

# “Court in the Act”

***The Youth Court; The Children, Young Persons, and their Families Act 1989;  
And topical issues arising for NZ Youth Justice practitioners***

*A newsletter co-ordinated by the Principal Youth Court Judge to those involved in the Youth Justice community. Contributions, feedback, letters to the Editor, are not only acceptable, but encouraged*

No. 4, September 2002

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## ***“A kid in sport stays out of Court”***

*(Or any community team activity for that matter...  
Billboard outside Blenheim Airport)*

### **JOINT POLICE YOUTH AID AND CYFS TRAINING**

Most of you will have heard about (or been involved in) the very successful “joint training” programmes for all Police Youth Aid and CYFS Youth Justice personnel. Three-day training programmes were held in June, at Timaru, Blenheim, Palmerston North, Mt Maunganui, and Auckland.

I understand that national training to this extent and depth represented “a first” in the history of New Zealand youth justice. The Police provided the funding. A leadership team of Police Youth Aid and CYFS experts ran the programmes very efficiently. I was hugely encouraged and impressed by the dedication of all involved and the professionalism of those who attended.

This “Joint Training” was a wonderful first step for transparent and genuine Police Youth Aid and CYFS’ co-operation at **all** localities throughout New Zealand. I understand that further, follow-up, national training seminars are being planned. A good foundation has also been laid for the

introduction of local Youth Offending Teams (YOTS).

### **YOTs**

A key recommendation in the Youth Offending Strategy (Key Focus Area 1) was to develop a more co-ordinated approach between key agencies and to develop a national leadership structure.

One proposal, now adopted by the Government, was to develop local Youth Offending Teams (YOT’s) to co-ordinate local service delivery to youth offenders. The teams will comprise primarily of representatives from Police Youth Aid, Child, Youth and Family Services, Health and Education. They will also facilitate a co-ordinated approach with other Youth Justice providers.

Initial guidelines for the Youth Offending Teams have been developed. A series of workshops are being held around the country to discuss these guidelines. The aim is to emulate the best of current inter-agency collaboration and to ensure that Health and Education are also involved as key players.

## **NATIONAL LEADERSHIP**

The Ministry of Justice, as recommended in a covering letter from Chief District Court Judge David Carruthers and me, sent with the Youth Offending Strategy, will be the Government Department ultimately responsible for the delivery and leadership of the Youth Justice sector. In our view, shared leadership had meant no leadership. There had been no one entity which had final responsibility for Youth Justice. (I **attach** a copy of this letter for your interest as many of you have asked about it).

The Youth Justice Team within the Ministry of Justice, headed by Susan Howan, will take responsibility to lead the Ministry's new Youth Justice responsibilities.

Another recommendation in the Youth Offending Strategy regarding national co-ordination and leadership was the establishment of what was called a "Senior Officials Group". This has been renamed (thankfully) as the "Youth Justice Leadership Group". It is being assembled now by the Ministry of Justice in conjunction with other key Ministries and Agencies. This will mean that if any organisation or community group has a concern with the delivery of Youth Justice or a suggested improvement, this can be directed to the National Youth Justice Leadership Team, C/- Susan Howan, Ministry of Justice, PO Box 180, Wellington, telephone (04) 494.9900. (If you are unsure of the details of the new structure, see Focus Area 1 of the Youth Offending Strategy)

## **SPECIAL FOCUS : PRACTICE ISSUES**

### **LETTERS OF APOLOGY**

A frequent component in plans formulated by Family Group Conferences is a letter of apology written by the offender to the victim. Many of the apology letters subsequently presented to the Court are barely adequate. Often they are no more than a few lines scribbled on a torn piece of paper. Sometimes even that is an achievement for a young offender, but usually a much higher standard could be expected and met.

At the recent Joint Training Programmes, the Manukau team of Sergeant Dick Spendelow and Steve Pasene (CYFS Court Officer) advocated the use of a much more detailed and comprehensive apology letter. They provided a template, which is set out on the next page. I encourage a commitment to much more comprehensive and meaningful apology letters. They should represent a significant communication from a young offender. I think these would be much better received by victims. Could I commend this template, or a similar model for your use.

# LETTER OF APOLOGY

You are required to write a letter of apology . Below is the information you will need to help you understand why you must write the letter, and how you should write it. If you have problems writing this letter after reading the information below, then you should ask someone who can help you (like a parent, a relative, or a Police Officer) or read the example letter on the other side of this page.

## Why do I have to write this letter ?

*Victims of Crime can feel hurt, scared, and confused. These victims can also have many questions like “why did this happen to me?”. A letter of apology will help answer these questions, and help these people to deal with what has happened to them. This letter can also be used to show that you are sorry for your actions. By writing this letter, you will help the victim move on with their lives without feeling hurt and scared. If someone hurt you, you would want to have your questions answered too.*

## How do I write this letter?

Below is the information that you should include in you letter. Under each heading are suggestions to help you write your letter

- Tell the victim about yourself
  - Your name: What is your full name, what does it mean, where is it from Why did your parents give you these names, were you name after someone or was there another reason why you were given this name?
  - Do you play sport, if not why not, if you do what do you play, do you have any hobbies ?
  - Do you go to school and if so what class and subjects do you take?  
If you do not go to School, why not? What do you like best about School? ( there must be something you liked) What do you want to achieve from your education?  
What type of job or work would you like to do?
  - What qualifications do you think you will need to get that type of job or work ?  
What do you see yourself achieving in the next five years, ten years and then 20 years?
- Tell the victim about your family
  - How many people are there in your family, where does your family come from, what area do you live in?
- Talk about your offence
  - What was your part in the offence that brought you to the attention of the Police?  
What started the incident and why? Why did you behave like that?
- Talk about how you and your family fell about what you have done
  - What does your family think of your behaviour? What do you think of your behaviour now? What would you think of a person who did the same thing to you? What are your feelings now about your behaviour? Are you sorry for what you did? What will you do in the future if you find yourself in the same circumstances again as the ones that led you to come to the notice of the Police?

***It is important that your letter is a neat and tidy. Remember if your letter is not neat, tidy and on clean paper it will look like you don't mean what you are saying.***

## YOUTH DRUG COURT

The pilot Youth Drug Court in Christchurch has been operative since March this year, following significant preparatory work initiated by Judge John Walker. Many have sought information as to how the Youth Drug Court operates. **Attached** are a detailed description of the Drug Court, its aims and procedures, together with a flowchart. This has been prepared by Judge Walker, who conducts the Youth Court once a fortnight. It is self-explanatory. The Youth Drug Court is a Youth Court, and entry into the Youth Drug Court is only after first appearance in the Youth Court.

## WORLD YOUTH & FAMILY CONGRESS

The World Youth & Family Congress is being held in Melbourne from 26-31 October 2002. Early Bird registrations now close at the end of September, not August. I **attach** details of the final programme. Full details and registration can be obtained at the Congress Website – [www.youthandfamily2002.com](http://www.youthandfamily2002.com).

It is not too late to attend. This will be a significant event, almost on our own doorstep, and a chance to learn of international Youth Justice best practice. There is already significant interest. It is certainly not too late to register. The organisers advise that the Spring Racing Carnival in Melbourne immediately follows the conclusion of the Conference. Can I urge you to consider attending.

## THE ADVANTAGES OF AN INTER-AGENCY APPROACH : THE PERSPECTIVE OF A YOUTH ADVOCATE

The new Youth Justice national structure, previously described, seeks to emulate the best of existing inter-agency collaboration. In some areas there have been regular inter-agency meetings. One Youth Advocate from Wellington, who wishes to remain anonymous, has provided a list of reasons why such an inter-agency approach can work.

- 1 Meeting away from Youth Court and FGC's creates a different and new environment to discuss issues.
- 2 If held over lunch, there is a conviviality which helps people get to know each other and the work that each does.
- 3 Those involved can become more familiar with the different viewpoints of, and issues for, the different agencies involved which can help one work with (and against!) them better.
- 4 There is a chance to pick up on alternative approaches and ideas and to implement them.
- 5 Issues can be raised generally without discussing specific cases and it can be really useful to get a judicial viewpoint on these issues.
- 6 Meeting together in this way can create a cohesive youth justice identity with the participants having (and feeling a sense of having) a common purpose.

Hopefully the Youth Offending Teams in each area can take the initiative to make sure that wider Youth Justice collaborative meetings take place.

### **CHILD, YOUTH AND FAMILY'S "YOUTH JUSTICE PLAN"**

Lisa Hema, from the Department of Child, Youth & Family Services, has provided the following article:

"Child, Youth and Family has developed and released its *Youth Justice Plan*. This *Plan* pulls together the tasks required of Child, Youth and Family under the Youth Offending Strategy with some other actions identified as being necessary to deliver an effective and efficient youth justice service.

The plan is the culmination of much intensive work following the conclusion of our own review and the review undertaken by the Ministerial Taskforce on Youth Offending of the youth justice system. Both highlighted a number of operational and other issues, the solutions to which are now encapsulated in the direction and actions of the plan.

The *Youth Justice Plan* sets out actions under three parts: immediate improvements (the next six to nine months); short-term actions (the next 12-15 months); medium to long-term actions (15-36 months). Initially the focus is on improving the timeliness of the family group conference process. Child, Youth and Family will be looking to ensure that conferences are held promptly and that plans and orders are reviewed at the appropriate time. Improvements in these areas will provide a positive platform for actions in the following two stages.

The focus of the short and the medium to long-term actions is on issues such as building the capacity of providers, effective programmes for providers, community and inter-agency relationships and collaborative planning.

With the *Youth Justice Plan* launched, Child, Youth and Family has its blueprint for action. While the Youth Offending Strategy provides the umbrella approach for the entire sector, the Youth Justice Plan is where Child, Youth and Family's attention must now be focused to ensure we deliver on our responsibilities.

If you would like a copy of Child, Youth and Family's *Youth Justice Plan*, please contact Lisa Hema on (04) 918.9142 or [lisa.hema@cyf.govt.nz](mailto:lisa.hema@cyf.govt.nz) after 30 September 2002, or visit the website at [www.cyf.govt.nz](http://www.cyf.govt.nz)."

### **LEGISLATIVE AMENDMENTS : REMAND OF YOUNG PERSONS TO PENAL INSTITUTIONS**

The Sentencing Act 2002, which came into force on the 30 June this year, introduced a very limited power to allow the remand of young persons to Penal Institutions. This amendment seems to be misunderstood. It needs to be clarified. Child, Youth and Family Services have provided the following comment:

"Sections 238 and 239 of the Children, Youth Persons & Their Families Act 1989 have been amended.

These amendments now enable Youth Court Judges to remand young people to Penal Institutions in limited situations under s.238 (1B) provided the criteria under subsection 239(3) are met.

The criteria under subsection 239(3) are that:

- a) The young person must be at least 15 years of age; and
- b) The young person is charged with or convicted of a purely indictable offence; and
- c) The young person is being remanded to the District Court or the High Court for trial or sentencing in respect of that offence; and
- d) If the remand is pending trial, the Court is satisfied that the period that the young person is likely to be on remand pending trial will not be less than 2 months; and
- e) The Chief Executive (or her delegate) has furnished to the Court a certificate stating that the detention of the young person in the custody of the Chief Executive under an order under s.238 (1)(d) for the likely period of remand would be likely to prejudice the ability of the Department to detain other young persons in the Department's residences under similar orders; and
- f) The Court is satisfied that remand of the young person to a penal institution is in all circumstances appropriate.

Child Youth and Family have developed the procedure for identifying and assessing which young people fit the criteria, and this includes the process of consultation with the Department of Corrections. Child, Youth and Family will furnish a certificate to the Youth Court as a last resort, and it is likely that only a few young people each year will be detained in Penal Institutions under these sections.

These amendments have a sunset clause and on 30 June 2004 will revert back to the current provisions.

If you would like a copy of the Child, Youth and Family policy regarding this please contact Rachel Smith at Child, Youth and Family, National Office, on (04) 918.9184, or [rachel.smith015@cyf.govt.nz](mailto:rachel.smith015@cyf.govt.nz) “

## DO YOU KNOW WHO THEY ARE TALKING ABOUT?

I have been sent the following article which appeared in the Taranaki Daily News. Any resemblance former Principal Youth Court Judge David Carruthers has to the persons described, (“balding guys with light shining off their heads”) is, I am sure, intentional!

