

“Court in the Act”

More Youth Court information and Youth Court decisions on www.justice.govt.nz/

The latest issues facing the Youth Court and Youth Justice practitioners in New Zealand

A newsletter co-ordinated by the Principal Youth Court Judge for the Youth Justice Community

Special points of interest:

- Time for a Review of the CYPF Act—Have your say!
- How to Tell Whether Youth Justice Initiatives are Working—YOSEC Provides a Useful Tool for Measuring Effectiveness
- Note the new “Court in the Act” email address: courtintheact@justice.govt.nz.

In this Issue ...

HUGE amounts of time and money have been spent trying to work out what works and what doesn't in halting youth offending. In this edition a “what works” expert outlines a new tool for measuring the effectiveness of such programmes without breaking the bank.

And we report on a plan to introduce lay advocates into the Youth Court. These advocates

are provided for in the CYPF Act and work to make the Court aware of cultural matters and represent the interests, especially of the young person's family.

You can even try your hand at a couple of questions from the Police Youth Aid qualifying exam—see how you do! And on page 11 there are details of how you can have your say on the current review

of the CYFP Act..

We are always keen to receive your articles and letters to the editor—please send them to our new “Court in the Act” email address courtintheact@justice.govt.nz.

As always, more Youth Court information and summaries of Youth Court cases are available on our website www.justice.govt.nz/youth.

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“YOSEC” - Youth Offending Services Effectiveness Checklist

Measuring Youth Justice Programmes Against “What Works” To Reduce Offending

Guest Editorial By Kaye McLaren

Kaye wrote the leading New Zealand text on “what works” with young offenders: “Tough is Not Enough” (available from the Ministry of Youth Affairs).

Why (And What) is YOSEC?

How do programme providers know how close their programmes come to doing ‘what works’? How do funders know how much

the programmes they are funding reflect what is most effective in reducing offending by young people? These are questions that have bothered me for over a decade, since I first came into contact with the “what works” research in 1991.

The normal answer is through outcome evaluation, but this is time-consuming and expensive, and very few programmes are lucky enough to get one.

My personal answer to these questions is YOSEC – the Youth Offending Services Effectiveness Checklist. I have been developing this checklist from the research on “what

works” over the past three years. It captures the best proven aspects of “what works”, from staff characteristics and programme targets, through engagement and effective change techniques, to cultural aspects of programmes and many more.

Using YOSEC – easy and (relatively) quick

Programmes that have used YOSEC have found it easy to use and useful. It can be self-administered by providers, or worked through with an independent assessor, such as a funder.

"Funders appreciate the level of information it gives them on where the programme has strengths and where there are genuine needs for development."

YOSEC Checklist (cont'd)

Providers can use the time spent answering YOSEC as a team building and staff training exercise, helping their staff learn more about the programme they work in and more about "what works" while they do it.

For funders, it provides a valuable opportunity to spend more time with the programmes they fund and build up closer working relationships with them. These are all outcomes I hadn't really anticipated when I first thought of YOSEC.

The report generated at the end of filling in YOSEC can be used to support funding applications, and has been used successfully in this way. Funders appreciate the level of information it gives them on where the programme has strengths and where there are genuine needs for development that they can support, such as supervision or training.

YOSEC takes between one and a half and three hours to go through, depending on how much discussion there is and whether the 21 item or 37 item version is used. Time is also required to look through documentation and fill in the short report.

If providers want to do a Programme Development Plan another two to three hours is also required for this. This is a great deal quicker than the months and sometimes years it takes to do process and outcome evaluations.

Programme development resource and scoring

YOSEC is designed to be

very easy to use, and the instructions for each question appear on the left hand side of each page. Each provider who uses it also gets the resource of the Programme Development Guide, which gives brief, easy to read background on the research that sits behind each item, along with suggestions for further reading and practical actions providers can take.

Scores come in the form of a "traffic light" bar graph, with each item being marked either green for a strength, red for a development need, and orange for somewhere in between. This means that programmes can take a YOSEC "snapshot" of where they are and then repeat it some months later, to see where development (or slippage) has taken place.

Focus on reducing offending

The focus in YOSEC is on the aspects of programmes that have been shown to reduce offending by young people, rather than capacity building factors such as governance, accounting, mission and vision statements etc. These are important, but I felt they were already well covered by existing systems used by funders and providers. It was the 'black box' of what actually impacts on offending behaviour that I thought was missing.

Consultation and research behind YOSEC

YOSEC is based not only on a great deal of high quality research from New Zealand

and around the world, including research on cultural factors, but also on expert opinion from providers, cultural experts and researchers. Two waves of consultation took place:

1. Six consultation meetings were held throughout New Zealand with programme providers, funders, cultural experts and researchers

2. Three days of fono were held with Pacific cultural experts and three days of hui with Maori cultural researchers.

In addition, an expert on the development of checklists and other psychometric tools was involved from the start as an advisor. Peer reviews were also done by an overseas expert on youth justice and a cultural expert in New Zealand.

Who is using YOSEC

Interim final versions of YOSEC are now available, and work is nearing completion on the final versions. These will incorporate the full spectrum of feedback from consultation, including an increased amount of cultural content.

YOSEC is being used by CYF staff in the Central region (Wellington to Taranaki/Gisborne), and I have had positive feedback on it from both CYF staff and providers. It is also being used by Ministry of Youth Development (MYD) staff with their youth justice providers.

YOSEC Checklist (cont'd)

Training and documents

I offer training in how to use YOSEC, which both CYF and MYD have used for their staff, although it can be used without any training.

I also offer training in various aspects of "what works", which can be useful background for both funders and providers using YOSEC, helping them

understand why YOSEC contains what it does.

A one day training session on 'what works' and a four hour session in how to use YOSEC will be available in Christchurch on 26 and 27 April respectively at a cost of \$25 per person for the two days. For further information on the training in Christchurch, contact Sam of Pillars at

sam@pillars.org.nz or on 03 377 39903532921, or to arrange other training sessions or for copies of current YOSEC documents, please contact me at: kaye.mclaren@paradise.net.nz.

[Ed. You can read "Tough is not Enough" on <http://www.myd.govt.nz/uploads/>

This provides the "black box" of what actually impacts on offending behaviour."

Proposal for Lay Advocates in the Youth Court

Draft Proposal sent to us by Gerard Clark, Principal Analyst, Ministry of Justice

THE Ministry of Justice has released a draft proposal on lay advocates in the Youth Court. This is a preliminary paper for discussion and feedback. In the first instance, all comments should be directed to Cassandra Anderson at the Ministry of Justice at cassandra.anderson@justice.govt.nz or (04) 918 8800

The Children, Young Persons and Their Families Act 1989 allows the appointment of lay advocates (s326) but they have rarely been adopted in proceedings since the Act was passed.

The primary role of lay advocates is to make the Court aware of cultural matters relevant to proceedings, and to represent the interests of the child or young person's whanau, hapu and iwi (or their cultural equivalents).

Although lay advocates have a non-legal role they can nevertheless make

representations to the Court, call and cross-examine witnesses, have copies of all documents served on the parties to the proceedings, access reports about the young person, attend FGCs and make representations in respect of the detention of a young person in secure care, or their care in a residence.

A pilot lay advocates initiative was set up in 2003 in Waitakere, Manukau and Whakatane Courts but the pilot foundered, mainly because of difficulties in gaining agreement and buy-in from key stakeholders.

Recently, the Ministry has received requests for further pilots and programmes aimed at lay advocates and says there is clear support for an initiative to support the increased use of lay advocates in the Youth Court.

The Ministry proposes introducing the use of lay advocates slowly by:

- Defining and applying the criteria for lay advocates.
- Setting a reasonable rate of payment for lay advocates (\$200 per day).
- Providing simple communication about the role of key players (including lay advocates themselves).
- Outlining a process that can be followed to maintain a list of lay advocates in a Court.
- Monitoring the use of lay advocates and identifying any remaining barriers to their use.

Possible initiatives include a training package for lay advocates, wide communication and a formal recruitment drive for lay advocates.

It is envisaged that lay advocates will have a suitable personality and cultural background and will be respected in and heavily involved in their cultural communities.

Congratulations those born in the 40s to the 70s!

Sent to us by Dr. Ian Lambie, an Auckland based clinical psychologist, Member of the Youth Justice Advisory Group to Government Ministers

"We shared one soft drink with four friends from one bottle and NO ONE actually died from this ..."

First, we survived being born to mothers who smoked and/or drank while they carried us.

They took aspirin, ate blue cheese dressing, tuna from a tin, and didn't get tested for diabetes.

Then after that trauma, our baby cots were covered with brightly coloured lead-based paints.

We had no childproof lids on medicine bottles, doors or cabinets and when we rode our bikes, we had no helmets, not to mention, the risks we took hitchhiking.

As children, we would ride in cars with no seat belts or airbags.

Riding in the back of a van - loose - was always great fun.

We drank water from the garden hose pipe and NOT from a bottle.

We shared one soft drink with four friends, from one bottle and NO ONE actually died from this.

We ate cakes, white bread and real butter and drank fizzy drink loaded with sugar, but we weren't overweight because.....

WE WERE ALWAYS OUTSIDE PLAYING!!

We would leave home in the morning and play all day, as long as we were back when the streetlights came on.

No one was able to reach us all day. And we were OK.

We would spend hours building our go-carts out of scraps and then ride down the hill, only to find out we forgot the brakes. After running into the bushes a few times, we learned to solve the problem.

We did not have Playstations, Nintendo's, X-boxes, no video games at all, no 99 channels on cable, no video tape movies, no surround sound, no cell phones, no text messaging, no personal computers, no Internet or Internet chat rooms.....WE HAD FRIENDS and we went outside and found them!

We fell out of trees, got cut, broke bones and teeth and there were no lawsuits from these accidents.

We played with worms and mud pies made from dirt, and the worms did not live in us forever.

Made up games with sticks and tennis balls and although we were told it would happen, we did not poke out any eyes.

We rode bikes or walked to a friend's house and knocked on the door or

rang the bell, or just yelled for them!

Local teams had tryouts and not everyone made the team. Those who didn't had to learn to deal with disappointment. Imagine that!!

The idea of a parent bailing us out if we broke the law was unheard of. They actually sided with the law!

This generation has produced some of the best risk-takers, problem solvers and inventors ever!

The past 50 years have been an explosion of innovation and new ideas.

We had freedom, failure, success and responsibility, and we learned

HOW TO DEAL WITH IT ALL!

And YOU are one of them!

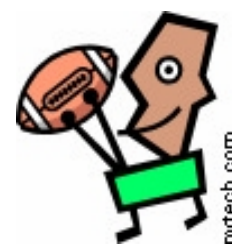
CONGRATULATIONS!

You might want to share this with others who have had the luck to grow up as kids, before the lawyers and the government regulated our lives for our own good.

And while you are at it, forward it to your kids so they will know how brave their parents were.

Kind of makes you want to run through the house with scissors, doesn't it?!

PS: The BIG type is because your eyes are shot at your age!



Nelson: Worries Over Youth Offending

By Vanessa Phillips
From The Nelson Mail of 22
March 2007

A hard core of young criminals from crime “mini-dynasties” are committing increasingly serious offences in Nelson, and sometimes learning their lawlessness from parents or siblings, a lawyer says.

Nelson police say some of the young offenders they deal with have dysfunctional backgrounds, living in substandard conditions with parents who have significant drug or alcohol problems.

Nelson's youth crime rate is 10 percent above the national average. About 31 percent of offenders caught in the area are aged under 17.

Nelson police are dealing with a surge in youth offending, with 35 children between the ages of 14 and 17 before the Youth Court, up from 15 before

Christmas.

Youth court lawyer Mark Dollimore said young offenders were “getting bolder as far as the seriousness of their behaviour goes”, and committing crimes such as burglaries and violence.

“You are seeing more kids doing adult-type crimes.”

Mr Dollimore said he was aware of one case where teenage boys were beating up people in Nelson and using their cellphones to film the attacks.

For many, criminal behaviour ran in their families, he said.

“There's some mini-dynasties. Some are learning it off their parents and siblings.

“Some of those in dynasties, you know they will carry on to district court and jail.”

Some young offenders

were from poor families, and in most cases their parents had split up, he said.

However, some were “spoilt brats” from busy middle-class families, and he suspected that they sometimes turned to crime because both parents were “working around the clock and leaving kids to their own devices”.

Mr Dollimore said a combination of boredom from not going to school and alcohol and cannabis abuse fuelled many youths' offending, and he believed there were not enough alcohol and drug treatment facilities for them.

Nelson Bays police area commander Inspector Brian McGurk said some of the young offenders appearing in court came from dysfunctional backgrounds, with parents or caregivers

Article continues page 12.

“You are seeing more kids doing adult type crimes.”

From Punishment to Problem Solving in the United Kingdom

A New Approach to Children in Trouble

Article sent by Rob Allen of
Kings College, London, UK

THE age of criminal responsibility should be raised as part of a fundamental shift in tackling youth crime according to a report by a leading expert, who has advised the government on youth justice, published today by the Centre for Crime and Justice Studies at King's College.

From punishment to problem solving: A new approach to children in trouble says government policies are

demonising and criminalising young people rather than addressing the reasons for their behaviour.

The author, Rob Allen, who has just completed a maximum of two four year terms as a member of the Youth Justice Board, calls for a move away from the world of 'cops, courts and corrections' towards an emphasis on meeting the health, educational and family difficulties which lie behind so much offending.

The report highlights the fact that children are criminalised in England and Wales at a much

younger age than in many other countries, including France, Germany, Canada and Russia. The age of criminal responsibility should be raised from ten to 14 with child care proceedings used for children below that age who commit serious offences.

The report sets out a reform package to overhaul the youth justice system including:

- The introduction of specialist prosecutors with the aim of actively identifying and diverting cases where local authorities should investigate the need for

“Government policies are demonising and criminalising young people rather than addressing the reasons for their behaviour.”

"A genuine shift from punishment to problem solving as the guiding principle for tackling youth crime would help to produce a society that is both safer and fairer."

From Punishment to Problem Solving (cont'd)

care proceedings.

- The introduction of a new sentencing framework including a residential training order of up to two years or five years in the case of grave crimes.
- The phasing out of prison custody for 15 and 16 year olds and new facilities for 17 year olds as part of a fundamental review of closed and open residential options for young offenders.
- Moving responsibility for youth justice from the Home Office to the Department of Education and Skills.
- Greater investment in services to support children in trouble or at risk who have educational and mental health problems.
- More restorative justice schemes, particularly in schools, where offenders make amends for their actions.

Speaking today the report's author, Rob Allen, who is Director of the International Centre for Prison Studies at King's College, said: "We have seen an increasing

preoccupation with protecting the public from young people and a growing intolerance of teenage misbehaviour of all kinds. A genuine shift from punishment to problem solving as the guiding principle for tackling youth crime would help to produce a society that is both safer and fairer."

Richard Garside, Acting Director of the Centre for Crime and Justice Studies, which published the report, added: "There are few more pressing issues of policy in relation to crime than what we do about children who offend and get caught up in a criminal justice system that is unable to meet their needs. This report is an important contribution providing a radical rethink that is long overdue."

An embargoed copy of the report 'From punishment to problem solving: A new approach to children in trouble' is available on the Centre for Crime and Justice Studies website, www.kcl.ac.uk/ccjs.

The report is the first in a series of pamphlets as part of the Centre's Whose Justice? project which

offers critical and innovative perspectives on the scope and purpose of the criminal justice system in the UK, shedding new light on old problems.

The Centre for Crime and Justice Studies is an independent charity based at King's College London that informs and educates about all aspects of crime and criminal justice.

The Centre provides information, produces research and carries out policy analysis to encourage and facilitate an understanding of the complex nature of issues concerning crime.

The report's author, Rob Allen, has been Director of the International Centre for Prison Studies (ICPS) at King's College London since 2005. Before then, he ran Rethinking Crime and Punishment, set up by the Esmée Fairbairn Foundation to change public attitudes to prison, and worked previously for NACRO and in the Home Office. He was a member of the Youth Justice Board for England and Wales from 1998 to 2006.

Exam Time at Police College

The following questions are taken from the Police Youth Aid Qualifying Course Examination. Officers must score at least 80%



(Q19) Tukino (15 years) has been arrested for 7 theft excars after a local rugby game at 2100hrs on Saturday night. He has a prolific history of dishonesty offences and of escaping custody. He has been in

and out of CYF's custody for the last 2 years. You and your Sergeant decide he needs to be kept in custody due to the fact he is very likely to abscond if bailed.

What must your Senior Sergeant in the watchhouse do before Tukino can be kept in custody until Court on Monday morning? State the relevant section and subsection.

(Q25) You have just been speaking to DJ regarding an attempted unlawful taking of a motor vehicle. There are reasonable grounds to suspect DJ of having committed this offence and you arrest him and give him his rights under s215. Upon returning to the station only 5 minutes later, DJ asks you what his rights are. Are you now obliged to give him his rights again?

Lent Talks with Cherie Booth

"Restorative Justice" by Cherie Booth: One of 8 talks for Lent from the BBC: 14 March 2007

I'VE been sitting as a part time judge for ten years now and for me the most difficult part of the process is the sentencing. The defendant faces me from the dock while I explain to him (and it is usually a him) why he's going to jail. He may listen carefully but I often wonder whether he feels any remorse for his crime or has any idea of the effect he's had upon his victims. This impression has been reinforced when I've visited prisons and spoken to inmates. It seems that neither the court process nor the prison experience is helping them confront their behaviour or its consequences.

And, of course, we must never forget the victims of the crime. Too often they sit in the public gallery - feeling marginal to the case, even bemused by what's happening. They're often denied the opportunity to confront the defendant directly with what he's done, nor given the chance, where he's genuinely sorry, to receive a personal apology.

All this can make it harder for them to achieve the closure they need - no matter how severe the sentence.

And it's right and proper that tough sentences are handed down in court for serious crimes or persistent offenders. Imprisonment shows society's disgust at their actions and helps protect the public by keeping criminals off the

streets. But it's clear that simply locking people up doesn't itself alter their long-term behaviour. In too many cases, it only shelves the problem.

Britain's criminal justice system, of course, has been shaped by its Judaeo-Christian tradition. Often this tradition has been seen as punitive, advocating a retributive model of justice in which an angry God - or state - takes revenge on the offender for his crimes.

But there are seeds in the Bible of a very different approach - an approach known as restorative justice which has been pioneered in countries like New Zealand and Australia. It's now gaining ground in the UK, where it's increasingly used in youth justice as an alternative to the courts and in the adult justice system as an addition to the court process.

The approach of restorative justice is to see the offending behaviour not just as a crime but as a breach of a relationship; the relationship we all have as individuals with others in our communities. It emphasises repairing the harm caused by anti-social or criminal behaviour, holding offenders to account before their victims and often resulting in them making some kind of reparation.

In biblical terms it aims to create "Shalom" - a word which in Hebrew means peace, but which is best translated by the English word Justice.

Restorative justice has been in the news recently because of the publication of the Sherman report from

the Smith Institute, which advocates its wider take-up in the UK. But the Christian season of Lent is also a good time to consider how to deal with offenders. Lent is the time for righting wrongs and reconciling relationships. It doesn't soft pedal on sin, but its focus is on how to make a fresh start rather than on how to get even.

Those of my generation who went to Church as children will remember the gospel story of Zacchaeus, and maybe even the actions which went with the Sunday school song we used to sing about him. It's the story of the "very little man" who climbs into a sycamore tree to get a glimpse of Jesus, and ends up taking him home for tea. But there's a whole other dimension to this tale that only really dawned on me as an adult - because actually this is a story about restorative justice.

They went into Jericho and passed through. There was a man named Zacchaeus, a chief tax collector who was very rich. He was trying to see who Jesus was, but, being a small man, he couldn't, because of the crowd. So he ran on ahead, along the route Jesus was going to take, and climbed up into a sycamore tree to see him.

When Jesus came to the place he looked up. "Zacchaeus," he said, "Hurry up and come down. I have to stay at your house today." So he hurried up, came down and received him with joy.

Everybody began to murmur when they saw it. "He's gone in to spend time with a proper old sinner!"

"The approach of restorative justice is to see the offending behaviour not just as a crime but as a breach of a relationship".

Lent Talks with Cherie Booth (cont'd)

"Part of the hope for the meeting is that an experience of remorse and acceptance of responsibility will grow through the offender's encounter with the victim."

they were saying. But Zacchaeus stood there and addressed the Master, "Look, Master," he said, "I'm giving half my property to the poor. And if I've defrauded any one of anything, I'm giving it back to them four times over." And Jesus said, "Today salvation has come to this house, because he too is a son of Abraham."

He may be a Sunday school favourite, but Zacchaeus was also a master in white collar theft. Tax collectors were outcasts in society - not just because they were collecting money for the Roman Empire, but because they appear to have been lining their own pockets at the same time. And as a chief tax collector we can assume that Zacchaeus was masterminding the whole racket.

In calling him down from the tree, Jesus is engineering a meeting between Zacchaeus and the people he has wronged. Initially, the crowd is outraged with Jesus for befriending a man whose behaviour has spread fear and mistrust even amongst those he hasn't stolen from directly. And who can blame them?

There follows a series of meetings between Zacchaeus and his individual victims as he visits them to repay what he's stolen. These are glossed over in the gospel, there are no details - but I don't think we're talking cosy fireside chats here. It must be very uncomfortable for Zacchaeus to hear first hand what it feels like to be on the receiving end of his extortion.

Such face to face meetings between offenders and victims lie at the heart of the restorative justice process. The focus begins with the victims as they are encouraged to talk about the effect the crime has had on them. Then it is the turn of the offender to talk about why he committed the crime, what led up to it and how he feels about it now.

Initially victims may wish to simply pour out their anger and resentment. Sooner or later, however, nearly all want an answer to the question, "Why me?" Most crime is random, but the victim often fears that they were deliberately targeted and might be again. The reassurance that that was not, in this sense at least, personal is evident in nearly all restorative justice meetings and helps the victim move on.

It's not appropriate to hold such meetings where the offender continues denying his guilt. And even where he has admitted his wrongdoing he may still approach a meeting with his victim with little sense of remorse, wanting to deny responsibility or to claim mitigating circumstances.

But it's not so easy to deny the consequences of your actions when your victim is sitting across the table from you. Rationalisations such as "they asked for it", "it wasn't worth much anyway", tend to fall away in the face of injured human flesh and blood.

Part of the hope for the meeting, therefore, is that an experience of remorse and acceptance of responsibility will grow through the offender's

encounter with the victim, that the realisation of the harm they have done may indeed be a kind of revelation. This was certainly the experience of one career criminal, Paul. Paul agreed to meet one of his victims, a doctor whom he had burgled, (and) who broke down in tears during the meeting. It marked a turning point in Paul's life. "I was thinking, I can't believe this; I am the cause of this man's pain. Suddenly I'm hearing the destruction I have caused. I could hardly speak for a week after the conference. The guilt was unbelievable."

Similarly when faced with what he had done, Zacchaeus' immediate impulse was to make some reparation to his victims, paying them four times the amount he'd stolen from them. And the idea of reparation is a key element in the Restorative Justice process. However, the most effective form of reparation is usually, simply, a genuine apology. It's the single most important thing a victim values.

As President of Barnardo's - a charity which does wonderful work with young people - I have seen for myself how they use restorative practices to alter behaviour by bringing home to youngsters the impact of what they do.

Fifteen-year-old Andy from Newry in Northern Ireland was brought before the court for attempting to attack the police. As part of a Community Responsibility Order, he met with police, fire service and ambulance crews who told him what it's like to be under attack from hooligans when they

Lent Talks with Cherie Booth (cont'd)

are trying to save lives. Andy began, for the first time, to appreciate the risks they took and the impact of his behaviour. He wrote a letter of apology to the police and joined the Fire Brigade cadets for a six week programme on public safety.

The programme also helped Andy look at the things in his life which made him angry and develop ways of coping with these - within his family, where both his parents had problems with substance misuse, and at school, where he was frequently in trouble.

Andy is accepting responsibility for his actions - but there's another way to look at this. The community is accepting its responsibility for Andy as well. All too often society wants to draw a "them and us" line between offenders and victims without recognising that offenders are often victims themselves. We can't ignore the fact that over a half of all 15-17 year olds in custody and a third of all prisoners have been in care at some point in their lives. Nor that the majority of women in prison say they've been victims of domestic or sexual abuse. The Archbishop of Canterbury recently called on society to recognise the part it has to play in the journey of reform and rehabilitation that the offender needs to embrace.

Because that has to be the fundamental goal of the criminal justice system. Those who have been through our courts and prisons need to be helped to return to society as full

and contributing members. Just as Zacchaeus was restored to the community of the children of Abraham, and went on, we can assume, to live a useful (decent?) life.

Some, I know, will say it makes for a nice ending to a Bible story, but isn't it just plain naïve to suggest that the principles of restorative justice can work for 21st century Britain? The evidence is that they can. Not with everyone, of course, but they can work even with those who at first sight might appear hardened, serial criminals, those who might be branded no-hopers. In fact, evidence from the recent Sherman Report suggests that the restorative justice approach can be most effective in reducing re-offending where the offenders have committed serious, personal and violent crimes.

So I'm pleased that restorative justice programmes are becoming an increasing part of both adult and youth criminal justice. I want to see this role increase further still. We should consider using such programmes routinely for crimes such as assault, robbery, and stealing - in addition, where appropriate, to prison or other sentences. And with specialist, highly trained staff, they could also be used - again in addition to the normal court processes - in cases of domestic violence and sexual assault, where victims believe it will help them, and will enable offenders to fully grasp the devastating impact of their crimes.

Was Zacchaeus forgiven? His relationship with God and his community was repaired, but who knows whether his individual victims found it in their hearts to forgive him? Restorative Justice can't demand remorse from offenders or forgiveness from their victims. All it can do is open the channels of communication which makes such healing possible. That healing rarely takes place overnight; it may take years, or it may not happen at all.

But I choose to end with an extraordinary story told by a judge from New Zealand which demonstrates the full transformation - the Shalom - that restorative justice can help bring about.

It's about a young man who committed two burglaries. He'd been in trouble before, but rejected involvement in restorative justice, and the police couldn't catch up with him this time. Two years later the man found out that he was going to become a dad. Wanting to start afresh, he handed himself into the police and asked to meet the people whose homes he'd burgled. He worked out weekly repayments to cover their losses and set out his entire budget before them, including the money he'd need for the baby when it arrived.

The victims were so impressed that they said they wanted the money spent not on themselves but on the baby, to make sure that it had the start in life which the young offender had never been given. They also wanted



Judge Becroft, Principal Youth Court Judge and Cherie Blair QC at the 2006 World Congress of the International Association of Youth and Family Judges and Magistrates.

Lent Talks with Cherie Booth (cont'd)

him to attend a parenting course, because they wanted to break the cycle he'd been caught up in from a young age. They even wanted to keep in touch, and it was agreed that when the baby was six months old the young man would write a letter to them to tell them how things had been going for him and his

new family.

"Today Salvation has come to this house".

Juvenile Arrests in the United States

From the website of the Office of Juvenile Justice and Delinquency Prevention (OJJDP)

IN 2004, the juvenile arrest rate for Violent Crime Index offences in the United States decreased for the tenth consecutive year, falling to half its 1994 peak and reaching its lowest level since at least 1980.

The rate for each of the Violent Crime Index offences – murder, forcible rape, robbery, and

aggravated assault – has declined steadily since the mid-1990s. Specifically, between 1994 and 2004, the juvenile arrest rate for Violent Crime Index offences fell 49%.

Between 1995 and 2004, the reduction in the number of violent crime arrests was greater for juveniles (31%) than adults (14%). Juvenile arrest rates for Property Crime Index offences also declined in 2004, reaching their lowest level in at least three decades.

However, between 1980 and 2004, juvenile arrest rates for drug abuse and weapons law offences increased substantially. During the same period, juvenile arrest rates for simple assault increased more than twice as much for females as for males.

The Juvenile Arrests 2004 publication can be viewed on <http://www.ncjrs.gov/html/ojjdp/214563/contents.html>

Legal Focus: Criminal Procedure Bill and the Youth Court

The Criminal Procedure Bill (2004B158-1) currently before Parliament contains a concerning amendment to Youth Court practice.

Sections 275 and 276 Children, Young Persons and Their Families Act 1989 (CYPF Act) deal with the decision as to whether to offer Youth Court jurisdiction to a young person. Where a charge is purely indictable, all the evidence has been given and the Court is of the opinion that the evidence adduced by the Informant is sufficient to put the young person on trial for the offence, the Youth Court may give the young person the opportunity of foregoing the right to trial by jury and electing to have the matter dealt with in the Youth

Court (s275). This opportunity must be given before the young person is given the opportunity to plead guilty and *before* the young person is committed for trial.

Currently, section 274 CYPF Act states that a preliminary hearing at which a jurisdictional decision may be made should be presided over by "a Youth Court Judge or, in the absence of a Youth Court Judge, by a District Court Judge or by 2 or more Justices [or by one or more Community Magistrates]". However, Schedule 6, Part 1 of the Bill sets out consequential amendments to sections 274 and 275 and section 274 would then include the words:

standard committal, by a Registrar".

Registrars would therefore have the power to conduct standard committals even though part of this process is the highly complex *judicial* decision as to whether to offer a young person the opportunity to be dealt with in the Youth Court.

The proposed new section 275, which describes the process by which Youth Court jurisdiction is given, makes it clear that the decision is a *judicial* one which, amongst other things, will involve consideration of the written evidence. Thus, section 274 and 275 are contradictory and the power given to Registrars to conduct standard committals will be

"or in the case of a

The Criminal Procedure Bill and the Youth Court (cont'd)

unworkable.

The Courts have agreed that, despite the inclusion of Justices in the wording of section 274, the highly complex jurisdictional decision should only be made by a Youth Court Judge. In *T v District Court at Whangarei* (1994) 12 FRNZ 619, Justice Barker

held that a clear message of the CYPF Act is that, preliminary hearings are normally to be presided over by a Youth Court Judge and not Justices of the Peace (see also *S v District Court At New Plymouth* (1992) 9 FRNZ 57 (HC) Barker J).

Consequently, the

amendments envisaged by the Bill would place Registrars in the position of having to make jurisdictional decisions for which they are neither qualified nor authorised. Further, Registrars are very unlikely to want to undertake this type of work.

Updating the Children, Young Persons and Their Families Act

The Government has asked the Ministry of Social Development (MSD) to consider whether changes or additions are needed to update and strengthen the Children, Young Persons, and Their Families Act 1989 (the Act).

MSD is looking at what changes, if any, can be made to:

- better achieve the objectives and fulfil the principles of the Act
- strengthen the family decision making model at the heart of the Act
- assist best practice in promoting the wellbeing of children, young persons, and their families.

As part of the update MSD is seeking feedback from people and organisations who work with the Act and the children, young people and families affected by it.

MSD is interested in views on:

- how the Act could better support best practice
- whether any current provisions are not working well or need to be fixed
- what might be missing from the Act
- what, if any, changes or additions you would like to see made to the Act to support the achievement of its objectives and fulfilment of its principles.

Feedback will be considered as part of a report to Ministers later this year.

A discussion document has been produced that identifies some of the major themes and ideas which have emerged from the work so far.

The discussion document and online submission form are available at www.ms.govt.nz/work-areas/children-and-young-people/cypf-act-update/index.html

The deadline for submissions is 1 June 2007.



The latest addition to Merseyside Police in the UK—a PT Chrysler Cruiser Police car! How cute is that!!

Nelson Worries Over Youth Offending (cont'd from page 5)

who were obstructive and threatening to the police, and who had committed crimes themselves.

In one case, police were dealing with the younger siblings of a youth offender.

Mr McGurk said most of the youths had a history of being stood down or suspended from school, and he agreed that most abused alcohol and drugs.

"Almost all of them are out of school with free time, and commit offences."

In a bid to stem youth offending, Nelson police gained an extra youth aid officer in January, and

about nine months ago employed a youth worker to work with "top end" offenders.

This had resulted in some youths stopping their offending, Mr McGurk said. "So it's not all doom and gloom."

He said police arranged mentors for some youths, and in many cases they were monitored with strict bail and curfew conditions. They had to abstain from alcohol, not associate with certain friends, and were forbidden from going into areas such as the central business district during the

day.

Another Youth Court lawyer, Steven Zindel, said he felt the seriousness of offending had not increased but youths were sometimes facing charges with more serious "labels", such as aggravated robbery when they had used standover tactics to take a sweatshirt or a pair of shoes.

He said he did not see cases of major violence or weapons being used by Nelson youths, who mostly were just "a bit mouthy".

Thanks Rhonda!

We would like to take this opportunity to thank Rhonda Thompson. As editor of Court in the Act for the past 2 years she has done an outstanding job of putting together the content for the newsletter every issue and revamping the format to make it so much more readable. Rhonda goes with our best wishes to take on a new role with the New Zealand Police.
