

# Court in the Act

A regular newsletter for the entire youth justice community

THE YOUTH COURT OF NEW ZEALAND  
TE KŌTI TAIOHI O AOTEAROA

## Christmas Edition

### Editorial: 2014 in review

It is hard to believe that December 2014 is upon us and another youth justice year has been completed. As I look back on the year, I am particularly grateful for Judge John Walker's long stint as Acting Principal Youth Court Judge and for the leadership he brought.

This has been a fantastic year for youth justice – not least from a statistical point of view. We have the lowest recorded rates of apprehensions for 10 to 16 year olds ever. The numbers and rates of new work in the Youth Court are at an all time low. We have before us the opportunity of a youth justice lifetime. We must seize this opportunity and redouble our efforts that focus on the approximately 2200 young people who come before the Youth Court and who represent our most problematic, challenging and complex young offenders. This is not the time to “take the foot off the pedal”, as it were, nor to redirect resources elsewhere. We have an unparalleled opportunity to spend longer with these young people and to make our interventions as focussed, comprehensive and monitored as possible. If we do that, then there is every chance that these encouraging figures will continue to decrease.

In my view, we are beginning to experience the true value of collaboration between community and government agencies and between government agencies. We are a small enough country for us to actually put into practice what we talk about. It has recently been said that New Zealand is the sort of country where good ideas run a serious risk of being implemented! Youth justice, of all the areas within the justice system, is the forum where this can be done. We need continued commitment but also our creativity and willingness to try new ideas and approaches. I wish you well in these endeavours for 2015.

As we look back on 2014, there are some standout highlights:

- The lowest levels of Youth Court numbers in recorded history, including lowest number of convictions and transfers to the District Court (10!, down from 54 in 2010);
- The consolidation of Lay Advocates - we now have about 90 Lay Advocates trained and available for appointment, mainly in the North Island. A full Lay Advocates Handbook was published in June, together with a detailed job description and training package that is now being used throughout the country;
- Rangatahi Court consolidation, with the launch of two new Courts in Christchurch and Huntly and the most

encouraging annual “take-up” rates to the Rangatahi Court of young Māori before the Youth Court so far;

- The CYF Family Group Conference Review – available at: <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/evaluation/review-family-group-conferences/index.html>;
- Development of the “cross-over lists” by Judge Tony Fitzgerald in the largest metropolitan Auckland Youth Courts, whereby young offenders with care and protection proceedings in the Family Court have their files jointly managed by one Judge;
- Two new NZ Youth Justice textbooks - *Youth Justice in Aotearoa New Zealand: Law, Policy and Critique* by Alison Cleland and Khylee Quince; and *New Zealand's Gift to the World: the Youth Justice Family Group Conference* by Judge Carolyn Henwood and Stephen Stratford;
- Continued expansion/roll out of youth forensic services - a forensic nurse in every Youth Court by the end of 2015;
- Continued expansion of Education Officers in Youth Courts, by the Ministry of Education.

In conclusion, can I take this opportunity to acknowledge all your efforts, especially those of you working in isolated, smaller, urban areas without the support and resources available to many others working within the youth justice system in the big cities.

To all of you, can I thank you. You are all unsung heroes; frequently underpaid, usually over-worked and under-recognised from a national point of view. I think you are the true heroes of our country and your investments now, in the lives of often marginalised young people, have the capacity to save the country significant money, time and emotional distress in the future.

With those rather lofty sentiments, can I conclude by saying I wish you have a very happy and relaxing Christmas and New Year period. For those of you seeing your families, I hope it is positive family time for you all.

I look forward to working with you all in 2015.

**Andrew Becroft**

**Principal Youth Court Judge  
Kaiwhakawā Matua o te Kōti Taiohi**

# STOP PRESS

## Law Change

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## Legislative change: **Victims of Crime Reform Bill**

The Victims of Crime Reform legislative changes have been made to improve victims' experiences of the justice system and came into effect on **6 December 2014**. The key changes for the Youth Court are set out below, as provided in a memorandum to this office from the Ministry of Justice.

### Meaning of victim

New section 2B has been inserted into the Children, Young Persons, and Their Families Act 1989, defining the meaning of victim for the purposes of the Act. This definition of victim is similar to that in section 4 of the Victims' Rights Act 2002.

### Victims of specified offences – remand issues and bail

Section 238 has been amended to add a requirement that applies where the alleged offence is a specified offence (as defined in s 29 of Victims Rights Act 2002). The amendment requires police to make all reasonable efforts to ascertain the victim's views as to the most appropriate order under s 238(1) and to inform the Court of these views (if any). After an order under s 238(1) has been made, the Police must inform the victim of the order including, if the child or young person has been released on bail, inform of any bail condition that:

- relates to the safety and security of the victim and/or immediate family;
- requires the child or young person not to associate with the victim and/or immediate family.

The requirement on police to inform the Court of the victim's views does not prevent the Court making an order under s 283(1) in the absence of that information.

### Family Group Conferences - victim attendance and supporters

Section 251 has been amended to include new subsection (1A). Section 251(1A) provides that a victim (or representative of a victim) is not precluded from attending any meeting of a family group conference, including one reconvened under section 270, solely by reason of non-attendance at a previous meeting of that family group conference.

Section 251(2) is amended to clarify if a victim (or representative of a victim) attends a family group conference accompanied by any reasonable number of support persons, those support persons only attend for the purpose of providing support.

### Youth Court hearings – victim attendance

Section 329 is amended to entitle a victim (or representative of the victim, which could include a victim advisor) and 1 or more support persons (subject to any limitation on numbers imposed by the Judge) for the victim (or representative). As with the power to ask a witness to leave the courtroom, the Judge can also ask the support person(s) to leave under section 329(2).

### Extension of the Victims' Rights Act 2002 to victims in the Youth Court

Schedule 1 to the Children, Young Persons, and Their Families Act 1989 has been amended to include particular provisions of the Victims' Rights Act 2002.

### Section 7 Treatment

- Any person who deals with a victim (e.g. a judicial officer, lawyer, youth advocate, lay advocate, court staff, and Police employee) should treat the victim with courtesy and compassion, and respect that victim's dignity and privacy.

### Section 8 Access to services

- Victims with welfare, health, counselling, medical, or legal needs arising from the offence should have access to services responsive to their needs. Court Victim Advisors provide court services to victims.

### Section 10 Enforceability of principles

- The principles in sections 7 and 8 do not confer any right that is enforceable in a court of law.

### Sections 11, 12, 13, 14 and 15

- These provisions deal with information provided to victims including about programmes, remedies, services and proceedings.

### Section 15

- Non-interference with a victim's right to privacy contrary to the Privacy Act 1993.

### Section 16 and 16A

- Section 16 includes a restriction on giving victims' precise address in evidence, or in information provided to the court except with the leave of a judicial officer. The requirements for granting leave are that the information is directly relevant to the facts in issue and the evidential value outweighs any prejudice to the victim's interests or any harm to the victim that is likely to be caused by the giving of the information.
- The restriction does not apply to Youth Court proceedings if it is necessary to disclose the information in the charge in order to fully inform the defendant of the nature of the charge.

### Sections 17AA to 27 – Victim impact statements

- These sections apply, so far as applicable and with necessary modification, if the Youth Court is to make an order under section 283. It is the responsibility of the prosecutor to make all reasonable efforts that information about the effects of the offending on the victim is ascertained from the victim. That information must be put into writing or recorded unless the victim objects to it being submitted to the Judge that sentences the offender (as a victim impact statement).
- A victim may ask the Judge at sentencing to have all or any part of the victim impact statement read to the court (or played if recorded). Victims of specified offences (as defined in section 29 of the Victims' Rights Act 2002) must be allowed to read a victim impact statement to the court unless the court considers it inappropriate for any of the reasons in section 22 of that Act.

There are also requirements on Police to notify the victim of particular matters, and for the Ministry of Justice in respect of complaints.

# Notices/Pānui

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## Letter to the Editor

Thank you for the 67th edition. I appreciate receiving the publication.

The argument to include 17 year olds in the Youth Justice System makes good reading though I do not think that all 17 years olds are impulsive, temperamental, immature and so on. Though it is a worthy debate.

May I ask a question please?

An emphasis is placed on the highly regarded FGC. I wonder for those offenders who eventually arrive at 17 and have a history of numerous FGC is part of their personal history already due to offending and perhaps Care and Protection issues throughout their developmental years up to age 17; can we still suggest that "these young people will gain the benefits of the impressive diversionary focus of the system and will have the opportunity to take part in the highly regarded FGC".

I politely suggest that such young people may know more about FGC then they perhaps need to.

With kind regards,

Clive Fremlin

## Upcoming Conferences



**Restorative Practices: International Conference (23-25 March Hobart, Tasmania)**

The conference theme is Building restorative communities - in education, justice, cities, families, faith groups, neighbourhoods, defence and workplaces. The aim of the conference is to discuss and support the development of restorative practice in schools, prisons, workplaces, organisations, families and communities.

## 2nd Australasian Youth Justice Conference

(9-11 November 2015, Brisbane)

The Australasian Juvenile Justice Administrators and Australian Institute of Criminology will join together again to present the second Australasian Youth Justice Conference.



This forum has been developed to provide a platform to gather and discuss developments in research, policy and practice in the field of youth crime and justice issues, and planning has started on next year's event.

Find out more at: <http://sharepoint.ajja.org.au/Home/default.aspx>

# News Worth Celebrating

## Young Enterprise Scheme (YES) - National Awards 2014

The Young Enterprise Start-Up competition is designed for Year 11 students and is similar to the Young Enterprise Scheme. Start-Up students create a small business venture that has at least one sales opportunity - often at a school Market Day.

At this year's National Awards ceremony a team of young offenders were the recipients of the Start-Up Special Award for Commitment.

The BACK team at Kingsley School have designed and sold a range of jewellery, artwork and clothing. The team members are residents at Te Puna Wai o Tuhinapo, a

secure youth justice facility; and the project was run in conjunction with Kingslea School and Child, Youth and Family.

Kingsley School is not like any other state school in New Zealand. It is a Special, Composite, Decile one school delivering education within Child, Youth and Family residences throughout New Zealand.

You can read more about Kingsley School here: <http://www.kingslea.school.nz/>



FORTHCOMING INTERNATIONAL CONFERENCE

# PRATO

Tuscany, Italy

21-23 September 2015



ANNOUNCEMENT & CALL FOR ABSTRACTS

## Young people and the law

International approaches to care, corrections and intervention

**Young people need to be a clear priority within forensic and social services. The interaction between young people and various legal, mental health and social welfare systems can often be fraught, and decisions made early in life can have repercussions into adulthood.**

This international conference brings together legal and clinical practitioners, policy contributors, and researchers to examine the vulnerabilities of young people, and the role of the agencies responding to them, with an emphasis on how preventative or early intervention approaches may improve outcomes for young people, as well as the community.

The conference will give particular attention to the following themes that are relevant for children, adolescents, and young adults:

- **Youth justice, including early intervention for young offenders**
- **The protection of young people under the law**
- **Mental health related offending**
- **Disadvantaged groups, including indigenous young people, young people with disabilities**
- **Diversionary schemes for young people**
- **Young people and family violence.**

**Abstracts are now invited on these themes and other relevant topics.**

### CONFERENCE VENUE

The conference will be held at the beautiful Monash University Centre in Prato, in the 18th century Palazzo Vaj, just 20 minutes from Florence, in Tuscany, Italy.

### INFORMATION

For information about the conference, the abstract submission process and registration, please go to the conference website:

[www.swin.edu.au/prato](http://www.swin.edu.au/prato)

Enquiries: [info@conorg.com.au](mailto:info@conorg.com.au)

### KEYNOTE SPEAKERS

#### Professor Dame Sue Bailey

Chair, Children & Young People's Mental Health Coalition

Sue Bailey lives and works in the North West of England as a Consultant Child and Adolescent Forensic Psychiatrist and Honorary Professor of Child and Adolescent Mental Health Policy. Professor Bailey is currently the Chair of the Children & Young People's Mental Health Coalition.

Previously the President of the Royal College of Psychiatrists, Professor Bailey worked with others to achieve parity between mental and physical health in primary legislation in England.

Professor Bailey undertakes needs and risk research into how to better provide ethical effective services for young people who are deemed as high harm risk to self and others. She is also the Chair of the European Union of Medical Specialists Child and Adolescent Psychiatry Section (UEMS CAP).

#### Judge Tony FitzGerald

Auckland District and Youth Court

Tony FitzGerald was appointed a District Court Judge in May 1999, with Criminal and Family Court warrants and a Youth Court designation. Since 2004 Judge FitzGerald has been based in Auckland.

Therapeutic jurisprudence and Solution Focussed Courts are of particular interest to Judge FitzGerald. In 2007 he established the Intensive Monitoring Group ("the IMG") in the Auckland Youth Court. The therapeutic arm of the IMG accommodates young people who are at moderate to high risk of re-offending and have moderate to severe mental health concerns and/or alcohol and other drug issues underlying their offending. The IMG now also co-ordinates what is happening for those young people in the Youth Court who have care and protection status in the Family Court.

Judge FitzGerald was involved in the establishment of Te Kooti o Timatanga Hou (The Court of New Beginnings) in 2010 and has presided in that Court since then. It is a Solution Focussed Court in the adult jurisdiction for homeless people who have impaired decision making capacity due to mental illness, brain injury, cognitive impairment, alcohol, other drug or substance abuse.

#### Karyn McCluskey

Director, Scottish Violence Reduction Unit  
Karyn has worked in the police for the last 20 years in Sussex, Lancashire, West Mercia. She joined Strathclyde Police 12 years ago, now part of Police Scotland.

Karyn trained as a registered nurse, has a B.Sc and M.Sc in Psychology and is a fellow by distinction of the Faculty of Public Health. She has worked in a variety of areas within the NHS, East Africa and HM Prisons. She completed the strategic command course in 2009 and spent a year in the Metropolitan police developing a violence plan, and leading the Territorial Policing change programme. The Institute of Directors awarded her Female Director of the year in April 12, The Guardian Newspaper nominated her as Public Service Leader of the Year.

#### Dr Randy Otto

Associate Professor, University of South Florida

Randy Otto, PhD, ABPP, is an Associate Professor at the University of South Florida. He also serves as affiliate faculty at Stetson Law School in St. Petersburg and St. Johns University in New York. Dr Otto, a licensed psychologist, is certified in clinical psychology and forensic psychology by the American Board of Professional Psychology.

With his research, writing, and practice is devoted to matters of forensic psychological assessment, Dr Otto has co-edited or co-authored the following books: *Adjudicative Competence, Psychological Evaluations for the Courts: A Handbook for Mental Health Professionals and Lawyers (3rd edition), Handbook of Violence Risk Assessment, Forensic Psychology (2nd edition), Handbook of Forensic Psychology (4th edition), and Forensic Reports and Testimony: A Guide to Effective Communication for Psychologists and Psychiatrists.*



Centre for Forensic Behavioural Science