a profound sense of affinity with 200,000 Cantabrians, most of whom I have never met. It is more than just a desire to assist, although that is important. We actually share their pain, anxiety, hopes and fears as if they were our own. We imagine what it would be like

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to have such a cataclysm intrude upon our daily lives, to have our world so violently shaken, literally and figuratively. In short, we empathise.

Those with a cynical outlook may hold to old beliefs that humans are, by nature, programmed for aggression, greed and self-interest. But I prefer the evidence that modern brain research and advances in neuropsychology is starting to produce, that, in fact, humans are biologically designed to be empathetic. Author and social commentator Jeremy Rifkin explains this brilliantly as he argues that we are an empathetic civilisation, citing research which proves that our brains are soft-wired to experience another's plight as if we are experiencing it ourselves. I won't try to summarise his findings here, but I would strongly recommend his work. For a superb overview, (accompanied by a clever video clip for those of you who are visual learners), can I suggest that visit:

<http://www.youtube.com/watch?v=l7AWnfFRc7g>

I promise that it will be the best 11 minutes you spend today and that it's uplifting view of humanity's potential and our empathetic capital may help explain why it's not just our hearts, but also our heads, that are with our fellow citizens in Christchurch right now.

## New research - Formal System Processing of Juveniles: Effects on Delinquency

Petrosino, Anthony, Carolyn Turpin-Petrosino, and Sarah Guckenburg (2010). The Campbell Collaboration. Oslo, Norway: [www.campbellcollaboration.org](http://www.campbellcollaboration.org)

Formal processing of youths in the youth justice system does not reduce subsequent offending. If anything, youths processed formally are more likely to reoffend than those screened out of the formal system or processed informally.

This paper reviews research on the impact of youth court processing on subsequent offending, comparing it to a non-youth-justice-system response to offending. It is limited to 'random assignment' studies in order to ensure that any findings cannot be attributed to pre-existing differences between the two groups of youths.

In all, 29 separate sets of findings, involving 7,304 youths, in studies published between 1973 and 2008 were located that met this very strict (random assignment) criterion. In each study, youths were randomly assigned to one of two conditions: normal court processing or some form of less formal processing.

Across studies, the 'less formal processing' varied somewhat. What was important, however, was that by assigning the youths to treatment on a random basis, the two groups ('court processing' and 'no formal processing') can be considered to be equivalent. The authors looked at the longest follow-up period reported in each study (when more than one was reported).

These follow-up periods were, on average about 12-13 months long (range 4 to 36 months).

Overall, court processing appeared to *increase* the likelihood that youths would be involved in at least some subsequent offending, though there were non-trivial differences across studies. For those 7 experiments that reported the total number of offences that the youth were involved in (instead of or in addition to simply whether the youth committed a subsequent offence), court processing also had a criminogenic effect.

Youths processed by the courts were, on average, involved in more crime than those processed in other ways. Similar effects were found for severity: formal court processing of youths, if anything, increased the severity of subsequent offending.

A conservative conclusion would be that court processing does not reduce subsequent offending.

"Given that the evidence indicates that there is no public safety benefit to [youth justice] system processing, and its greater costs when compared to release, even the most conservative cost-benefit analyses would favour

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release over [youth justice] system processing" (p. 38). Obviously some youths, because they have committed serious offences, will be brought to court in any jurisdiction and one cannot generalize the findings from these studies to those youth because these studies focused largely on youths charged with relatively minor offences.

At the same time it should be noted that "the data from these studies do not support a policy of establishing [formal] diversion programs for juveniles who normally would not have been officially processed...." (p. 39).

Source: Criminological Highlights, Volume 11, Number 4, [http://criminology.utoronto.ca/lib/criminological\\_highlights.html](http://criminology.utoronto.ca/lib/criminological_highlights.html)

## TRAX - the new assessment tool at CYF

Child Youth and Family (CYF) have a new strengths, risks and needs assessment tool for social workers dealing with higher risk young people aged 12 years and older.

TRAX allows social workers to capture information about a wide range of factors that will help them in dealing with, and making plans for young people, as part of both their 'care and protection' and 'youth justice' work.

TRAX also produces summary reports that display care and protection risks and needs, as well as summaries of strengths and other special considerations. The youth justice component of TRAX also measures the offending related needs of the young person.

The aim of TRAX is to support social workers (both care and protection, and youth justice) to produce comprehensive assessments and individualised plans for the young people who they work with.

According to CYF's user guidelines, TRAX will help social workers do 4 main things:

- understand the 'whole of the young person' and the causes of their behaviour and offending
- provide information to family group conferences (FGCs) and the Court about a young person's needs and possible interventions
- develop plans for the young person
- measure outcomes through re-assessments

TRAX has been developed using research into what constitutes best practice in risk assessment. Assessment tools used in other countries such as the UK, Canada and Australia were also considered. The decision to develop a uniquely New Zealand tool has meant that TRAX has been made to suit the needs of CYF, including being able to be used for both care and protection, and youth justice services.

A number of other assessment and measuring tools are included in TRAX. These include the Substances and Choices Scale (SACS), Kessler Suicide Screen, and YORST (Youth Offending Risk Screening Tool).

New Zealand Youth Court Judges have praised the use of TRAX, and commented that the summaries it produces are a great benefit to family group conferences and Youth Court Judges.

# What works - the latest New Zealand research

The Henwood Trust, New Zealand's leading sponsor of youth justice research, has recently published the latest version of the research paper by Gabrielle Maxwell and Peter Marsh called *Effective Programmes for youth at risk of continued and serious offending*. The bold purpose of the paper is to generate the right criteria for assessing existing programmes for serious young offenders, which can also be used by providers looking for guidance when starting new programmes,



Judge Carolyn Henwood

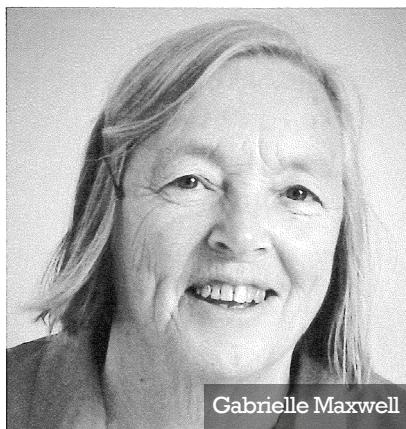
## Principles and objectives in youth justice - ingredients for a good life

The research paper is subtitled "Something to do, someone to love, something to hope for" - a description of the three conditions for a happy life prescribed by E P Culverwell in 1914. This theme is stated to be the objective that all programmes for youth at risk should achieve, and is echoed by Judge Carolyn Henwood, in her forward to the paper. She reminds readers of the principles of the Children, Young Persons and Their Families Act 1989, which says that young people must be kept safe, have their needs understood and met, and be given opportunities to develop in socially acceptable ways. She adds that this approach to

rehabilitation must also be accompanied by accountability, and that, though hard to do, the work of effective youth justice is not impossible. She says that worthwhile programmes for young offenders must be delivered by providers with clear vision, a plan, and the capacity to deliver that plan.

## Principles and objectives in youth justice 2 — identity and a place to call home

Researchers Maxwell and Marsh invoke Article 8 of the UN Convention on the Rights of the Child, as well as Maori concepts of manawhenua, ngaki, whanaunatanga, whakapapa and whakama to illustrate the point that children need to find "a place in a group where they belong". They also remind readers that our very own youth justice legislation (The Children, Young Persons and Their Families Act 1989) provides a catalog of principles and objects (in sections 4, 5, 6, 208) that set out the core values that should guide the philosophy and actions of programme providers.



Gabrielle Maxwell

## The needs of a young person - specific ingredients for a good life

The paper promotes the development of a theory, backed by evidence, of what it means for a young person to have a good life. It refers to the work of local and overseas researchers who have formulated lists of young peoples' criminogenic needs, which, if met, should have a positive impact on their risks of reoffending. The paper's authors say that all these needs should be considered when tools are being developed to assess young people, when programmes are being developed, and when programme outcomes are being evaluated.

## What works better?

The paper points to research that spells out a number of characteristics of successful programmes for young offenders. Characteristics include:

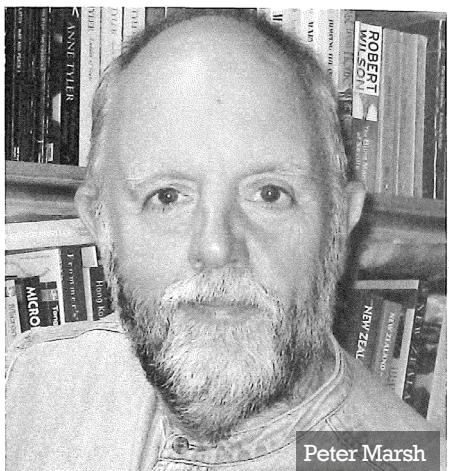
- Something educational, eg special learning, parenting or employment
- building parental confidence, and increasing bonds between young people and their parents, friends and communities
- based on young peoples' strengths
- developing positive, pro-social relations with peers, family and other adults
- working across multiple

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## environments

- teaching new skills, new behaviours, new ways of thinking
- using staff who are well trained and good role models or mentors for young people
- operating outside the structures of the 'formal justice system'
- providing good reintegration services post release from residential programmes
- being able to demonstrate effectiveness, ie assessments of client needs, good record keeping, follow up assessments
- effective management of foster care placements.



Peter Marsh

## What doesn't work

The paper's authors feel it important to also highlight the kinds of programmes for young offenders that have been shown to be ineffective, or worse, to actually increase the likelihood of reoffending. These include:

- arrest as the only response
- shock tactics and boot camps

- scared straight programmes
- intensive police monitoring
- counselling that does not address criminogenic needs
- spending too little time with high needs young people, or too much time with low-needs ones
- programmes that display disrespect, unfairness, shame or insensitivity

## Cultural responsiveness

The paper summarises various Government studies as well as work done by Dr Mason Durie. Important principles include equity, 'by Maori for Maori', and partnership.

The paper also addresses issues specific to providing services and programmes for Pacific peoples.

## Measuring effectiveness

The paper places much emphasis on discovering the effect of youth justice programmes. This means measuring the outcomes in terms of how well they meet the needs of young people and their communities. The report recommends the UK Cabinet Office's 7-principle methodology for measuring social return on investment.

The paper also advises programmes providers to engage in internal as well as external evaluations and to commission research to identify best practice indicators.

The authors admit that independent monitoring of

individual programmes' key quality assurance indicators is not available in New Zealand, except for a few Child Youth and Family residences. They admit that such evaluations are expensive. More expensive still is nationally-funded research to identify best practice issues for particular populations. The report points out that NZ has rarely had studies of this kind, despite them being "sorely needed".

## Practical stuff

The paper outlines a clear framework for developing an effective youth justice programme. It also sets out a thorough checklist for assessing and evaluating the effectiveness of an existing programme.

The paper concludes by giving a brief summary of 5 New Zealand studies that looked at 15 different programmes for young people.

## A valuable resource

Principal Youth Court Judge Andrew Becroft said he is excited by the publication of this paper. He said, to his knowledge, it is the first 'homegrown' piece of New Zealand research that puts local youth justice programmes under the microscope. Judge Becroft said this paper is another great contribution to the scholarship and practice of youth justice in New Zealand by Judge Carolyn Henwood and the Henwood Trust.

# Fetal Alcohol Spectrum Disorder (FASD): Undiagnosed and Unrecognised - Judge Stephen O'Driscoll

Court in the Act has recently published two articles relating to Fetal Alcohol Spectrum Disorder (FASD) (see Issues 50 and 51). This has been in response to the Youth Court attempting to raise the issue with both the legal profession and health professionals regarding the disorder. Court in the Act is principally directed towards professionals who work with children and young persons in the youth justice arena. It is apparent to most of the professionals that many of the youths that appear in the Youth Court exhibit symptoms of FASD. (Although I have used the term FASD in this article it also refers to Fetal Alcohol Disorder (FAD) and Alcohol-related neurodevelopmental disorders (ARND)). A key concern for the Youth Court is to establish whether there are better interventions to reduce reoffending by those who have FASD.

FASD covers a spectrum of conditions that cause behavioural and other disabilities due to prenatal exposure of the foetus to ethanol (alcohol). Exposure can cause permanent brain alterations leading to lifetime disability. The disorder is irreversible, but in certain cases the effects of the disorder can be reduced.

FASD is not a new phenomenon. Concern about gestational harm from alcohol arose in North America some 40 years ago when researchers found a group of children with an apparent unique phenotype, coupled with a high dose of prenatal exposure to ethanol. Over the last 40 years much has been learned about the complexity, seriousness and frequency of alcohol on the brain development of a foetus. Legal and medical professionals throughout the world have become increasingly concerned

about the number of children born with alcohol related brain disorders.

I had the privilege of attending the Fourth International Conference on FASD in Vancouver between 2-5 March 2011. The conference was attended by over 1000 delegates from a large number of countries. The delegates included judges, lawyers, paediatricians, psychiatrists, psychologists, clinicians and researchers who had an interest in FASD. There were 13 delegates from New Zealand,

Why is knowledge about FASD important to Judges, youth advocates, police youth aid, Child, Youth and Family and others involved in the Youth Court? The reason is simple. Many youths who appear in the Youth Court (and who have probably also been involved in care and protection proceedings in the Family Court) are likely to have been exposed to prenatal alcohol and, are affected to varying degrees with FASD. It is important that FASD is taken into account by the Court when considering culpability and sentencing issues.

**How prevalent is FASD?**  
One of the issues that arose at the Vancouver conference is the prevalence of FASD. The latest research suggests that the prevalence of FASD is higher than previously

thought. It is now estimated, that three to four per cent of births may result in babies being born with FASD. No research has been carried out in New Zealand but I suspect that the prevalence of FASD in New Zealand is unlikely to be significantly different from the recent research. It may be however, that the prevalence of FASD is even higher in New Zealand due to both the high incidences of unplanned pregnancy and the binge culture surrounding the use of alcohol that exists in New Zealand.

The Vancouver conference considered recent research relating to how professionals diagnose FASD. This is a contentious area because some professionals are not aware of FASD and others believe that a child's behaviour is due to disorders other than FASD such as attention deficit hyperactivity disorder (ADHD). There can also be issues relating to a proper diagnosis where a pregnant mother engages in poly substance abuse or where post natal abuse and neglect may be a factor.

Some in the health arena remain sceptical about the existence of FASD. FASD is not specifically mentioned in DSMIV and as I understand it, although it will be mentioned in DSMV, it does not appear to have the overwhelming support of those in the

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medical and health fraternity. Many in the medical and health fraternity consider that the consumption of alcohol by a mother during pregnancy is simply one of many substances that may be abused by the mother and contribute to cognitive deficits in a child.

The three major methods for studying the prevalence of FASD are surveillance and record collection systems, the use of clinic-based studies and active case ascertainment studies. In active case studies researchers and clinicians examine an infant, child or young person to ascertain characteristics that may lend support to a finding that FASD may exist in a particular individual. It seems that the severity of an individual child's traits of FASD is primarily influenced by the quantity of alcohol consumed by the mother during pregnancy, the frequency of alcohol consumption and the timing of the drinking during gestation of the foetus.

### **Taking account of FASD in the youth justice system**

The Conference considered the characteristics of children and young persons who had been diagnosed with FASD. These characteristics included physical deformities in extreme cases. Techniques used by researchers to measure these included brain and facial imaging.

In the majority of cases there were deficits in executive functions and cognitive thinking. These deficits include a number of matters that are unfortunately all too familiar for those that practise in the Youth Court. These include difficulties in a young person translating verbal directions into actions, an inability to link cause to effect, difficulties understanding concepts of time, difficulties with memory, difficulty in paying attention to what is being said to them and difficulties understanding social views regarding boundaries.

These cognitive deficits are important from two perspectives. First the existence of FASD may relate to a youth's culpability and explain why they got involved in offending. Those with FASD are not usually leaders, but are followers. Second, the existence of FASD in a youth is a relevant consideration that should be taken into account in formulating a family group conference (FGC) plan. Participants at the FGC and professionals involved with the youth need to be aware that the existence of FASD in the young person should be taken into account in formulating the FGC plan.

In an ideal world an FGC plan would have actions in the plan to help the young person address issues surrounding FASD. This would be to help the young person and reduce the risk of reoffending. The Conference discussed various measures to help a young person with

FASD. It is important to recognise that these measures will not repair the brain damage caused by prenatal exposure to alcohol but can assist in reducing the effects of the brain damage. Although the use of medication was one technique to reduce the effects of FASD, other matters considered by the Conference included executive functioning training, cognitive therapy and the role of nutrition. However, the most critical element remains identifying the disorder and modifying the environment for the affected young person to achieve success.

### **The Cost of FASD to the Community**

The Conference discussed the costs of FASD to the community. On one level the costs associated with FASD are interpersonal and relate to relationship difficulties. On an economic front, costs can be measured in terms of the utilisation of resources for those with FASD. Like many other disabilities sufferers may require medical treatment, special education, family support and other community support services. There are also secondary disabilities resulting from FASD which include those with FASD struggling to maintain full-time employment and requiring benefit assistance. The Conference was informed that the annual cost in Canada is about \$CA7.6 billion which amounts to a lifetime incremental cost per

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person of \$CA742,000 for one case of FASD. Some of this cost may be offset by ensuring interventions are appropriate and protective.

### **What the youth justice community can do**

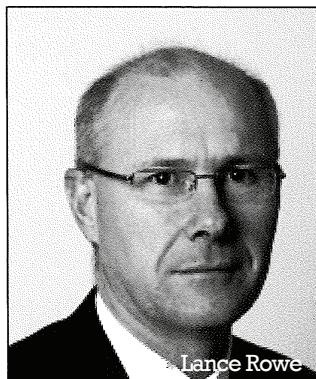
Sadly, the solution is not to simply suggest that pregnant women should not drink during pregnancy. FASD can affect the foetus even before a woman may know she is pregnant. Education, through multiple avenues is probably the best method to prevent FASD. There is little the Youth Court can do to encourage prevention once prenatal exposure to alcohol has occurred. Youth justice professionals should however be on the alert that a young person may have FASD and if and when appropriate seek a proper medical assessment. When this occurs not only can the outcome improve for the affected young person, the understanding and awareness of those directly involved with his or her care is also raised.

The majority of New Zealand's 13 delegates met together at the Conference with Judge Wartnik from Seattle (who has a long interest in FASD). We discussed New Zealand's position regarding FASD and agreed to keep in contact with each other in order to try and increase the knowledge and awareness of legal and health professionals in New Zealand about FASD.

## **Youth Advocates Conference - this May**

The New Zealand Law Society and the Council for Legal Education are hosting for first conference for New Zealand's specialist youth advocates since 2004.

The conference will be held in Wellington on 16 and 17 May, and, according to conference chair Lance Rowe, is an unmissable opportunity for youth advocates to keep up to date with developments in the law, and "retain and develop the skills necessary to discharge their essential function within the youth justice system".



Lance Rowe

Conference topics include the special nature of young people, arrest, custody and bail, indictable charges, fitness to plead, Rangatahi courts, and the changes to the law brought in by the Children, Young Persons and Their Families (Youth Court Jurisdiction and Orders) Amendment Act 2010.

Included in these changes is the addition of some 12 and 13 year olds to the Youth Court's jurisdiction for the first time. Lance Rowe says that developments such as this mean that a high degree of expertise and specialisation is even more necessary than it has been in

the past. He says youth advocacy can sometimes involve the uncomfortable marriage of criminal law, youth justice principles and care and care and protection principles.



Ian Lambie

Speakers at the conference include clinical psychology professor and Youth Justice Independent Advisory Group member Ian Lambie, leading lawyers such as Sonja Cooper, Gary Earley and Claire Ryan, and Youth Court Judges Chris Harding, Stephen O'Driscoll, and Heemi Taumaunu.

The keynote speech will be given by Principal Youth Court Judge Andrew Becroft. Judge Becroft says he hopes that every youth advocate makes it a priority to attend this conference because New Zealand is the only country in the world that has a statutory requirement that young people in the youth justice system must be represented by trained lawyers.

For more information on the conference, see [www.lawyerseducation.co.nz/shop/Conferences+2011/Youth+Advocates+Conference+2011.html](http://www.lawyerseducation.co.nz/shop/Conferences+2011/Youth+Advocates+Conference+2011.html).

# The UK Youth Justice Board – National Audit Office Report

On the eve of the abolition of the UK's Youth Justice Board (YJB), the Auditor General has released a report into the costs of dealing with offending by young people in the UK and the performance of the YJB in reducing reoffending.

With 60 per cent of young offenders in the UK dealt with in court, it is no surprise that most of the £800 million spent on youth justice in the UK in 2009 went on young offenders with court sentences. And though just 3% of offending by young people in the UK ended with a custodial sentence, that 3% accounted for 38% of the total youth justice budget in 2009.

In the light of this public expenditure on youth justice, the UK National Audit Office has made a number of findings and recommendations:

## Risk = Expenditure

The report notes, with approval, that the youth justice system is structured in such a way that allows the most resources to be allocated to the riskiest offenders. This throws a spotlight onto the practice of risk assessments, which, unfortunately, were found to be not of sufficient quality in around one-third of cases. All assessment practitioners in Britain use the same assessment tool.

## Custody - too expensive and doesn't work

The report notes that while

the adult prison population in Britain increased by 14 percent in the last 5 years, the number of young people held in custody dropped, over the same time, by the same amount.

The report also recognises that the option of custody fails on two important fronts. It is the most expensive sentencing option, and is of "limited effectiveness" in reducing offending.



National Audit Office

## Reducing reoffending

Of all the measures of success in the complex and difficult world of youth justice, reducing reoffending by young people who commit more serious offences seems to be the hardest to achieve. It was not surprising then, that the National Audit Office found that not even the YJB or their multi-million pound budget could reduce the risk that young people serving serious community or custodial sentences would reoffend again within a year of being released.

More worrying is the finding that a large percentage of senior youth justice professionals in the UK have difficulty finding evidence of 'what works' to reduce reoffending. The report notes that there has been little 'what works' research published by the YJB or the UK Ministry of Justice since 2006. It concludes that this

leaves the sector in a weak position to know how to stop reoffending numbers from getting worse by making decisions on which programmes should be cut and which retained.

The report criticises the YJB for only spending 0.5% of its overall budget on research in recent years.

On the basic question of whether the YJB delivers value for money, the report says the YJB and the Justice Ministry will not be in a good position to know the answer to this until they have a better evidence base on what is working and what is not.

The report can be found online at [Issue 53 March 2011](http://www.nao.org.uk>Youth-Justice-2010.</a></p></div><div data-bbox=)

# Youth Justice around the Universities

Students now have the opportunity to study Aotearoa/NZ's unique youth justice system in three Universities in the country.

At University of Auckland, Khylee Quince and Alison Cleland co-teach a dedicated Youth Justice elective, Law 439. This paper is being offered for the second time in 2011. At Victoria University of Wellington, Dr Nessa Lynch offers a 300 level elective course on Youth Justice, Laws 396. This paper is also in its second year. At Otago, Professor Mark Henaghan is an expert in the law relating to children and young people and his students can explore these issues in depth.



Alison Cleland

in its international context, offering comparison with other jurisdictions.



Khylee Quince

Research into Aotearoa/NZ's youth justice system is taking place. Alison Cleland is conducting interviews with youth court personnel around the country, exploring due process and welfare aspects of youth justice practice. Nessa Lynch has current projects on DNA powers in the youth justice system, the 2010 youth justice amendments, particularly those relating to child offenders, and vetting schemes in child protection.

The universities hope that their academic research can contribute to wider discussion about the practices and outcomes in the system with those working within the system. Discussions are taking place about a possible National Youth Justice Conference, to allow academics and practitioners to explore the key issues of concern that now face the system.



Mark Henaghan

The universities welcome feedback, ideas for research or collaboration or for conference topics. Please contact:

[alison.cleland@auckland.ac.nz](mailto:alison.cleland@auckland.ac.nz) or [nessa.lynch@vuw.ac.nz](mailto:nessa.lynch@vuw.ac.nz)

Principal Youth Court Judge Becroft has addressed the students at Victoria and Auckland. Student dissertations are now being researched and written on Youth Justice topics and students are expressing interest in careers in the Youth Justice field. Both dedicated Youth Justice courses allow students to place Aotearoa/NZ's system



Nessa Lynch

# Bail Law Review - what it means for young people

The Ministry of Justice have released a public consultation document looking at changes to some aspects of the bail system. Below is the section of the document that relates to bail laws for young people under 17 years of age. Previous law reform has suggested similar changes (see CYPFA #4 Bill). The whole consultation document is available from the Ministry of Justice's website [www.justice.govt.nz/policy/criminal-justice](http://www.justice.govt.nz/policy/criminal-justice). The public consultation period closes on 16 May 2011.

## Background

139. For many years New Zealand's criminal justice system has required children and young people to be dealt with differently from adults because of their relative immaturity and vulnerability. This is an approach that is adopted internationally, and is recognised in the United Nations Convention on the Rights of the Child, to which New Zealand is a party.

140. Defendants under 17 at the time of the offence, and under 18 at the time the charges are laid, are generally dealt with by the Youth Court under the youth justice provisions of the Children, Young Persons, and Their Families Act 1989. One of the fundamental principles guiding Youth Court decisions, including bail decisions, is that children and young people should be kept in the community as far as this is practical and in keeping with public safety.

## Arresting defendants under 17 years of age for breach of bail conditions

150. At present, if a defendant under 17 years of age breaches his or her bail conditions, Police can only arrest the defendant without a warrant if this is considered necessary to ensure that the defendant does not abscond, interfere with witnesses or evidence, or offend. Police can arrest an adult defendant without a warrant for any breach of a bail condition.

151. Arrest without a warrant (and the possibility of being remanded in custody) will usually be an

option for a serious breach of bail conditions by a defendant under 17. However, for less serious breaches, there is little Police can do to address the breach.

152. The Government is considering whether to allow Police the option of arresting defendants under 17 without a warrant for any breach of conditions. In less serious cases, where Police are not currently able to arrest, this will allow Police to immediately stop the breach continuing and to consider whether to seek different or more stringent conditions from the Youth Court. It is important to note that this proposal does not affect the threshold for remanding young defendants in custody.

## Preliminary view

153. The Government's preliminary view is that Police should be able to arrest defendants under the age of 17 without a warrant for any breach of bail conditions. This will allow Police to stop the breach continuing and to consider ways to address the defendant's behaviour.

154. However, given the relative immaturity and vulnerability of defendants of this age, the Government considers that this power needs to be subject to appropriate safeguards. The Government's preliminary view is that defendants under the age of 17 that are arrested without a warrant should be released as soon as practicable, and no more than 24 hours after arrest, unless a longer period is required to apply to the Youth Court:

- for different bail conditions for the purpose of preventing the young

person absconding, interfering with witnesses or evidence, or offending on bail; or

- to have the defendant detained or remanded in custody.

This is consistent with other restrictions on detention of young people.

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