

Court in the Act

A regular magazine for the entire youth justice community

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

Nau mai Welcome

to the 70th edition of Court in the Act.

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Editorial

Kāore te kumara e kōrero mō tōna ake reka
The kumara does not speak of its own sweetness

This whakataukī is particularly relevant to our collective work in youth justice in these past months.

In 2015, overseas interest in Aotearoa New Zealand's youth justice system has been particularly significant. As this bumper edition of Court of the Act showcases, New Zealand has had invitations to attend and speak at youth justice seminars and training programmes around the world—more, in fact, than can be accommodated. A common thread in all of these international invitations is that New Zealand's youth justice system seems to be regarded as innovative, principled, and as providing other jurisdictions with a potential model for developing a standalone youth justice system, with the necessary adaption and appropriate changes.

For instance, you will read that Judge John Walker attended the AIJA Pacific Council for Juvenile Justice, which is a growing organisation that supports the Asia and Pacific regions to develop their own specialist youth justice system. At this year's Council meeting in Thailand, New Zealand was able to emphasise the importance of diversion from Court proceedings, through both specialist Police alternative action and intention to charge family group conferences. In April, Judge Louis Bidois attended a juvenile justice training programme in Barbados. Barbados is in the process of overhauling their youth justice system and Judge Bidois was able to outline the fundamental framework of New Zealand's system and its principled approach. Similarly, in November, Judge Denise Clarke will be attending a National Youth Justice Symposium in Cambodia. Judge Tony Fitzgerald will also be addressing an international conference on juvenile justice in Italy.

It is humbling that all these invitations have been extended to us, at no cost to New Zealand. Indeed, this is the reason why we are able to send New Zealand delegates. On the same basis, in April, I attended a set of seminars on juvenile justice and restorative practices in New York and New Haven. I had the pleasure of travelling with Ms Christine Rurawhe-Gush, an experienced Youth Justice Co-ordinator based in Whanganui. We were able to discuss the key features of New Zealand's youth justice system from a restorative perspective, emphasising best practice in the context of the family group conference. On the same basis also, I attended and spoke on similar issues at the Brisbane Youth Justice Forum, organised by Restorative Justice Australia and hosted by Griffith University in July.

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That said, there is still much to refine, improve and develop in our own “backyard”. It is impossible to travel overseas and not come back with a new vigour from involvement in our system. Equally, however, it creates an acute awareness of areas in which we need to do better. I am particularly aware of the challenges with respect to the interface between care and protection and youth justice; working better with female young offenders; ensuring that we are using the best evidence-based intervention programmes and that we continue to prioritise, identify and better respond to neuro-developmental disorders. And, the growing disproportionality of Māori appearing in our Youth Courts is, quite possibly, our biggest collective challenge and responsibility.

All these challenges were nicely encapsulated in our combined National Youth Advocate and Lay Advocate Conference recently held in Auckland. This conference represented the first time that the two legislative streams of advocacy – specialist lawyers who are Youth Advocates, and experienced community members who are Lay Advocates – came together, at the same conference. This combined conference was the brain child of Dick Edwards from the Continuing Legal Education division of the New Zealand Law Society. We owe him a great debt of thanks.

One of my biggest “take-aways” from the Youth Advocates/Lay Advocates conference was the realisation that, even after 25 years, there are still so much latent potential in our legislative model that has yet to be fully implemented. This is especially with respect to the mobilisation and use of community, hapū and iwi resources in particular. A future edition of Court in the Act will canvass these untapped, and largely unexplored, aspects of the legislation more fully.

We have also recently had the benefit of some experienced overseas expertise scrutinising our system. Look for the contributions from Ziyad Hopkins on pages 9 and 37. Ziyad is an experienced youth lawyer from Boston, who has spent the past few months in New Zealand as part of an Axford Fellowship. Ziyad has produced a comprehensive report evaluating some of the systemic deficiencies the New Zealand model has with respect to providing legal representation to young people prior to being charged.

In this edition, there is much to celebrate and much that challenges us. Both Sacha Norrie, the editor of Court in the Act, and myself, are extremely grateful for your ongoing interest and contributions. It seems to me that we have got to the point where a monthly national youth justice journal could be produced, if only there were the

resources to do so! In my view, this continues to be a pressing need, given the strength, activity and experience of the youth justice sector in New Zealand. In the meantime, we will do our absolute best to disseminate as much of the information that comes through this office as we can. We continue to rely on your contributions, interest and feedback.

Finally, it is worth noting that in all of this discussion we need to be aware of the Youth Crime Action Plan 2013-2023 (YCAP). It was made apparent at the recent Youth Advocate/Lay Advocate conference how little the wider youth justice community seems to know about this important inter-government strategy. I hope there may be opportunities in future editions of Court in the Act for further aspects of YCAP to be canvassed.

I wish you all continued energy, enthusiasm and focus in our respective youth justice roles.

Ngā mihi maioha—warm regards,

Andrew Becroft

Principal Youth Court Judge of New Zealand
Te Kaiwhakawā Matua o te Kōti Taiohi

Court in the Act is a national newsletter/broadsheet dealing with Youth Justice issues. It is coordinated by research counsel attached to the office of the Principal Youth Court Judge. It receives wide circulation and we are keen for the recipients to pass it on to anyone they feel might be interested.

We are open to any suggestions and improvements. We are also very happy to act as a clearing-house, to receive and disseminate local, national and international Youth Justice issues and events.

If you would like to contribute an article, report or link to current research, please email all contributions to sacha.norrie@justice.govt.nz

The Youth Courts of New Zealand in 10 Years' Time: Crystal Ball Gazing or Some Realistic Goals for the Future?

by His Honour Judge Andrew Becroft
Principal Youth Court Judge for New Zealand
Te Kaiwhakawā Matua o te Kōti Taiohi

National Youth Advocates /
Lay Advocates Conference
Auckland, 13-14 July 2015

I write with a self-imposed 10 year time limit and simply suggest where our Youth Court could be in 2025. Unavoidably, I start with our existing legislation, framework and processes in mind. Legislation which is usually regarded as sound, but not yet fully implemented. Twenty five years since its introduction, its original vision and promise is not fully delivered upon. On that basis, the five areas I have identified where the Youth Court could look somewhat different in 10 years time, may be seen as unimaginative and rather dull. But, they are all important areas where I hope progress can and will be made. What I suggest are not five futuristic predictions about a wholly different Youth Court, but five areas which develop current trends and issues. The five areas that are identified in this paper are:

- Greater understanding diagnosis and response to neuro-developmental disorders;
- Addressing disproportionate Māori offending rates in the youth justice system and in the Youth Court in particular;
- Wider, more developed role and more supported input for Lay Advocates;

- A fully therapeutic Youth Court with monitoring for all serious young offenders and an end to a two-tier and rather regional idiosyncratic approach; and
- Significant advancement in our response to female offenders, role of education in addressing youth offending and developing the academic and jurisprudential youth justice arena.

If New Zealand's Youth Court was transformed to fully address and implement changes in each of these five areas, it would be a significantly improved and enhanced Youth Court, certainly from the standpoint of our 2015 perspective. We would have made some enormous strides and could say truly that the vision and promise of the 1989 legalisation had been signed up for, sealed and delivered upon. At any rate, it is my hope that having settled for this rather modest list, it will stimulate thinking and lead to practical change.

You can access the full paper here:



Adobe Acrobat
Document

Te Kōti Rangatahi: He Kōrero Whakamārama i te Kaupapa me ngā Tikanga The Rangatahi Court: Background and Operating Protocols

At the Youth Advocates/Lay Advocates Conference, Judge Heemi Taumaunu presented

Te Kōti Rangatahi: He kōrero whakamārama i te kaupapa me ngā tikanga - The Rangatahi Court: Background and Operating Protocols.

The purpose of this document is to define what Rangatahi Courts are and to explain how they work. It is intended that this is a "living document" which will be updated as required in order to keep all concerned informed about the Rangatahi Courts and their operation. The current version is as at 1 July 2015.

You can access a copy here:



Adobe Acrobat
Document



The Rise and Rise of Lay Advocates in Aotearoa New Zealand

by His Honour Judge Andrew Becroft
Principal Youth Court Judge for New Zealand
Te Kaiwhakawā Matua o te Kōti Taiohi

National Youth Advocates /
Lay Advocates Conference
Auckland, 13-14 July 2015

1. History of the Lay Advocate role

Lay advocates were “created” by the Children, Young Person and Their Families Act 1989 (CYPF Act) and have no known counterpart in any other legislation anywhere in the world. While the specific history of the Lay Advocate role is challenging to track, there are a number of key environmental influences that lead to the enactment of the CYPF Act and the introduction of the Lay Advocate role. It is important to understand these influences.

In the period leading to the enactment of the CYPF Act in 1989, there were mounting concerns that the then youth justice system was ‘welfarist’, mono-cultural and did not accurately represent or include the views of the families and communities that it served. Young people, their families and communities felt frustrated and disempowered by the formalised and official decision making processes, as well as providing important cultural information to the Court.

During this period, Māori concerns were given their strongest voice in the *Pūao Te Ata Tū Report*. Emerging from this report, and subsequent consultation with Māori groups, was the strong message that family and whānau must be at the centre of decision making processes for their children and young people. There was a strong commitment in the reform process and re-drafting the 1989 legislation to create a youth justice system that would better meet the needs and values of Māori and other cultural groups in New Zealand.

One of the most groundbreaking elements of the 1989 Act was that, for the first time, family and whānau status was clearly recognised and enshrined in legislation. The concerns expressed by Māori in the *Pūao-te-ata-tū Report* and elsewhere in the period leading up to the 1989 reform, along with the view that the cultural interests of a child or young person could not be extracted from whānau, hapū and iwi, are now provided for in the legislative framework.

Notwithstanding these broader justifications for increased cultural and whānau representation in the youth justice process, there is little documentation about the specific intentions for the Lay Advocate role at the time.

The 1987 Review of the Children and Young Persons Bill

provides the most comprehensive explanation for the provision of family and cultural advocacy. The Working Party that was reviewing the Bill encouraged the use of ‘... effective lay, community and extended family advocacy is a better use of resources than the establishment of a new and centralised body for children’s advocacy’. It was the Working Party’s view that there was an ‘... advantage in spreading advocacy across a range of institutions and groups, thus preventing a monolithic, single ideological approach developing’.

It can be inferred from the overall historical context that the role of the Lay Advocate was intended to provide advocacy for, and enable families and communities to be more meaningfully involved in decision making and youth justice processes.

2. Statutory scope of the Lay Advocate role: Introduction and general principles

The starting point for defining the scope of the Lay Advocate role must be the relevant statutory provisions, specifically sections 326, 327 and 328 of the CYPF Act. In brief, s 326 relates to the appointment of a Lay Advocate, s 327 outlines the functions of the role and s 328 ensures that Lay Advocates are entitled to attend particular aspects of proceedings. It is helpful to read all three as interrelated as it is clear that they must condition each other.

It is important to note, however, that all specific provisions of the CYPF Act are underpinned by its statutory objects and principles. It is worth analysing these before embarking on a detailed analysis of the specific statutory framework relating to Lay Advocates. There are two key principles that frame the role of the Lay Advocate:

- The first general requirement, contained in s 5(a) of the CYPF Act, is that wherever possible, a child or young person’s whānau, hapū, iwi and family group should participate in decision making, and regard should be given to their views; and
- The second relevant principle, contained in s 208(c) of the youth justice provisions, states that measures dealing with offending should be designed to strengthen the whānau, hapū, iwi and family groups of children and young people, as well as designed to foster the ability of these groups to develop their own measures of dealing with offending by the children and young people.

Conference Paper



Of less direct relevance to the Lay Advocate role, but also important to the wider philosophies underpinning the CYPF Act are the following principles:

- That, wherever possible, the relationship between a child or young person and his or her family, whānau, hapū, iwi and family group should be maintained and strengthened (s 5(b));
- That endeavours should be made to obtain the support of the parents or guardians or other persons having the care of a child or young person to the exercise of any power under the CYPF Act (s 5(e)(i)); and
- That any sanctions imposed on a young offender should take the form most likely to maintain and promote the development of the child or young person within his or her family, whānau, hapū, and family group (s 208(f)(i)).

These principles represent a clear response to the concerns expressed in *Pūao Te Ata Tū* that the families and communities of young offenders felt alienated and unable to participate in decision making processes.

The Lay Advocate role is a vehicle through which these family, whānau, hapū and iwi interests and participatory rights can be given practical effect. To date, the Lay Advocate role has been significantly under-utilised. It was not until the introduction of Rangatahi Courts (beginning in 2008) that Lay Advocates were used in a much more meaningful and systematic way.

3. Section 327 – The main roles of the Lay Advocate

Section 327 is the principal provision that defines the functions of the Lay Advocate role. The two principal functions identified in s 327 are:

1. To ensure the Court is made aware of cultural matters that are relevant to the proceedings.
2. To represent the interest of the child or young person's whānau, hapū or iwi (or their equivalent, if any, in the culture of the young person) to the extent those interests are not otherwise represented in the proceedings.

The first function is perhaps more easily understood than the second. To provide the court with cultural information that is relevant to proceedings seems reasonably straight forward. The scope of this information can be as wide or as narrow as the particular circumstances of the young person require. For example, a young person from a migrant community will have different and specific cultural circumstances and needs that will be relevant to decision making.

A Lay Advocate's second principal function is to take on an advocacy role to represent the interests of a young person's whānau, hapū and iwi, or any equivalent in the young person's culture, to the extent those interests are not otherwise represented in the proceedings. This responsibility is far reaching and, arguably, has not been fully understood or utilised to its intended capacity to date. This is particularly so with respect to representation of the interests of hapū and iwi, or their equivalents.

An initial observation is the importance of the advocacy component of a Lay Advocate's role. The legislation is clear: the Lay Advocate's role is to 'represent' or advocate for whānau, hapū and iwi interests. The New Zealand Oxford Dictionary describes an advocate as a person who pleads or speaks for another, especially in a Court of justice. The Lay Advocate has an active responsibility to gather the views of the whānau, hapū and iwi and to present these interests at an

FGC or in court, to the extent that those interests are not already represented. While it may appear challenging in theory (and in practice) to separate the interests of a young person's family from the young person's interests, the legislation is clear that the advocacy component of the Lay Advocate's role primarily relates to the family, whānau, hapū and iwi, *not* the young person, whose interests should already be represented by their Youth Advocate and Social Worker.

This is a subtle distinction but an important one. It may be the case that the family have a particular view on the proceedings, or a perspective conditioned by their familial and cultural environment, that they are not fully confident, or indeed, able, to communicate that view to the FGC or Youth Court. It may be the case that a parent is unable to attend the FGC or Court appearance but wishes to have his or her interests represented on their behalf. It may be the case that a family member is having trouble understanding certain aspects of the proceedings. In all of these situations, the Lay Advocate's principal role is to be the primary representative for the family, to communicate their views and interests and to help guide them through the Youth Court process.

However, it is equally important to note that the legislation limits the function of the Lay Advocate to representing the interests of the family, whānau, hapū and iwi 'to the extent that those interests are not otherwise represented' [emphasis added]. For example, it may be the case that the family's interests and views may be adequately represented by the Social Worker or Family Group Conference Coordinator. Section 327 is clearly not intended to create a "double-up" in roles between Lay Advocates, Youth Advocates, Social Workers and Family Group Conference Coordinators.

[...]



Perhaps even more challenging in practice is the Lay Advocate's responsibility to represent the interests of a young person's hapū and iwi. While there are a number of provisions in the CYPF Act that offer hapū and, in particular, iwi the opportunity to play a more autonomous role when responding to young Māori offenders, for the most part, these opportunities have not yet been seized upon in any meaningful way. There are a number of reasons for this, including that many iwi do not yet have sufficient resource to do so, and that iwi social service organisations currently remain in their limited roles as contracted providers of government services.

It may be that the CYPF Act originally envisaged that a Lay Advocate appointed for a young Māori offender should not only be of appropriate standing in their community, but also a person who is acquainted with, immersed in, and even mandated by their own iwi. Such an advocate could easily provide an iwi, hapū and also whānau perspective. With this in mind, there may be scope for the Lay Advocate role to be more closely connected with iwi and to draw upon any resources provided by the iwi that may be available to the young person.

In any case, the role of the Lay Advocate presents an exciting opportunity to "bridge the gap" between iwi and whānau, and to act as a conduit between a young person's whānau, iwi and the youth justice process.

4. The interplay between ss 326 and 327 and "secondary functions" of the role

Section 326 is the mechanical provision that enables the appointment of a Lay Advocate, rather than describing the function of the role. Section 326 is clear that, if the Youth Court is to appoint a Lay Advocate, it should endeavour to appoint a Lay Advocate that has the 'necessary standing' in the child or young person's culture by virtue of his or her personality, cultural background, knowledge and experience.

While the wording of s 326 states that the Lay Advocate is appointed to appear 'in support' of a child or young person, this appears to be a statutory mechanism to connect the Lay Advocate to the child or young person's particular proceeding, rather than a description of the Lay Advocate role.

Furthermore, when read in conjunction with s 327, it becomes clear that the primary role of the Lay Advocate focuses on representing the family, whānau, hapū and iwi, and relevant cultural considerations, rather than simply to represent the young person. The young person's interests will already be represented by their Youth Advocate and

Social Worker. This is what the law envisages.

However, s 327 clearly does not prescribe exclusive functions. There may be secondary aspects of the Lay Advocate role that do (and in many cases will) directly support the young person. For example, a Lay Advocate is regularly enlisted to help a young person to research, prepare and practice their pepeha. This is clearly a task that requires the Lay Advocate to directly support the young person. However, because s 327 only refers to the 'principal functions' of the Lay Advocate, undertakings such as supporting a young person with their pepeha might be described as 'secondary functions' of the Lay Advocate role. What may constitute a 'secondary function' of the Lay Advocate role has been left open in the legislation and has the potential to be applied with a wide scope. What are appropriate secondary functions will be determined by the specific circumstances of the case and will change on a case by case basis. Each case will have its own particular needs and challenges.

What is clear is that the CYPF Act envisages Lay Advocates as persons of mana who will advocate for a young person's whānau, hapū and iwi and advise the court of any cultural and community context of which it would not be aware, which would be relevant to any decision making about the young person.

5. Conclusion - the rise and rise of Lay Advocates

One final concluding comment. It should perhaps be observed that the statutory name 'Lay Advocate' viewed through a 2015 lens, now seems unfortunate and misleading. Lay Advocates are no well-meaning amateurs, untrained do-gooders, or second-tier participants in the process. Rather they might be better understood as 'community advocates', 'cultural advocates', or 'family/whānau advocates'. They will be highly trained and/or experienced in working with young people and their families/whānau. They will inevitably be highly respected within their communities. They will have significant standing within their own culture. And they will have a highly developed knowledge of different cultural perspectives and values. They have the potential to significantly contribute to, and become a vital and independent voice, in the Youth Court process. Lay Advocates, as their role evolves, will help to usher in a new era for youth justice in Aotearoa New Zealand.

Conference Round Up

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

On 13-14 July 2015 the New Zealand Law Society hosted the inaugural joint Youth Advocates/Lay Advocates Conference in Auckland.

Here are some reflections about the conference and the content covered from participants:

CONFERENCE
**YOUTH ADVOCATES
CONFERENCE**
July 2015

CONFERENCE
**LAY ADVOCATES
CONFERENCE**
July 2015



Judge Heemi Taumaunu

National Rangatahi Courts Liaison Judge

- Youth Advocates: it was excellent to observe the passion, commitment and dedication to role displayed by those Youth Advocates who attended the conference
- Lay Advocates: I want to thank all of the Lay Advocates for adding an additional and valuable dimension to the conference, including your wealth of knowledge, experience and cultural diversity
- Youth Court Judges: I acknowledge the presence and full participation of Principal Youth Court Judge Andrew Becroft, and those Judges from the Principal Youth Court Judge's Advisory Group that were in attendance
- A special acknowledgement goes to Dick Edwards and his team from the New Zealand Law Society for organising an excellent conference
- My personal highlight from the conference was the two young people from Te Tairāwhiti who shared their experiences of Court and spoke about their hopes for the future.

Detective Inspector Ross Lienert

National Manager for Youth, Police Youth Aid

- There appeared to be a limited understanding of the Youth Crime Action Plan (YCAP) by the Youth/Lay Advocate group. This is important as YCAP is the Government Strategic level direction that brings all parts of the Youth Justice system (including Police and Youth/Lay Advocates) together
- It is clear that both Police and the Youth/Lay Advocate group share the same level of concern at the amount of Conduct/Neurodisability there is in our Youth offending population. In particular the impact it has on our collective ability to communicate effectively with this group
- Police are committed to working with the Youth/Lay Advocate group in any way to advance positive Youth offending outcomes.

Anne Taumaunu

Lay Advocate Chair

- As Lay Advocate Chair, I would like to thank NZLS CLE for allowing us Lay Advocates to have a National Conference alongside the Youth Advocates. Thank you to planning committees, all presenters, supporters and participants for making the conference successful
- The main focus for this conference was, Matauranga (Education) and Mahitahi (Working together). This was achieved by the sharing of knowledge, not only by presenters, but also with each other. Although opinions may differ, the Conference showed that people needed to work together to make it successful
- Presentations were very informative, but there was not always enough Q & A time. The Teen Brain and Keeping Yourself Safe stood out for me. Te Kooti Rangatahi and Kooti Pasifika presentations added a role play theme, which showed as well as told the story
- The direct contact with Ministry of Justice and Child Youth and Family is an important part of making all systems operate as one throughout New Zealand. Many of the Lay Advocates operate from more than one MOJ/CYF office and therefore need to be able to expect the same operations from each office e.g. all Lay Advocates get appropriate Court List/Report.

Angela Johnston, Amy Sheppard, Hayley Dyhrberg

Ministry of Justice, Operations

- It is very important to have a good relationship with all stakeholders so that you can work as a team and come up with the best solution for the child/young person, family, hapū and iwi
- Understanding how we can incorporate and involve the iwi and hapū in the youth justice processes (as per the CYPF Act)
- Keeping yourself safe is important as lay advocates go into unknown environments (e.g. home visits). It is your responsibility to keep yourself safe and if you don't feel comfortable with any visit, don't go. However, let the court know why you decided not to go and consider alternative options in regards to meeting the young person and their family (e.g. a public place or even requesting a meeting room at the court).

Conference Round Up

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Judge Tony Fitzgerald

Youth Court Judge

- There were highlights from start to finish; In typically inspiring fashion, Principal Youth Court Judge Andrew Becroft set the scene with a vision of where we should be in ten years time; important goals were set on themes that were then picked up throughout the conference
- There was an enthusiastic and optimistic feeling to the presentations from the very start. Sessions on the Rangatahi and Pasifika Courts, and the great team work being done there, provided uplifting insights into how the purposes of those Courts are being achieved, and will continue to grow in future
- Challenging issues, such as the care and protection/youth justice interface, neurodisabilities and youth offending, and getting the best out of FGCs, drew on both home grown and overseas knowledge and talent and provided valuable information and ideas for us to work with
- The “Black Letter Law” sessions pointed out not just what the latest decisions of importance coming from the Courts are, but where challenges and opportunities in developing the law lie ahead. The forward looking nature of some presentations, such as the Solution-Focussed Court team approach, created a sense that progress is already being made toward the ten year goals
- There were good opportunities to catch up with old friends and make new ones. Having the two conferences running together and alongside each other was an excellent idea. The lay advocates added the same sort of vitality and passion to the joint sessions that they bring to their work in the Court and they are a very welcome addition to Court teams everywhere
- Very big thanks to Dick Edwards, Karen Yates and the team from the NZLS, as well as Clare Bennett, whaea Anne Taumaunu and the organising committees, for bringing this great conference together
- I am sure that the batteries of all participants will now be fully charged for the exciting challenges ahead!

Dick Edwards

Continuing Legal Education, New Zealand Law Society

- A sense of the value of revitalising the FGC as the primary way of addressing a young person’s offending. Better preparation of and engagement at the appropriate time of all participants who can bring potential solutions to the FGC will bring rewards
- The potential benefits of an awareness of the Youth Court as a solutions-focused court with a team of professionals. These benefits are for the young person, their family and the community
- The conference brought to the fore, again, the passionate commitment that so many stakeholders in the youth justice system bring to their role in delivering on the principles of the Act
- There is an increased awareness of the implications of neurodisability and its contribution to youth offending and how its diagnosis may well assist in appropriate responses to young offenders both before and at court
- A sense of the commitment of the Ministry of Justice to promote the appointment of Lay Advocates and the increased use of them in the mainstream Youth Court as well as in Te Kooti Rangatahi and the Pasifika Courts.

Emily Bruce

Solicitor/Youth Advocate

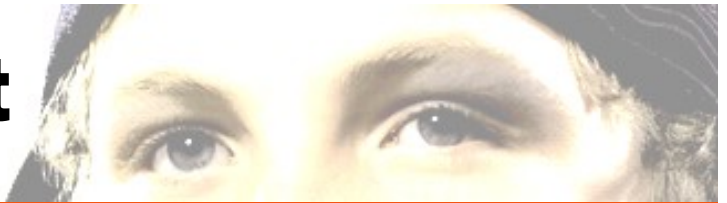
- I really valued getting practical hints on ways lawyers can improve or adapt trial procedure for clients with neurodisabilities, for example the ability to use communication assistants under the Sentencing Act 2002
- Learning more about tools for identifying and addressing neurodisability was also really valuable
- Hearing a young person describe in his own words the steps he took to get on the path to stopping offending and hearing about the hard work of the police youth aid officer, youth advocate and lay advocate who worked with him.

Ziyad Hopkins

2015 Axford Fellow, Fulbright New Zealand

- Practical: Applications under CPMIP—Getting in Right. Really brought together the neuro-disability issues into the ‘coal face’—what it means for daily practice. I look forward to the day, though, that the legal analysis on fitness to plead takes into account the ability of the young person to engage in the FGC process
- Emphasise: While we all care about the positive youth development of our clients, it is important to emphasise the importance of client consent. We must all ensure that we act in collaboration with and at the instruction of our clients—not only in Youth Court proceedings, but also in interacting with other others stakeholders in the youth justice sector as a valued member of the team
- The future: Soana Moala showed the importance of how a thorough review and clarification of charges can encourage early and sustainable exits from the youth justice pipeline. However, I was particularly struck by her call to train the next generation of Youth Advocates. Augmenting her recommendation for a robust mentoring relationship between veteran and new Youth Advocates, a review and refresh of the best practices is needed. An updated set of guidelines is a useful training tool as well as a means to ensure high quality legal representation .

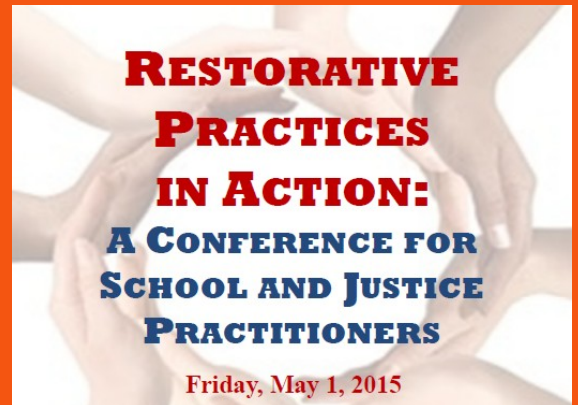
Conference Report



On 1 May 2015 the John Jay College of Criminal Justice, New York, hosted

Restorative Practices in Action: A Conference for School and Justice Practitioners

Principal Youth Court Judge Andrew Becroft was invited as a keynote speaker to share some of the restorative principles and practices from the Aotearoa New Zealand youth justice system. The abstract of his paper, and a link to the journal it is published in, are below.



Out of Court (And Sometimes In) - Playing to Win: Restorative Practices and Processes of the New Zealand Youth Justice System

In 1989, the New Zealand youth justice system underwent a seismic shift. Over the next 25 years the system's architecture was rebuilt and current youth justice theory, principles and practices are virtually unrecognisable from their pre-1989 counterparts.

In the 1980s and decades preceding the Children, Young Persons and their Families Act 1989 (CYPF Act), traditional youth justice philosophies and practices prevailed. There was a strong focus on court-based resolutions and an acceptance that the court was the appropriate institutional forum to resolve youth offending. Police practices reflected the traditional functions of their role: detect crime, arrest, charge the young person and refer the ultimate decision-making to a Judge. The system was dominated by "professional" decision-making; state agencies were perceived to be making decisions on behalf of young people and their families. Consequently, families and communities felt disempowered. In particular, Māori (the indigenous peoples of Aotearoa New Zealand) were marginalised and disadvantaged by the mono-cultural process.

The enactment of the CYPF Act in 1989 introduced a "new paradigm." Namely, a clear two-fold emphasis in the legislation: first, on not charging young offenders and if at all possible using police organised alternative responses; and, secondly (where police diversion was not possible), relying on the Family Group Conference (FGC) - both as a diversionary mechanism to avoid charging, and as the prime decision making mechanism for all charges that were not denied or which were subsequently proved. Clear principles were also enshrined, emphasising the importance of involving and strengthening the family group in all decision making and interventions.

Under the "new paradigm" there is now significantly reduced reliance on charging young people after apprehension by police. A specialist youth-focused division of the police force ensures that approximately 80 percent of all youth offending is dealt with by prompt, community-based alternative intervention. For the small group who are charged and come to the Youth Court, the mandatory FGC enables less reliance on judicial decision-making and places families, victims and the community at the heart of the decision-making process. A consensus-based Plan is created to hold the young people accountable for their behaviour while addressing the underlying causes of offending. Rehabilitative, wraparound, community-based sentences are a priority and custody is an absolute last resort.

The FGC paved the way for a restorative justice approach (although restorative justice theory was not contemplated at the time the legislation was passed) and increasingly the Youth Court adopted a therapeutic, multi-disciplinary approach. Court numbers plummeted, government youth residences and prisons were closed, and youth offending rates stabilised.

The Youth Court and the youth justice FGC also became an incubator of restorative justice practices in subsequent years, gradually spawning a nation-wide movement towards restorative justice. Adult criminal courts began to adopt, and even mandate, restorative justice processes at sentencing. Schools, workplaces, and even some small cities also started adopting restorative theories to inform their practices.

You can read the full paper here: http://johnjay.jjay.cuny.edu/restorativepractices/RP_Journal.pdf

Conference Report




Second Meeting of the Asia-Pacific Council for Juvenile Justice (APCJJ)

APCJJ
ASIA-PACIFIC Council for Juvenile Justice

**Toward Child-Friendly Justice in the Asia-Pacific Region:
Alternatives to Detention and Restorative Justice for Children**

Phuket, Thailand
5-8 May 2015



The Second Meeting of the Asia-Pacific Council for Juvenile Justice was designed around the common goal of **promoting child-friendly juvenile systems which are based on international standards and norms in the Asia-Pacific Region**. Organised jointly by the IJJ, the Thai Department for Juvenile Observation and Protection of the Thai Ministry of Justice, and the United Nations Office on Drugs and Crime (UNODC), the Second Meeting of the APCJJ aimed to **support countries from the Asia-Pacific Region in their efforts to ensure the protection and promotion of the rights of children who are in conflict with the law**.

Judge John Walker attended on behalf of the Youth Court of New Zealand and presented his paper 'Diversion from Court Proceedings: the New Zealand Youth Justice Experience' to the APCJJ (abstract below), and has joined the Asia Pacific Council as the New Zealand representative.

Diversion from Court Proceedings: the New Zealand Youth Justice Experience

Abstract: New Zealand's youth justice system has been described as 'revolutionary' and 'an international trendsetter'. At its inception, the Children, Young Persons and their Families Act 1989 (CYPF Act) was hailed upon as 'a new paradigm' for going beyond traditional philosophies of youth justice and offering a completely new conceptual approach.

Fundamental to the New Zealand model of youth justice is the principle of diversion. This is based on the idea that in order to minimise the risk of developing persistent and long-term offending behaviours, it is better to keep a young person away from the formal justice system for as long as possible. This approach is in line with scientific evidence about the developing adolescent brain and criminological research.

Consistent with these diversionary principles, the CYPF Act creates a clear two-fold emphasis: first, there is an emphasis on not charging young offenders and if at all possible using Police-organised alternative responses; and secondly (where police diversion is not possible), the Family Group Conference (FGC) acts both as a diversionary mechanism to avoid charging, and as the prime decision making mechanism for all charges that were not denied or which were subsequently proved.

The emphasis on diversion in the CYPF Act has significantly reduced reliance on charging young people after apprehension by Police. A specialist youth-focused Police division force ensures that approximately 80 percent of all youth offending is dealt with through prompt, community-based alternative intervention. For the small group who are charged and come before the Youth Court, the mandatory FGC enables less reliance on judicial decision-making and instead places families, victims and the community at the heart of the decision-making process. A consensus-based plan is created to hold young people accountable for their behaviour while addressing the underlying causes of offending. Rehabilitative, wraparound, community-based sentences are a priority and custody is an absolute last resort.

The New Zealand youth justice process offers a small window of opportunity to effectively engage with some of the most complex and challenging youth offenders. Often it is the "last best shot" for effective therapeutic intervention and, as such, requires a prompt and comprehensive response.



You can read Judge Walker's full paper here:

Adobe Acrobat Document

Conference Report



Redefining Juvenile Justice: Towards a better future Barbados, 21-23 April 2015

Barbados is in the process of reforming its juvenile justice system.

As a result, the Ministry of Home Affairs in collaboration with UNICEF hosted a National Conference on Juvenile Justice from April 21 - 23 under the theme **Redefining Juvenile Justice: Towards a Better Future**.

Youth Court Judge Louis Bidois attended on behalf of Aotearoa New Zealand and shares some reflections from the conference below.



Reflections on the Conference

- The conference was extremely successful, and the presentations were of a very high calibre and focussed on the core issues regarding why Barbados needs to reform its youth justice model.
- There was positivity, enthusiasm and excitement from participants and a real commitment from the government for change.
- Barbados' current system needs to be overhauled which will require a paradigm shift across the sector.

Recommendations to Barbados

I made several recommendations for reform including:

- having a new Act with defined principles of accountability and rehabilitation of youth, based principally on a diversionary scheme;
- having separate vehicles for youth justice and care and protection;
- having specialised units across the sector including a Youth Aid section of the Police, a youth service releasing probation services to deal with adult offenders only, criminal lawyers as Youth Advocates, and having a pool of Youth Advocates;
- changing the Court rostering system to have Youth Court hearings at a separate time and venue from the adult courts.

I set out two paradigm shifts that would really improve the youth justice sector. These are removing the police's power of arrest of young people except for specified serious offences and the establishment of "conferencing" requiring the youth, family, victim, stakeholders and supporters to meet to discuss the offending and reach a consensus on accountability and rehabilitation, and to dictate the pathway for disposing of the offending.

Youth are our leaders of the future. Many exciting leaders have had an indiscretion or two but given the right break or opportunity, have gone on to lead productive lives. Although the Conference focussed on Barbados, it had a wider application, hence the excitement of the Caribbean participants.

As we say in the Māori world:

Kia kaha, kia maia, kia manawanui

Be bold, be brave, be stout hearted

Judge Louis Bidois

Conference Report

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



ADDRESS GIVEN AT THE WELCOME RECEPTION OF THE 14th AUSTRALASIAN CONFERENCE ON CHILD ABUSE & NEGLECT

By The Rt Hon Dame Sian Elias,
Administrator of the Government
Sunday 29 March 2015

E ngā mana, e ngā reo, e ngā iwi o te motu e huihui nei, tēnei aku mihi māhana ki a koutou. Te manuhiri tuārangi, te manuhiri waewaetapu nau mai haere mai ki Aotearoa. No reira, kia ora tātou katoa.



The Chief Justice of Aotearoa New Zealand,
The Rt Hon Dame Sian Elias

Distinguished guests, ladies and gentlemen warm greetings to you all. I extend a special welcome to international delegates, especially those of you in New Zealand for the first time. This is the 14th Australasian Conference on Child Abuse and Neglect. It is nearly ten years since New Zealand had the privilege of hosting it. So this is precious opportunity and we are grateful to all who have travelled from afar to be here.

The reception to open the conference is being hosted, in the spirit of cross-agency co-operation which is a theme of the conference, by the Australian Institute of Criminology and the Ministry of Social Development. I express thanks on behalf of us all to them.

It is impossible to work, as I do, within the justice system of any country and not be keenly aware of the impact of child abuse and neglect and the vicious cycle of intergenerational harm and alienation it sets up.

The well-being and safety of children in our communities is a barometer of social justice and decency in any society. The way a society treats its children reveals its soul, as Nelson Mandela put it. To our very great shame, this window on our soul as a society is deeply disturbing and when

something is deeply disturbing, it is tempting to turn away if you can.

You, who work to address child abuse and neglect are the people who do not flinch from what is revealed. You know that none of us can afford to turn away from the issues of child abuse and neglect. It is a very great pleasure to have the opportunity to express appreciation for the important work you do and to say how much I admire your professionalism and commitment to continuous adaptation in response to developing knowledge and insights into what works and what does not.

That preparedness to learn and adapt is the reason for a conference such as this. It brings together different professional disciplines and different agencies working in the field. It builds upon the insight that the only sure ways to promote the safety and well-being of children is through promoting their better integration into the layered and diverse communities to which they belong. It is also critical to do as we would be done by: to recognise that these children have their own inherent dignity and perspectives rather than seeing them and their families as objects for agency management.

Good intentions are not enough in seeking to address child abuse and neglect. Aspirations need to be backed

up by both good design for agency and other responses and by practical strategies for engagement. Neither is sufficient in itself. Engagement without sound design and co-ordination is a mess and potentially harmful and good theoretical system design without strategies for practical implementation may be useless. For example, the Principal Judge of the Youth Court has pointed out that the Family Group Conference in his court typically involves a young Māori boy and his mother. That's not the engagement hoped for in the system as designed. So even where systems design may be good, practical effort is required to make it work.

The causes of child abuse and neglect are complex. Effective strategies both for prevention and to address their effects must operate on a wide front. Co-operation between agencies with specific functions touching on child abuse and neglect and its consequences is essential. So too is co-ordinated effort by those professionals whose skills deal with different aspects of the problem and the response. Nor is integrated and co-ordinated professional response sufficient in itself. Responses which fit the communities to which children belong and in which they are entitled to participate require strategies which are culturally appropriate. That means letting in the community.

It is a far cry from the 1970s when I used to appear in the Magistrate's Court in child neglect cases. No one doubts the sincerity of the views of the social workers of the time or that they were acting in what they conceived to be the best interests of the children. But the process was top-down and paternalistic. It was often culturally inappropriate and often hugely disruptive of family relationships. The human rights lens now applied to child care, the changes to put the child at the centre and not simply as an object for agency benevolence, and the

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and the willingness to accept community diversity have all effected a real revolution in approach.

That we have come a long way does not mean we should be complacent. Continuous reassessment in this area, as in all areas that matter and are concerned with human interaction, is the obligation of all who work in this field.

Because children are our future we need to invest in their health, well-being, development and safety. If strategies are to be responsive to the dignity of the child we need to pay close attention to the identity of the child. That means the cultural identification and heritage of the child is as important as its health, education, and safety. So too are the child's family - and we need to pay close attention to the perspective of the child itself.

The first principle of the child's best interests as paramount has been reaffirmed in New Zealand's Vulnerable Children Act 2014. If we are to respect the human dignity of the child, the child must not however be treated as an object. It is critical that those who respond to vulnerable children hear the child's voice and respect the child's wishes to the greatest extent. It is also important to see childhood as important in its own right. It is not simply a preparation for adulthood. Children must have safety to learn and grow and have fun.

Families are where children are best nurtured and taught about the values that will equip them for life. But they can be dangerous for vulnerable children if the family is not coping and not equipped with the life skills and resources to protect and nurture the child. Engaging the families of vulnerable children is essential to best outcomes for them. Those who would grow children safely must ensure their families also grow in well-being and life skills. For those families unable to care safely for their children, we need to ensure that there are properly supported foster caregivers and whanau caregivers to pick things up. These are very special people indeed. The role they play in providing

safe havens in which children can grow in self-esteem is often under the radar. It is very hard work. What is provided every day to improve the lives of children in our communities is humbling indeed.

The organisers have taken the opportunity to ensure that within the theme there is an opportunity to look especially at New Zealand experience with working with tangata whenua. The unique place of tangata whenua, their language, history, culture and traditions, shapes the identity of New Zealand. An indigenous response to promotion of the well-being of children emphasises whakapapa for connections, shared responsibility for child-rearing and cultural identity. Adherence to the Declaration of the Rights of Indigenous Peoples gives added impetus to the need to respond appropriately when children are of indigenous communities. Under the spirit of the Treaty of Waitangi interventions must foster protection, including of customs and language, the mutual good faith and co-operation that is a feature of partnership and full participation.

These principles are best strategy more generally. Excellent communication and respect for different perspectives and authority are essential to mobilising the joint effort and responsibilities that are the only safe harbour for vulnerable children. The effort can be successful only if it builds on relationships. Such relationships set up partnerships: across generations, across cultures, across disciplines and across all agencies dedicated to nurturing and protecting children.

"Cultural responsiveness in a multi-agency world", the theme of the conference, matters. The complexities of child abuse and neglect mean that support and administration is delivered in the modern administrative state by a wide range of agencies and providers, as the content of the sessions properly acknowledges. Such agencies operate under the umbrella of human rights, including importantly in this context the Convention on the Rights of the Child. They also operate under open and fair processes our communities now rightly

expect because such openness and fairness are aspects of human rights in themselves.

The conference offers the opportunity over the next four days to promote exchange of ideas and knowledge. The programme seeks to stimulate new thinking on matters such as how more effective partnerships are built with indigenous people and those of different cultures to work out how best children may be kept safe and their well-being promoted. It also seeks to stimulate ideas about how different agencies, government, non-government, business and not for profit, can work better together in partnership to improve the lives of the most vulnerable in our communities. There is opportunity in the conference to show what is happening with child protection services in a range of jurisdictions, such as New Zealand's experience with the Vulnerable Children's Board in promoting multi-agency approaches so that outcomes for vulnerable children and young people are improved.

At this conference, there is opportunity to share the body of evidence-based knowledge and understanding about what keeps children safe and an opportunity to examine it from a range of different perspectives. A conference like this promotes connections and friendships that can be tapped for longer -distance continued self-examination of best practice.

Many of you have a lifetime of service in this important work. I know you will be energised by the conference to continue and will I am sure find real help here. I want to thank all of you for coming to Auckland to share your knowledge, ideas and expertise. More importantly, I am very glad indeed to have the opportunity to thank you for the essential work you all do.

I wish you well for your deliberations and for a most successful conference.

No reira tēnā koutou, tēnā koutou, tēnā rā tātou katoua.

Across Jurisdictions: Interplay between the Youth Court and the District Court

Consideration of Youth Court notations when sentencing in the District Court

The legal position appears to be that:

- Youth Court orders are not convictions. Rather, they form part of an offender's "behavioural history";
- Youth Court notations may be considered as an aggravating factor for the purposes of sentencing in the adult jurisdiction via s 9(4) of the Sentencing Act 2002;
- When sentencing, Youth Court notations may be reflected in either an uplift or by cancellation of otherwise appropriate credit for age; and
- A cautious approach should be taken to using a Youth Court order as a basis for uplifting the starting point of a sentence in the adult jurisdiction.

There are two Court of Appeal cases that support this position. The relevant principles are extracted from each and reproduced below.

***Geros v R* [2011] NZCA 122**

Proceedings in the Youth Court do not amount to a conviction and, as such, Youth Court history cannot be taken into account under s 9(1)(j) of the Sentencing Act.

The sentencing Court may consider other aggravating or mitigating factors as "the court thinks fit" under s 9(4). As articulated in *R v Putt* [2009] NZCA 38, Youth Court history may be taken into account under s 9(4) and will form part of an offender's "behavioural history" (at [16]). This was the view in *Kohere v Police* (1994) 11 CRNZ 442 (HC) at [444]:

[While the Youth Court] behavioural history does not amount to prior convictions, it must be the case that such history can have some relevance in determining what is an appropriate sentence for the person appearing in the court of criminal record.

***R v Mata* [2012] NZCA 593**

Youth Court notations may be reflected in either an uplift or by cancellation of otherwise appropriate credit for age. Citing the same passage in *Kohere v Police* (1994) 11 CRNZ 442 (HC) the Court held that *Kohere* does not preclude an uplift for offending admitted in the Youth Court (at [20-21]).

Dismissal of charges in adult jurisdiction when offending took place as a child or young person

An issue can arise when a defendant is charged some years after the alleged offending took place, which occurred when he or she was a child or young person. This often arises in cases of sexual offending where a young complainant does not come forward for a number of years.

The legal position with respect to dismissing such a charge for delay under s 322 of the CYPF Act was discussed recently by the High Court in *R v Brown*, and Nation J's reasoning was later affirmed by the Court of Appeal.

***R v Brown* [2015] NZHC 1155**

Nation J made the following observations:

- If a defendant is aged 18 years or older at the time a charge is laid in the District Court (pursuant to s 2(2)(d) CYPF Act), a District Court Judge is entitled to dismiss the charge under s 322 CYPF Act, on the basis that the time that has elapsed between the commission of the alleged offence and the hearing has been unnecessarily or unduly protracted.
- The Court of Appeal in *R v M* [2011] NZCA 673 commented that:

[...] it seems to us to be highly unlikely that Parliament would have intended that, once a matter had been brought within the jurisdiction of the District Court, only a Youth Court Judge could exercise s 322 power.
- In such a case, the matters to be considered on a s 322 application are the well established principles articulated by Wild J in *Police v Turner* [2006] DCR 599; and Winkelmann J in *Attorney-General v Youth Court at Manukau* [2007] NZFLR 103.
- If the case is to proceed to trial, a Judge may apply s 322 at the pre-trial callover stage and at any stage up to the commencement of the trial.

See also *Brown v R* [2015] NZCA 325

Harmful Digital Communications Act 2015

The Harmful Digital Communications Act 2015 was enacted on 2 July 2015.

The purpose of the Act is to deter, prevent, and mitigate the harm caused to individuals by digital communications, and to provide victims of harmful digital communications with a quick and efficient means of redress.

The Act creates a number of mechanisms to address cyberbullying and other forms of harmful digital communications, including:

- Establishing an Approved Agency to resolve complaints about harmful digital communications. The functions of the Approved Agency are to assist victims, and to simplify the process for taking harmful digital communications off the internet (s 8);
- Empowering the District Court to issue civil orders such as take-down notices and to impose penalties for non-compliance with court orders (ss 19 - 21);
- Creating new criminal offence for the most seriously harmful digital communications, including intimate visual recordings (s 22). Under s 22(1), a person may be sentenced to up to two years imprisonment or a maximum fine of \$50,000 upon conviction if:
 - a. They intended the communication to cause harm;
 - b. It is reasonable to expect a person in the victim's position would be harmed by it; and
 - c. The victim was harmed.
- Creating a new offence of incitement to commit suicide, which applies to situations where the victim does not attempt to take their own life (s 30(2));
- Creating a 'safe harbour provision', whereby online content hosts are provided with an optional process for handling complaints. If followed, this complaints process will allow people to quickly and easily request the removal of a harmful digital communication, while limiting the host's liability for that content (s 24); and
- Providing safeguards to balance rights to freedom of expression (ss 6(2)(b) and 19(6)).

The new criminal offences and the safe harbour provisions took effect on 3 July, while the Approved Agency is expected to be running within two years.

There are also a number of measures being taken to address cyberbullying in schools and by school-age children:

- Education regulations require schools' Boards of Trustees to provide a safe physical and emotional environment. This includes addressing bullying (including cyberbullying).
- The Bullying Prevention Advisory Group, chaired by the Secretary for Education, produced *Bullying Prevention and Response* to assist principals, teachers and parents prevent bullying in schools. An updated edition of the guide was released in May 2015. It is available at www.education.govt.nz/bullyingprevention
- The Online Safety Advisory Group has recently produced *Digital Technology: Safe and Responsible Use in Schools* to support schools in the management of safe and responsible use of digital technology in schools. The guide is available at www.netsafe.org.nz/managing-digital-technology
- Programmes to assist schools to address bullying behaviour are available: Wellbeing@school and Positive Behaviour for Learning.
- The Wellbeing@School website provides schools with information and self-review tools to build a safe and caring climate that deters bullying. More information is available at www.wellbeingatschool.org.nz
- Positive Behaviour for Learning provides tools for schools, teachers and parents to help create a school environment that encourages positive behaviour and learning. More information is available at pb4l.tki.org.nz
- The Ministry of Education has a funding agreement with NetSafe for their programme of cyber education and cyber safety in schools and the wider community. The Netsafe programme supports schools to meet their statutory requirements to provide a safe learning environment.

Police v J B [2015] NZYC 488

Summary of the reserved judgment of Principal Youth Court Judge A J Becroft

Facts

J, aged 16, applied to have 23 charges of sexual offending against his 10 year old sister declared as nullities, with the result that the Youth Court has no jurisdiction to hear them. J had no prior offending history and was already undertaking comprehensive therapeutic intervention, strongly supported by his parents.

J argued that the intention to charge FGC was convened 22 days after the required consultation and Police notification; one day outside the statutory timeframe for convening such an FGC. J also argued that the resulting FGC was unlawful, due to the Police Youth Aid Officer holding a predetermined view at the FGC that J should ultimately be charged.

Issues

Some of the direct, and indirect, issues raised by the application and addressed by the Principal Youth Court Judge were:

- The requirement for "consultation" between a Youth Aid Officer and Youth Justice Coordinator, per s 245(1)(b);
- What constitutes "notification" that the enforcement officer wishes to proceed with charging, per s 247(b);
- The steps required by a Youth Justice Coordinator when discharging the obligation to "convene" and intention to charge FGC, per ss 247 and 253;
- Concern that the "default" position, in this case, was that FGCs are always held at the CYF site office;
- Whether the Court is bound by the principles in *H v Police* [1999] NZFLR 996 if timeframes to convene an intention to charge FGC are breached;
- Whether a Police Officer's "closed mind", or predetermined view that charges must be laid, invalidates an FGC. Indeed, whether the law requires any participant at an FGC to have an "open mind" during conference discussions;
- Whether evidence of a Police Officer's statements, attitudes and state of mind at an FGC is admissible in Court;
- Whether there is an appropriate remedy if a Police Officer has a "closed mind" during an FGC;
- Concern that, in this case, the Youth Justice Coordinator did not accurately understand a lawyer's entitlement to attend an intention to charge FGC; and
- An apparent need to amend the CYF document that records the steps required when convening an intention to charge FGC, at least with respect to the current form used by the Waitakere office. It would appear that the use of the wording "accept/decline" in the form undermines the mandatory nature of the requirement to convene an FGC when notification is received from an enforcement officer, per s 247(b).

First Ground for the Application: was the FGC unlawful as it was not convened within the 21 day statutory timeframe?

Counsel for the Applicant and the Crown had competing views as to when consultation between the Police Youth Aid Officer and Youth Justice Coordinator began and was concluded in this case (pursuant to s 245(1)(b)), and as to when the Youth Justice Coordinator was notified that the police desired that J be charged, thereby triggering the 21 day period for convening the FGC. On this issue, the Judge made the following observations:

- Consultation need not be confined to a single event and can be adjourned or extended over a longer period where necessary (see *Police v C* [2000] 19 FRNZ 71, per Judge Carruthers). In this case, consultation was paused or adjourned in order to enable the Coordinator to ascertain what care and protection steps were being taken in respect of J and his sister;
- Notification that the police still intended to charge J after consultation (pursuant to s 247(b)), in this case, was constructive. While "constructive notification" falls well below best practice, in this case, no unfairness or delay in process was caused by the lack of formal notification that the police intended to proceed with charging at the conclusion of consultation.
- There is no statutory mandate for a Youth Justice Coordinator to "accept" an intention to charge FGC referral. In this case, after investigating J's care and protection status during the consultation period, the Youth Justice Coordinator then "accepted" the intention to charge notification. However, s 247(b) casts a mandatory obligation on the Coordinator to convene the FGC once notification is received;

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- “Convening” an intention to charge FGC means to take the appropriate steps under ss 247 and 253 in order to cause the conference to meet. At the very least, this includes fixing the day, time and place at which an FGC is to be held. Under s 253, it also includes taking all reasonable steps to ensure that notice of the time, date and place of the conference is given to every person entitled to attend that FGC;
 - In this case, there was an assumption that the FGC would be convened in the local CYF office. This default attitude undermines the intention of the CYPF Act to take formal decision-making out of the hands of government departments. One aspect of the new approach when the CYPF Act was enacted in 1989 was not to hold FGCs in government offices, but rather in safe, neutral and friendly community venues.
 - The Youth Court is bound by the decision of *H v Police*, in which the High Court established that a breach of the statutory timeframes for convening a FGC renders the charges as nullities, with the result that the Youth Court has no jurisdiction to hear them. However, it may be that *H v Police* now requires reconsideration by the High Court in the appropriate case. It was His Honour’s respectful view that the approach in *Police v V* [2006] 25 FRNZ 852, which allows a full consideration of the extent of the delay and the reasons for failure to convene the FGC within time, is an attractive one. This approach enables a fact-specific examination and would ameliorate the rigour and inflexibility of the *H v Police* approach. In this case, the timeframe breach was by just one day, and the cumulative time limit for “convening” and “completing” the FGC was adhered to.
- properly supervised by the Court. When deciding whether it is lawful for the police to have a “closed mind” at an intention to charge FGC, the Judge made the following observations:
- Section 37 renders any evidence about a person’s state of mind during a FGC inadmissible. The purpose of s 37 is to establish an absolute protective “bubble” around an FGC which can never be breached, so that those attending can speak with intimacy and confidence, knowing that what they say will go no further. Without this provision, FGCs could be picked apart and the conduct, contributions, comments and thoughts of those attending could be subject to minute examination and cross-examination. However, s 37 was not raised or argued by counsel and, out of fairness, His Honour addressed counsels’ submissions on the issue of a closed mind;
 - If a FGC is lawfully convened, attended by entitled participants and conducted according to the legislative scheme (as it was in this case), then non-statutory deficiencies in the attitudes and mindset of those attending are matters of practice that do not, and cannot, invalidate the FGC.
 - There is no statutory obligation on participants to keep an open mind at a FGC. A common law principle has developed that, for the FGC to be meaningful and genuine, those who attend should always have, to some degree, an open mind (see *Police v J T*, Auckland Youth Court, 20 July 1998, CRN-820-4003-603, per Judge McElrea; and *Police v S N & Ors* [2015] NZYC 239, per Judge Walker). However, the principle of open mindedness is a matter of practice. It is not a lawful requirement. A pre-determined view means that the FGC is likely to be less than adequate. But it does not render it unlawful or invalid, provided all the relevant statutory requirements have been complied with. His Honour noted that all FGC participants should be willing to listen to, and hear, the views of others. At an FGC a full and frank exchange of views is necessary. Honestly held views can, and often do, legitimately change. This is one of the strengths of the FGC process. Intention to charge FGCs, when well facilitated, can sometimes come up with some quite remarkable diversionary plans without agreeing to lay charges; the preliminary views of those taking part can change quite radically;
 - There are clear policy reasons why this position must be so: first, it would open the door for counsel to microscopically examine the conduct of every FGC to determine if the

Second Ground for the Application: does a Youth Aid Officer’s “closed mind” at an intention to charge FGC invalidate the FGC and subsequent charges?

On the evidence, it was accepted by both counsel, and the Senior Constable himself, that during the FGC, the Senior Constable’s mind was closed to any alternative form of resolution other than laying charges against J. The Senior Constable had considered the matter very carefully in advance and at the FGC, he was of the clear and unshakeable view that in the public interest charges should be laid against J so that he could be held accountable and that any intervention could be

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- of best practice; second, it would introduce a hitherto unknown extra step in the process after the laying of a charge and at first appearance in the Youth Court; and finally, it might create an unintended incentive for the police to arrest young people so as to avoid an intention to charge FGC and to enable the young person to be charged and brought directly to Court.
 - If the Court does not hold the FGC unlawful where there is a closed mind by the police, J and his family were not without remedy in this case. The Court could be asked to order a further FGC to consider again the question of alternatives to prosecution, under s 281B.
- His Honour made a number of concluding observations about a number of practice issues that arose in this case:
- Both Police Youth Aid officers and CYFs youth justice FGC Coordinators involved in an intention to charge consultation process should record the completion date of each of the required statutory steps. At the least, a record should be kept of:-
 - When an enforcement officer intending to commence proceedings against a young person, who has not been arrested, reaches the belief that the public interest requires that the young person should be charged in the Youth Court (s 245(1)(a));
 - When this belief is communicated to a FGC Coordinator;
 - When “consultation” under s 245(1)(b) commences, and when it concludes;
 - When the relevant enforcement officer then provides notification under s 247(b) to the FGC Coordinator that the police wish to continue with laying charges against a young person;
 - When that “notification” is received;
 - When the 21 day period within which to “convene” an intention to charge FGC starts and when it ends;
 - When “convening” an FGC has been completed; and
 - When the one month period to hold an FGC (unless there are special reasons why a longer period is required) starts and when it ends.

Result

Application dismissed. The charging documents laid against J are not nullities and the Youth Court process is to continue.

You can access the full judgment here:



Adobe Acrobat Document

Cause for celebration...

Phil Gane, Court Services Manager, Christchurch District Court has recently won the Ministry of Justice Chief Executive’s Award for Excellence in Collaboration

“Phil was responsible for setting up and successfully implementing the first Rangatahi Court (marae-based Youth Court) in the South Island. He worked tirelessly with iwi across Canterbury, Police, Child, Youth and Family Services (CYFS) and the Judiciary to ensure the success and sustainability of this specialist Youth Court. This particular Rangatahi Court recently celebrated its one year anniversary and has been recognised not only by the Judiciary but also by both Police and CYFS for delivering successful outcomes for Rangatahi (youth) in Christchurch.

Phil's leadership skills and ability to collaborate with cross sector agencies, together with local iwi and other government agencies has been key to the success of this Rangatahi Court.

Phil spent many hours working with people from across the Ministry, including District Courts, National Office and the Judiciary, as well as getting specific youth and law advocates, Kaumātua and kuia on board to get the Rangatahi Court operational within a short time.”

Our warmest congratulations to Phil for this recognition.

Supported Bail in the Youth Court

Phil Dinham, Manager Youth Justice Support, Child Youth and Family

Supported Bail in the Youth Court

If you want to find out about Supported Bail then don't bother looking for guidance from the Children, Young Persons and Their Families Act 1989 (CYPF Act) because Supported Bail doesn't get a mention there. Equally you won't find it specified in s 30 of the Bail Act 2000 although the Bail Act does allow for bail conditions that help ensure that the young person:

- appears in court on the date to which the defendant has been remanded; and
- does not interfere with any witness or any evidence against the defendant; and
- does not commit any offence while on bail.

The principle in s 208 (d) in the CYPF Act, states that:

a child or young person who commits an offence should be kept in the community so far as that is practicable and consonant with the need to ensure the safety of the public.

Section 240(1) of the CYPF Act sets out the conditions that can be attached to bail in the Youth Court:

Where a child or young person is released on bail pursuant to section 238(1)(b), the court may impose as a condition of that child's or young person's release that the child or young person shall not during a specified period be absent from home or engage in a particular activity without the consent of the parents or guardians or other persons having the care of the child or young person.

So why did Child, Youth and Family (CYF), with the support of Police and the Youth Court, establish the Supported Bail programme?

To quote Dylan Thomas and begin at the beginning, the concept of SB was based on similar bail schemes in Australia, United Kingdom and Canada. The Supported Bail programme was introduced as a youth justice initiative from CYF's 2003 Residential Services strategy and began its pilot in January 2005. Its intent was to provide an intensive community-based alternative to young people being held on remand in Police custody or in CYF residences as at that time, there were concerns about the number of custodial remands particularly where court bail had been breached.

The Supported Bail programme in 2005 contracted six providers to deliver 75 Supported Bail programme places in five regions across New Zealand (Invercargill—two providers, New Plymouth, Napier/Hastings, Hamilton, and Whangarei). In August 2005, two extra providers were added, Christchurch and South Auckland.

With the introduction of FRESH START in 2010, CYF consulted with Supported Bail providers and Police on updating the specifications and protocols as well as increasing the volume and provider coverage.

The Supported Bail programme was designed to maintain the young person's compliance with bail until the Youth Court made a community order; or an agreed Family Group Conference Plan. From the point at which Supported Bail was put in place, this is generally up to a six week period but can be extended if the plan, or social work report, can't be completed within six weeks.

The overall objectives of Supported Bail are that young people:

- Are assisted to successfully comply with their bail conditions whilst on the programme;
- Are supported to engage in meaningful activities;
- Young peoples' behaviour changes in a positive way;
- The child or young person's family/whānau are assisted and supported in the monitoring and supervision of their bail conditions; and
- The risk to the community posed by that child or young person's offending behaviour is minimised.

An example of Supported Bail in action relates to a 14 yr old male who was arrested on serious charges ranging from Fraud to Aggravated Robbery and currently held in Police custody awaiting a Youth Court hearing. A strong opposition to bail by Police was sought and a remand in a CYF residence for the third time was likely. An initial meeting with the Supported Bail provider, young person, his family/whānau and Youth Aid officer were able to develop a Supported Bail plan that would wrap around his Youth Court bail conditions and would aim to strengthen the family/whānau in the management of his behaviour prior to the initial Youth Court hearing.

Special Report



THE YOUTH COURT OF NEW ZEALAND | **TE KOOTI TAIOHI O AOTEAROA**

The Police and the Supported Bail provider worked alongside the young person and his parents on strategies to manage his compliance with his bail conditions, accessing education support and fitness programmes after 5.00 pm in preparation for his pending Family Group Conference.

The Supported Bail worker attended the Family Group Conference and was able to offer information that assisted the outcome.

We commissioned research by the Criminal Justice & Research Centre of Victoria University into Supported Bail in 2007 which showed 75% successfully completed their bail period, while 66% did not reoffend whilst on Supported Bail. Young people were reported as being engaged in meaningful activities – 85% were involved with one-off recreational activities and education and vocational activities feature in 65% of young people’s individual development plans.

Supported Bail was reported to have assisted 80% of caregivers or parents in improving the monitoring and supervising of their young person.

Those results prompted us, in 2010, to use some of the Fresh Start for Young Offenders resources to increase Supported Bail provision. As of 2014 we have 24 national providers with capacity for up to 316 placements available to every Youth Court in New Zealand.

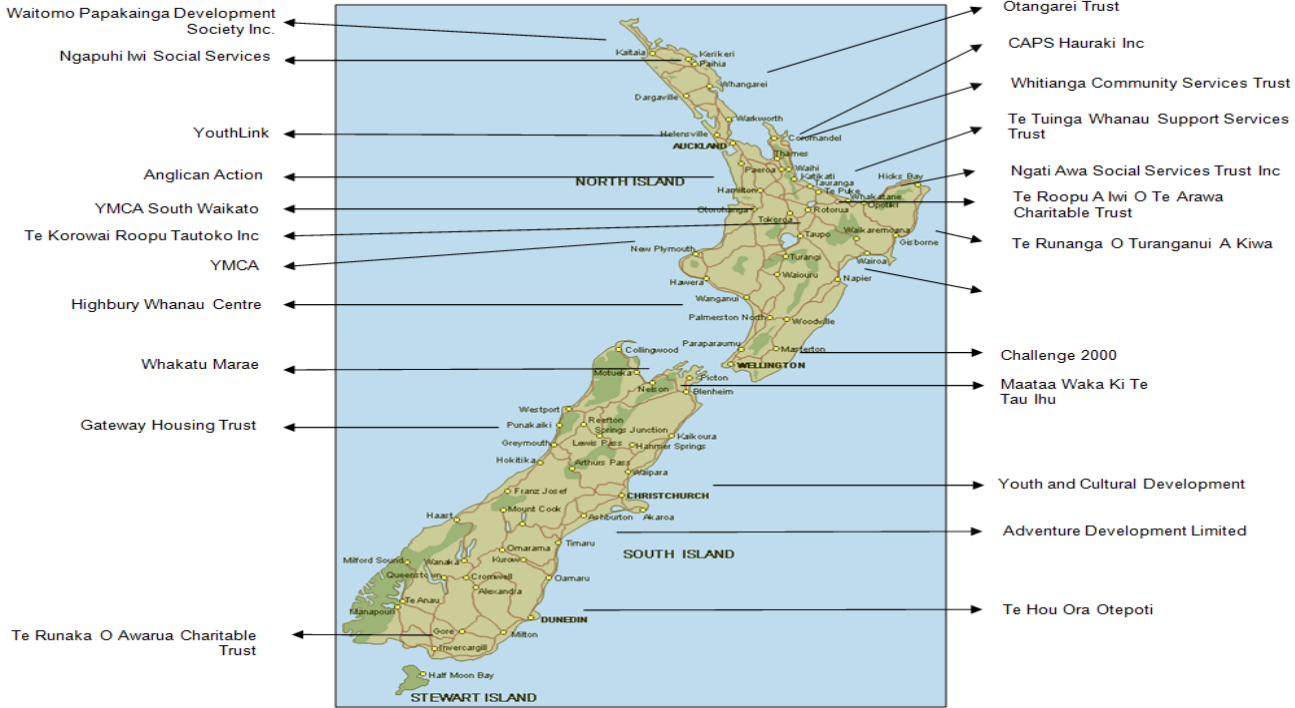
At the same time we worked with providers to make Supported Bail more accessible, more flexible such as working in the evenings and weekends to support their bail conditions but the basic objectives stated above remain.

Supported Bail is not intended as a low-level support for young people who are not at risk of a custodial remand. It is strategically placed as an intensive intervention to head off a likely custodial remand where there is strong evidence to support a police application to deny bail.

Once the Youth Court has reached a decision to allow the young person to remain in the community, either on an order or to complete their FGC plan, then funding for Supported Bail ceases, so that the resources can be freed up to support the next young person needing intensive support in order to comply with their bail.

Of course, while on Supported Bail the young person may form a positive relationship with the provider, or be seen to benefit from the kind of intensive intervention provided during their bail period. These factors should be taken into account and, if required, provided for in the FGC plan or social work report. If this is the case, then if the provider has sufficient resources, other Fresh Start funding can be used to enable the FGC plan to be resourced. But it’s important that the Supported Bail capacity is freed up, to ensure that subsequent young people aren’t placed in custody due to the lack of a Supported Bail placement.

Supported Bail Providers



The Central Regional Health School Communication Project : An Overview of the Plan

Zanna Richardson Speech-Language Therapist

In January 2015 I was lucky enough to begin work as a Speech-Language Therapist (SLT) at the Central Regional Health School (CRHS).

CRHS covers a geographical area from Wellington, to Whanganui and across to Hawkes Bay, and everything in-between. There are nine Health sites, three Mental Health sites (including CRHS - City, Hikitia Te Wairua and the Regional Rangatahi Adolescent Inpatient Service), plus schools within Te Au rere a Te Tonga (formally Lower North Youth Justice) and Epuni Care and Protection Residence. Teachers work one-to-one with students in their homes, or at CRHS sites.

My role in the school is to develop a two year Communication Project that is entirely funded by the school. It is a role that is unique in many ways, not only as the first New Zealand project to offer communication support to these vulnerable young people, but also because of the varied nature of the school itself.

CRHS has shown great innovation and action by funding this project in order to demonstrate the value of supporting communication in the diverse range of students that access the school.

The term 'speech, language and communication needs' (SLCN) is used throughout this article. This term is used as a broad category that includes a range of communication difficulties (e.g. unintelligible speech, difficulty forming sentences, difficulty narrating events, poor vocabulary, difficulty understanding information and instructions, and poor social skills).

The Communication Project arose as a result of on-going review within CRHS along with a wealth of emerging international research identifying the high risk of communication difficulties in the vulnerable population of students the CRHS supports. Key research, considered by the Board of Trustees, was the work of Pamela Snow (Monash University), which lead to approval for the Principal (Ken McIntosh) to visit the UK to learn more about the work happening there, particularly in the development of SLT services within Youth Offending Teams. Following this visit approval was granted to employ an SLT to run a two year Communication Project.

The project is based on the *Balanced System framework* developed by Marie Gascoigne (2011). The greatest focus is on the universal tier (support for all students accessing the school), some input at the targeted tier (students with identified SLCN or at high risk of SLCN), and a very limited amount of input at the specialist tier (students with severe SLCN).

The two year plan has three main points of focus; identification of SLCN within the CRHS student population, raising awareness of SLCN across the relevant staff involved with the students, and supporting SLCN.

After searching the current research to find a suitable screening tool, I developed one for the teachers to try and feedback on its usefulness. Thanks to their constructive feedback it is now onto its 3rd draft. Once established, the screening tool will be used for all students enrolled at CRHS.

Every teacher will attend a workshop on Identifying SLCN where they will learn about the development of communication skills, the statistics around various populations (e.g. youth offenders, mental health, low socio-economic backgrounds), the impact of SLCN and key signs to look out for.

Once identified as potentially having SLCN, students receive a full assessment and report from the SLT. Teachers (and where appropriate parents) will be encouraged to attend assessments as this is often the moment they really understand the significance of a student's SLCN. The SLT will liaise with all relevant people in the student's life in order to increase awareness of their SLCN. This may include specific advice relating to the pathway that student is on, for example recommending the language used at an FGC is adapted to accommodate their needs or highlighting specific therapies that may need to be adapted as therapies are often reliant on oral skills.

The next stage at the universal tier is to support SLCN with school wide strategies. This involves increasing teachers understanding and use of strategies such as allowing longer thinking time, reducing the complexity of the language they use, and supporting spoken information with visuals. All teachers will attend a second workshop on supporting SLCN. They will then be given the opportunity for more focused

understanding through the use of video feedback sessions with the SLT.

Whilst other projects (Gregory and Bryan, 2009) have focused on developing specific communication plans for individual students, the decision here has been that communication goals will be included in all students Individual Plans as part of their overall educational development. Through increasing identification, awareness and support of SLCN, the aim is to increase students' presence, participation and achievement. The targeted tier will be implemented in the higher risk student populations (youth offending, care and protection, mental health) and will focus on the students developing specific skills, through teacher input. These will include active listening skills, vocabulary development and narrative.

After one term into the project I am already identifying aspects I would like to add to the role, such as outreach to mainstream schools as students transition back to them, extending training to the mental health and CYF teams as well as the CRHS teachers, and being able to attend and support therapeutic programmes, FGCs and court appearances. It would be great to see more SLTs in these roles, supporting vulnerable young people. So far, everyone has been responsive and accommodating to my presence. Information provided has been well received and initial feedback has been positive.

As the project continues I hope to be able to share more of the work we, at CRHS, are doing and welcome any contact from interested parties.

References:

Gascoigne MT. (2011) *The Balanced System™: an overview*. <http://tinyurl.com/775hg4k>

Gregory, J and Bryan, K (2009) *Evaluation of the Leeds Speech and Language Therapy Service Provision within the Intensive Supervision and Surveillance Programme provided by the Leeds Youth Offending Team*. University of Surrey.

More information about SLCN can be found on the Communication Trust and ICAN websites as well as the Talking Trouble NZ website.

Special Report



Looking Healthy: The hidden primary health issues for young people in the youth justice pathway

by Pat Mitchell www.healthconnections.co.nz

Purpose of the Health and Education Assessment Programme

The Health and Education Programme (HEAP) provides comprehensive health and/or education assessments for children and young people who offend. The program is designed to support informed decision making and better outcomes at family group conference (FGC).

The health assessment includes a physical health and psycho-social assessment to identifying the risks and resiliencies for the child or young person. Recommendations are formulated from a youth development perspective and enhance the FGC plan.

Health assessments are undertaken within a range of models across Aotearoa – these include a private business partnership with Child Youth and Family and an extension of the Public Health Nurse role.

Achieving the Full Potential of Health Assessments

Health Connections is a small business that undertakes health assessments for Auckland Central Child Youth and Family and has been the provider for almost 4 years. Reviewing our data, its interesting to see what the health assessment identifies for the small number of young people who get referred for a health assessment.

Between May 2014 and May 2015 fourteen young people received health assessments. All were aged between 13-16 years, 80% were male and 20% were female. The ethnicities of the young people seen were 79% Māori, 14% Pasifika and 7% Pākeha. Table 1 shows the clinical presentation of those young people.

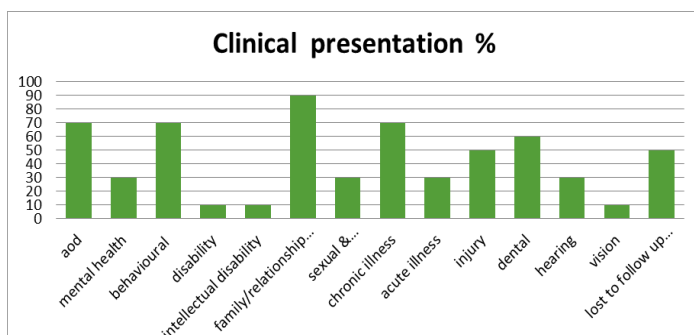


Table 1. The primary health issues identified from Health Connections health assessments for young people referred by Auckland Central Youth Justice Coordinators.

Seventy percent of the young people seen presented with chronic illnesses. These commonly include asthma, eczema and ongoing ear health problems; but have included young people presenting with diabetes and epilepsy. Of concern are the 75% of the young people who had been lost to follow up by a health provider – both primary and secondary care.

Thirty percent of young people presented with a mental health diagnosis but many presented with isolated symptoms of low mood, poor sleep and poor concentration. Alcohol and other drugs continue to be a major presenting issue. Family/relationship break down/issues were reported by all the young people assessed.

Health Connections provide a range of recommendations following assessment, Table 2 details those recommendations made to Child Youth and Family following assessment.

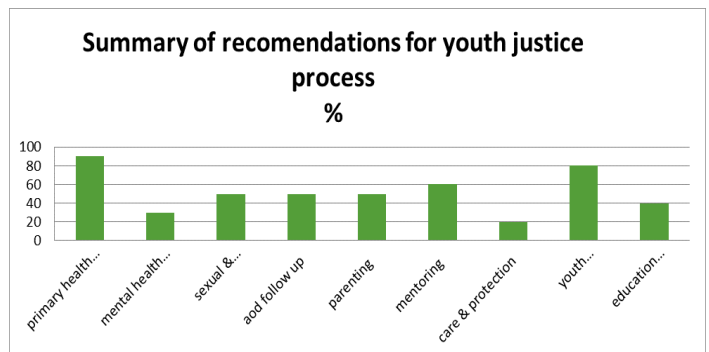


Table 2 Recommendations to improve outcomes for young people seen by the health assessor.

Many recommendations included sexual and reproductive health interventions. Chlamydia and Gonorrhoea are the most common sexually transmitted infections, and young people are more at risk than other age groups in New Zealand. Early detection and treatment of infections reduces onward transmission and the consequences of untreated infection (2).

A decreasing amount of young people report accessing their General Practitioner for primary care (3). Many recommendations included navigation to enroll with a local very low cost general practice.

Young people are increasingly likely to report depressive symptoms (3), which is reflected in the number of recommendations for mental health follow up – either onward specialist referral or brief intervention.

Special Report



Health Assessment Case Studies

Case studies illuminate the potential of health assessments for young people in the youth justice pathway.

Case 1: A 15-year-old Cook Island Māori male was referred for a health assessment. One key finding from the health assessment was a history of ear infections reported by the young person and a subsequent fail of the hearing screen. Liaison with hospital services by Health Connections suggested the young person's hearing was significantly compromised and he had not attended numerous appointments to see the ear specialists.

The transient nature of the young person meant that hospital services had lost contact, the young person had no primary care home to monitor his health and that follow up to ensure his hearing was optimised was missed.

Having compromised hearing significantly impacts the learning and engagement of young people. When compromised we can expect young people to disengage from school, be withdrawn and potentially show symptoms of primary mental health concerns (4).

The health assessment allowed Health Connections to identify the compromised hearing issue, reconnect the young person, with the support of the social worker and caregiver to specialist services and primary care. Also, Health Connections alerted education providers to the issue and medically treated the current ear infection.

Case 2: A 15-year-old Māori female was referred for a health assessment to specifically follow up on "headaches" as the presenting health issue otherwise she was reported to 'look healthy'. Following the health assessment the following issues were identified: epilepsy, depression, infected eczema and head lice. This young person's unmet health needs were significant. She had been lost to follow up for her epilepsy and had run out of her medication for both her epilepsy and eczema. The mental health assessment and physical examination also identified depression and past history of self harm.

Apart from needing immediate medical treatment and mental health follow up, this young person's health literacy was a significant area of need too. Health literacy is the ability to obtain, process and understand basic health information and services to make appropriate health decisions. To achieve a sustainable health and wellbeing outcome for this young person both her and her family/whānau require support in improving their health literacy.

Health Connections provided recommendations included a medical review to ensure mental health issues were addressed in liaison with the Regional Youth Forensic Service and supported navigation to primary care to ensure connection and consistency of approach for epilepsy. Health Connections treated the immediate head lice and infected eczema and liaise directly with the GP and school health to ensure primary care information was up to date.

Health Assessment: What are the possible next steps?

Increasing the number of young people referred for a health assessment is key to improve health and wellbeing outcomes for young people whilst contributing to a sustained exit from youth justice via the FGC process.

Established for almost 10 years the HEAP program is at a prime junction for **evaluation** – to ascertain the extent of value of the health assessment and its contribution to a sustained exit for young people from youth justice.

Currently health assessments use an 'opt in' model where Youth Justice Coordinators ask families if they would like a health assessment. The reverse model, where families/whānau evidence recent health assessment (and bring this information to the FGC) via school or other health providers ie '**an opt out model**', may improve the number of young people receiving a health assessment.

Whilst health is a key partner in the triage process, being an **equal partner** may improve how health assessments can be valued and integrated into the FGC process to enhance outcomes for young people and achieve a sustained exit.

Youth Justice Coordinators and Social Workers experience a raft of competing priorities for their caseloads. The potential of health priorities and recommendations not being prioritised is high from a non-health agency. Using existing statutory and private health businesses to be **accountable for the health assessment recommendations** is key ensuring recommendations from the health assessment are completed.

References

The Health and Education Assessment Programme, Child Youth and Family. Ministry of Social Development. <http://www.cyf.govt.nz/> Accessed May 2015.

The Institute of Environmental Science and Research Ltd. Sexually Transmitted Infections in New Zealand: Annual Surveillance Report 2013 Porirua, New Zealand.

Clark, T. C., Fleming, T., Bullen, P., Denny, S., Crengle, S., Dyson, B., Fortune, S., Lucassen, M., Peiris-John, R., Robinson, E., Rossen, F., Sheridan, J., Teevale, T., Utter, J. (2013). Youth'12 Overview: The health and wellbeing of New Zealand secondary school students in 2012. Auckland, New Zealand: The University of Auckland.

World Health Organisation. Deafness and Hearing Loss. <http://www.who.int/mediacentre/factsheets/fs300/en/> accessed May 2015.

Special Report



Law for Change is a youth-led non-profit organisation aimed at empowering young New Zealanders to use their legal skills in the public interest

Article by Luke Fitzmaurice

For the first half of 2015, Law for Change Wellington has been focusing on people and organisations using their legal skills to help children and young people. This recently culminated in the event “Working with Youth,” on 25 May, in which a diverse panel of speakers shared their experiences of working with young people both inside and outside the legal profession.

An audience of around 50 law students and young lawyers attended to hear United States Juvenile Public Defender Ziyad Hopkins, Youthline volunteer Suki Xiao, Whitireia Community Polytechnic head tutor Makere Derbeyshire, and Wellington family lawyer Shelley Stevenson give their thoughts on how to best serve the needs of children and young people.

Law for Change Wellington co-founder, and departing co-chair, Luke Fitzmaurice introduced the panel with his own reflections on public interest law, noting that Law for Change had been founded out of a sense of purpose and belief that young lawyers and graduates could make the world a better place if they decided to use their skills to make a positive impact. Law for Change had provided a sense of community where he could be challenged, motivated and inspired to do something with his law degree.

The panellists were inspired by a similar sense of altruism. Mr Hopkins, a Boston-based public defender currently in New Zealand on an Ian Axford Scholarship, was drawn to youth advocacy work out of a growing frustration of seeing adults in the criminal justice system with issues that could have been identified and prevented earlier. His own background as an adversarial trial lawyer also meant that he was driven by a desire to help people avoid being “screwed” by the system.

Other panellists came into the field after first practising in other areas of the law.

Ms Stevenson had experience in criminal law before being drawn to family law through enjoying interacting with children and young people. As a lawyer for child, Ms Stevenson now has responsibility for presenting the views of children in Family Court proceedings, and advocating for the welfare and best interests of the children involved.

To succeed in family law Ms Stevenson believed that, in addition to developing strong litigation skills, it was necessary to learn how to relate to young people. To that end, she recommended that law students and young lawyers volunteer for family law sessions at community law centres and citizens advice bureaus, as well as consider paid or unpaid work at family law firms.

The need to relate young people was a common thread amongst all panellists. Ms Xiao, a legally-educated Youthline volunteer, explained that Youthline volunteers did not ‘give advice’ to callers but rather sought to empower young people to solve problems and work through issues on their own. It was important, Ms Xiao said, when working with children and young people to be as non-judgemental as possible, particularly when you had not experienced the same emotions that a caller or client may have been going through.

Empathy was a quality many young people felt lawyers lacked, Ms Derbeyshire said. Prior to attending the panel, she had asked several of students their views on lawyers based on past personal experience. While some had a positive impression of lawyers, most had a sense of dislike and distrust. Ms Derbeyshire suggested that it was necessary for lawyers to find a way to relate to young people; for example, sitting next to them rather than standing over them. It was particularly crucial, she said, to talk through court processes as it was often difficult for young people to

understand the justice system and what was happening to them.

This view was shared by Mr Hopkins. Having worked with defendants of all ages, he noted that it was harder to make an impact on young people, largely because of the difficulty involved in gaining their trust. Lawyers, by reason of both their age and status, are often viewed differently, and it is necessary to recognise this fact when dealing with young people.

To bridge this gap, it is important to work out what was important to young people, and to envisage your role as doing something *with*, as opposed to *for*, them. This is a necessarily collaborative process which involves listening to the needs of young clients as much as anything else.

In that regard, Mr Hopkins was impressed with how the New Zealand youth justice system provided an opportunity for young people to speak and tell their story, with the Rangatahi Courts being a particularly valuable forum for Māori youth.

All panellists found the interactions with children and young people to be the most rewarding aspects of their role. Ms Derbeyshire said her experience had given her an insight into young Māori men caught up in the justice system. Ms Xiao had found her experience with Youthline to be life changing, and something which she felt privileged to be a part of. The feeling of being there for a vulnerable young person had enabled her to learn what was truly important in life, she said.

Keep updated on events hosted by Law for Change Wellington by going to our Facebook page (www.facebook.com/lawforchangewellington) and signing up to our monthly newsletter. We are also currently taking expressions of interest for young lawyers to join our Executive Committee. If you are interested in getting involved send an email to lawforchangewellington@gmail.com.

Youth Court Key Responsibilities



Key Responsibilities and Tasks for Ministry Staff Working in the Youth Court



The Key Responsibilities and Tasks for Ministry Staff Working in the Youth Court is a best practice document jointly drafted by the Ministry of Justice Youth Court Operations team and the Office of the Principal Youth Court Judge. It represents 30 key responsibilities for Court Services Managers and Youth Court Registry Officers and outlines the expected standard of practice when conducting a Youth Court sitting. The document references internal Ministry training and information. However, a copy of the Key Responsibilities is reproduced below to highlight best practice expectations in all Youth Courts.

Court Services Managers

1. Induction and Training

Ensure all staff working in the Youth Court have undertaken the [Youth Court Induction Package](#) on JET to assist the smooth running of the Youth Court.

Ensure all staff working in the Youth Court are familiar with the processes relevant to the Youth Court on the Criminal Jurisdiction Knowledge Base.

Further training opportunities and information can be found at the [Youth Justice Learning Centre](#).

2. Appoint Youth Advocates

Familiarise yourself with the Protocol for appointing youth advocates. Please see the [Reference: Appointment and Review Protocol for Youth Advocates](#) and [Procedure: Appoint Counsel to the Youth Advocate List](#) on the Youth Court section of the Criminal Jurisdiction Knowledge Base.

3. Youth Advocate List Review

Notify the Youth Court Judge and the Regional Administrative Youth Court Judge when the three year review of the Youth Advocate list is due. The spreadsheet is available via your Regional Manager or from National Office through the youthcourt@justice.govt.nz email address.

4. Quarterly Stakeholder Meetings

Organise or assist in organising the quarterly stakeholder meetings. Attendees should include youth advocates, Police, Child, Youth and Family, the Youth Offending Team chairperson, local Youth Justice manager, education officers, lay advocates, health professionals and youth justice service providers (e.g. Youth Horizons Trust or Odyssey House). Stakeholder meetings:

- are used to informally discuss issues relating to both the operation of the Youth Court and the delivery of youth justice services in the area that the court serves

- are a real opportunity to invite other interested community groups to be involved and to discuss areas of concern.

5. Youth Court Pamphlets

Ensure Youth Court information pamphlets are displayed and distributed, posters displayed and appointment cards are filled out for next appearances. You can order more copies through [WebWarehouse](#), our online ordering system.

If you don't have a user name and password, fill in the [Access to WebWarehouse](#) form on JET.

6. Appoint Lay Advocates

Ensure staff are aware of the lay advocate role description, appointment process, payment and complaint processes. Please see [Reference: Managing Lay Advocates](#) and [Procedure: Appoint to the Lay Advocate Pool](#) on the Youth Court section of the Criminal Jurisdiction Knowledge Base.

7. Long Remand Procedure

Be familiar with the long remand procedure. If notified by National Office of a 42 day remand, consult with your Youth Court Judge to organise case conferences either separately or as part of Youth Court lists. Please see the [Procedure: Manage Long Remand Cases in the Youth Court](#) on the Youth Court section of the Criminal Jurisdiction Knowledge Base.

8. Early Release Hearings

Ensure court staff are familiar with the process for scheduling, preparing and holding an early release hearing.

9. Rangatahi/Pasifika Courts National Operating Guidelines

If the Youth Court is associated with a Rangatahi or Pasifika Court, ensure staff are familiar with the Rangatahi/Pasifika Courts National Operating Guidelines, practices and protocols particular to the region and court. The [Operating Guidelines](#) can be found on the Youth Court section of the Criminal Jurisdiction Knowledge Base.

Youth Court Key Responsibilities



10. Registrar's Secure Care Powers

If the Youth Court is located in Manukau, Rotorua, Christchurch or Palmerston North, you will need to oversee the operation of secure care hearings in the youth justice residences in these four areas. Court Service Managers should be aware of the responsibilities under sections [372](#) and [378](#) of the CYPF Act 1989 (registrar's secure care powers).

11. Youth Advocate and Lay Advocate Master Lists

If there are any changes to your youth advocate or lay advocate lists, can you please inform the youthcourt@justice.govt.nz email address so we can update the master copy.

Youth Court Registry Officers

12. Induction and Training

Ensure you have undertaken the [Youth Court Induction Package](#) on JET to assist the smooth running of the Youth Court. Ensure you are familiar with the processes relevant to the Youth Court on the Criminal Jurisdiction Knowledge Base.

Ensure you are aware of the lay advocate role description, appointment process, payment and complaint processes. Please see [Reference: Managing Lay Advocates](#), [Procedure: Appoint to the Lay Advocate Pool](#), [Procedure: Pay a Lay Advocate](#) and [Procedure: Manage complaints about Lay Advocates](#) on the Youth Court section of the Criminal Jurisdiction Knowledge Base.

13. Confirm Jurisdiction

Check the age of the child or young person at the time of the alleged offence to ensure that they are within the jurisdiction of the Youth Court. If there is a discrepancy, this should be raised with the prosecutor. You may wish to discuss this with your manager first.

14. Schedule Appointments and Finalise Lists

Prepare and finalise the Youth Court appointment list. Please adhere to the national cap of 25 young people appearing in a Youth Court list. However, this may differ depending on the region. Best practice is always to remand a young person to a specified date and time and that the 15-20 minute appointments allow enough time for discussion. Distribute the list 2-3 days before Youth Court to Police Youth Aid, CYF staff, youth advocates, lay advocates and community groups who are bringing young people to court. If your court has an education officer and/or a forensic health nurse they should also receive the list.

15. Provide Judge with Reports

Ensure all reports are received and provided to the Judge within two working days before the hearing, unless a different timeframe has previously been agreed.

16. Appoint Youth Advocates

Appoint Youth Advocates when the charging document is filed. Appointments should be made prior to the court hearing day. Please see the Criminal Jurisdiction Knowledge Base [Procedure: Assign a Youth Advocate or Lay Advocate](#).

17. Youth Court/Family Court Sharing Protocol

Check the Family Court jurisdiction of CMS to determine whether a young person appearing for the first time has had a current or past Care & Protection history and notify the Youth Court Judge. Please see the Protocol: Sharing of Information between the Family and Youth Courts. The [Youth Court Request for Information from the Family Court](#) template can be found on the Youth Court section of the Criminal Jurisdiction Knowledge Base.

Provide the information requested by the Judge to the young person's counsel and to any person (including the Police) who the Judge considers to have an interest in the proceedings (in accordance with sections [134](#), [191](#) and [192](#) of the CYPF Act 1989 and section [134](#) of the Care of Children Act 2004). Before deciding whether or not to release any professional report or plan, the Judge shall first obtain the views of the parties and the youth advocate.

18. Multiple Charging Documents

When a new charging document is filed in relation to a young person who has previously been before the Youth Court, obtain the previous file and put it with the new one.

19. CYFs daily bed availability

Print the daily bed availability in CYFs residences from the [Database and IT Systems](#) page on JET the morning of court. Photocopy and make available for all Youth Court participants.

20. Youth Court Stamps

Assemble all Youth Court stamps ready for use. Judges have discretion whether they use the stamps or not, although you can encourage stamp use. Use the stamps on any copies of the charging document/summons. Ensure the remand stamps for Rangatahi and Pasifika Courts are available (if applicable).

Youth Court Key Responsibilities



Ensure the role name plates for the Judge, Court Staff, Police, Lawyer, Social Worker, Health, Education, and Lay Advocate are displayed on the tables facing the young person. If you need the plastic holders, please contact the youthcourt@justice.govt.nz email address.

21. Arrange Courtroom

Ensure court furniture is arranged into the horseshoe or U-shape. The Administrative Youth Court Judges recognise that while it is best practice to reconfigure the courtroom it is always the decision of the presiding Youth Court Judge. Check with the Judge the day before if necessary.

22. Early Release Calculator

For an early release hearing under s314, ensure that the Judge has a copy of the March 2015 version of the [Early Release Date Calculator](#) which can be found on the Youth Court section of the Criminal Jurisdiction Knowledge Base. Ensure that progress reports from Child, Youth and Family are made available to the Judge on the day of the early release hearing and prior to the final release date (see [s311](#) and [314](#) of the CYF Act 1989).

S023. Section 333 reports

Ensure s333 report request forms are available and that specific requests are prepared for Forensic Services. All requests must be specific so check with the Judge as to the type of report, e.g. medical, psychological or psychiatric. Seek clarification with the Judge if necessary. The Order for Medical/Psychological/Psychiatric Examination is a CMS generated form. Please insert your regional forensic service provider as a header.

When a s333 report is received, provide a copy to a Youth Court Judge as soon as possible along with the s333 release form detailing who the report should be given to. The [Template: s333 \(CYPF Act\) release form](#) can be found on the Youth Court section of the Criminal Jurisdiction Knowledge Base.

24. Bail Conditions template

Ensure the template for bail conditions is available. The [Procedure: Generate Bail Notice](#) and the [Template: Bail Conditions](#) can be found on the Criminal Jurisdiction Knowledge Base.

25. Uncontested s283 (n) and (o) orders

Provide the Judge with the uncontested supervision with residence orders template and convict and transfer to District Court orders ([s283\(n\)](#) and (o)). The [Template: Summary of reasons for Supervision with Residence Order](#) can be found in the Bench Book but a copy of this is on the Youth Court section

of the Criminal Jurisdiction Knowledge Base. If completed by the Judge, photocopy and provide for all participants before they leave. When the Judge does not use the standard template for such decisions, arrange for the Judge's decision to be urgently typed back and sent to the Judge for signing.

26. Rangatahi /Pasifika Courts National Operating Guidelines

Ensure you are familiar with the Rangatahi/Pasifika Courts National Operating Guidelines, practices and protocols particular to the region and court. The [Operating Guidelines](#) can be found on the Youth Court section of the Criminal Jurisdiction Knowledge Base.

27. Effectiveness Reports

Check that all Effectiveness Reports received by the Court are circulated to the appropriate Judge ([s320\(4\)](#) of the CYPF Act 1989). This will include a presiding Judge who is based in another Court.

28. Education Reports

In courts with an education officer or education report service, ensure the education reports have been received and are distributed to all those entitled to receive them (Police, Child, Youth and Family, youth advocates, lay advocates) in a timely way.

29. Appoint Lay Advocates

Upon entry of a non-denial, consider and seek advice regarding the appointment of a lay advocate from the Judge. If a direction has been made for a lay advocate to be appointed, send a letter of appointment to the lay advocate assigned to the case as well as a notice of that appointment to the young person and family/whānau, the informant, the youth advocate and the youth justice social worker. Send a separate notification of the appointment to the Youth Justice Co-ordinator so that they know to invite the lay advocate to the FGC. These are CMS generated documents.

30. Registrar's Secure Care Powers

If the Youth Court is located in Manukau, Rotorua, Christchurch or Palmerston North, be aware of the responsibilities under sections [372](#) and [378](#) of the CYPF Act 1989 (registrar's secure care powers). See point 10 under Court Services Managers' responsibilities.



YCAP Toolkit



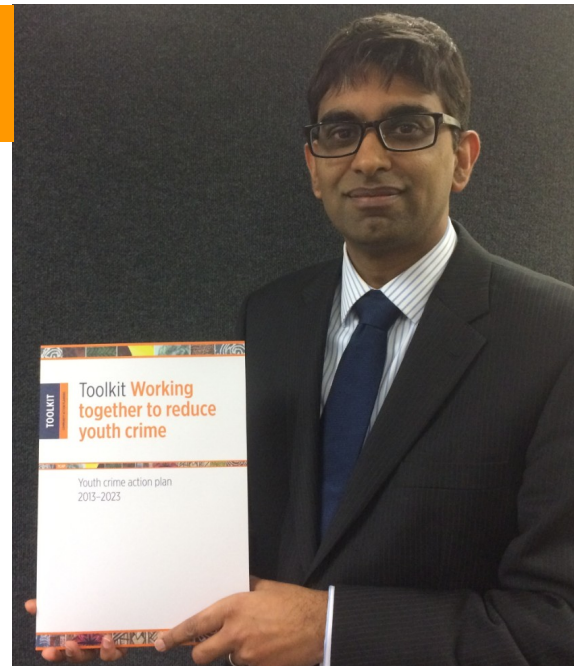
Interview with Rajesh Chhana

Deputy Secretary Policy, Ministry of Justice

This month saw the launch of a new “how-to” toolkit for youth justice practitioners. The toolkit is a set of tailor-made resources on topics such as how communities can develop locally-based action plans to deal with youth crime, information sharing and how successful Youth Offending Teams operate.

The toolkit was created as part of the Youth Crime Action Plan (YCAP), a 10-year plan to reduce crime by children and young people and help those who offend to turn their lives around. YCAP is a cross-agency initiative involving both the justice and social sectors, coordinated by the Ministry of Justice.

Under YCAP, Government agencies work closely together and partner with Māori, communities, parents, schools and others to tackle youth crime and the factors that lead to offending. In particular, YCAP aims to reduce the disproportionate number of rangatahi Māori in the youth justice system and improve their interactions with the system.



Because one of YCAP's key strategies is to improve the way government agencies engage with and support communities, we developed the new toolkit together with other YCAP agencies. It includes a range of useful documents:

- Community Action Planning Guide
- A3 Poster – the seven steps of community action planning
- Information Sharing Guide
- Youth Offending Teams Guide
- Community Action Planning FAQs
- Working together in the community pamphlet

The Community Action Planning Guide is probably the key resource in the toolkit. It was actually released online late last year and has already made an impact.

Since the launch of YCAP in late 2013, 24 areas around the country have put in place or are creating YCAP community action plans. The plans have been developed by government agency staff from the social and justice sectors together with community stakeholders such as local councils, iwi and service providers in the youth justice sector.

YCAP Toolkit



Some of the goals in the YCAP community action plans developed so far include:

- improving engagement with the iwi, hapū and whānau of young offenders and vulnerable young people to help keep them from offending/re-offending (for example in Tokoroa, where the local Youth Offending Team is working closely with the South Waikato Social Sector Trial)
- organising training for the local youth justice community on specific issues, such as foetal alcohol syndrome (Waitakere)
- targeting community-specific youth crime issues such as problem-spots or types of offending (for example, reducing recruitment into youth gangs, Counties Manukau West)
- improving early identification of mental health and addiction issues for young people who come to the attention of the Police (Christchurch)
- focusing on truancy and re-engaging young people who are not enrolled in school (Hastings).

Each community action plan we have seen so far has been unique, and that's great. They all focus on the most pressing youth justice issues in their community. We're keen to see more plans being developed around New Zealand and we're hoping that the launch of the toolkit will inspire others.



Action plans can be developed anywhere and can be led by anyone, whether government agencies, non-government organisations or a keen group of people who want to make a difference in their community.

The community action planning guide explains that it's important that a wide range of community and government representatives are involved in developing each plan, that they think carefully about local youth crime issues, and that they take local crime data into account.

Action planning allows groups and organisations to create plans that tackle the issues and problems that are important to them, by working together on goals and actions that will make a real difference. The goal is not to try to save the world, but to mobilise the community and take action on the things that will make the biggest difference for rangatahi.

Research shows that community action plans have far more chance of creating real and long-lasting change than any single agency or organisation working alone. This is known as the principle of "collective impact": the more you work together, the more impact you can have.

YCAP recognises this "collective impact" approach and is committed to providing support and guidance to local groups and organisations to develop community action plans, monitor the results and share information on what is working best.



For more information about YCAP, and to access to the toolkit online, go to justice.govt.nz/ycap.

To order a hard copy of the toolkit, please email YCAPideas@justice.govt.nz

He Poroporoaki: Tribute to Judge Michael Brown

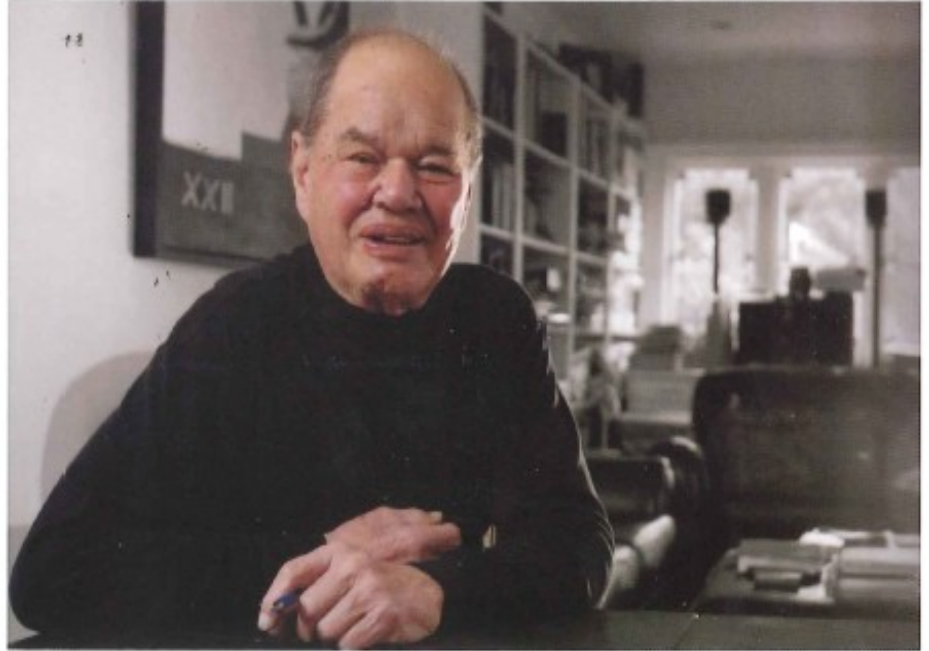
THE YOUTH COURT
OF NEW ZEALAND

TE KOOTI TAIOHI
O AOTEAROA

Judge Michael Brown – A tribute by Principal Youth Court Judge Andrew Becroft

Judge Michael (Mick) Brown died peacefully in the early hours of Good Friday morning, as a result of complications from pneumonia. As was evident from the outpouring of affection and tributes following his death, Mick was held in enormously high regard and left a very long shadow.

He was appointed a District Court Judge in 1980. He was appointed New Zealand's first Principal Youth Court Judge in 1989. Many people regarded him as the right man at the right time. It was Mick who effectively "sold" New Zealand's new, and quite revolutionary, youth justice system to the community and the country. He did this with energy, humour and compassion. Others have observed that it was generally felt that if Mick believed in the system and was in charge, then the system could be trusted.



Retired Principal Youth Court Judge his Honour Judge Mick Brown

As you may have read in some of the tributes about Mick, he lived a very interesting life. He was brought up as a foster child. At his tangihanga it was mentioned that he received a scholarship to attend Law School but dropped out at the end of the first year to attend Teachers' Training College. His time there was apparently very colourful. He was elected President of the Students' Society. However, he only worked one year as a teacher before returning to Law School. Following graduation he had a varied career, which included working for the Crown Prosecutor's Office in Auckland. As Sir Anand Satyanand, former Governor-General, remarked during his eulogy – during the sentencing of a prominent Auckland businessman who had pleaded guilty to a currency trading charge, Michael as a young prosecutor, on behalf of the Reserve Bank, was asked by the Court, what was his client's view of, and reaction to this offending. Mick paused, as he often did for effect, and simply said, "My client resents competition of this nature!"

As Principal Youth Court Judge, Mick travelled the country and worked very hard to ensure the system was well bedded down and respected. Indeed, when I recently attended the first International Congress on Juvenile Justice in Geneva, Mick's name was still remembered by some attendees.

Since Judge Brown's death, I have been reflecting on his contribution as our first Principal Youth Court Judge and the influence he had on me. Judge Brown and youth justice are

inseparable. He strongly believed in keeping young offenders out of Court and instead, using prompt, creative and firm Police-led community interventions. He fiercely advocated for a separate division within the Police solely dealing with youth offenders. Police Youth Aid Officers brought about a sea change in the way young offenders were dealt with. Overnight, Youth Court numbers dropped by about 80%. Nowadays, 80-85% of all youth offending is dealt with by not charging them. When young offenders do come to Court and do not deny the charge, or where charges are subsequently proved, they must undergo a compulsory Family Group Conference. I know that Mick believed this was the genius of the youth justice system. The FGC ended the "obsession" with judicial decision making. He felt that the young offender and his/her family, the victim, and those involved with the young person's life, armed with the right information, could make the best decisions about young people, and that the Judge's role was to be the "orchestrator" or "reviewer" of the subsequent FGC plan. The original Youth Court Judges talked about Mick as a pioneer and a trail-blazer. As someone who put a stake in the ground regarding the twin pillars of not charging the young person unless the public interest required it, and using the FGC as the prime decision making mechanism for resolving charges in the Youth Court.

For many, including myself, Mick was a mentor and someone who provided wise counsel. When I first got this role, I would often ring him for advice and to run particular issues past him. He was invariably available, listened carefully, and gave practical advice.

He Poroporoaki: Tribute to Judge Michael Brown

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

I remember when I was appointed to the role, Mick put his hands on my shoulders and said, "It would be a tragedy Andrew, if in your enthusiastic way you tried to save the youth in New Zealand but lost your own family." He said, "nothing is more important for a Judge than getting life right at home". Actually, I arrived to that meeting five minutes late, as I often do, as those who know me will attest. He smiled at me and said that he would never be so disrespectful to anyone as to arrive late to a meeting, and that is something I should bear in mind.

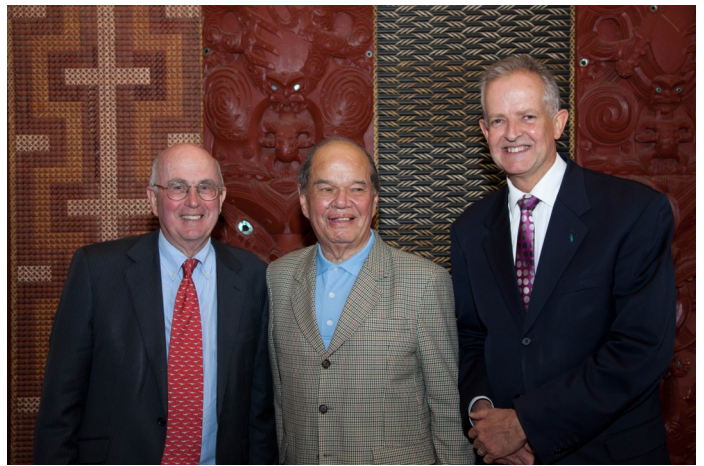
I also remember him telling me, soon after my appointment, about a farmer in the Hauraki Plains who was murdered, allegedly by two young people, under 17 year olds, soon after the 1989 Children, Young Persons and Their Families Act was passed. The key Crown evidence was a confession made by each young person. The confessions were held to be inadmissible because the Police did not follow the new procedure nor adhere to the additional protective requirements applying under the new legislation to Police interviewing of under 17 year olds. The two young teenagers were discharged. Mick told me that he went to visit the family of the deceased farmer. It seemed to be a brave and risky thing to do. I asked him what he said. Mick replied, "Andrew, actually I said very little. I simply sat. I listened. And I passed on my condolences and sadness to the family." That is the sort of thing Mick did.

His tangihanga was held at Te Mahurehure Marae in Western Springs, near to the golf course where I understand he often played. A group of judges including Heemi Taumaunu and his wife Ingrid, Louis Bidois and his wife Gaylene, Denise Clark, Ida Malosi, Noel Cocurullo, Eddie Paul, myself and the Chief Justice, Sian Elias, attended. Heemi, Sian and I had the opportunity to talk about Mick, his life and the influence he had upon us. I mentioned some of the stories that I have outlined already. Chief Justice Sian Elias talked about her time with Mick at Auckland University, the influence he had on a generation of lawyers and his time as Chancellor of Auckland University.

His funeral was held at the Church of the Holy Sepulchre in Central Auckland the next day at 11:00 am. Many Judges attended, including Acting Chief District Court Judge, John Walker, Principal Family Court Judge Laurence Ryan and myself. The Church was packed out. John Walker, Sir David Carruthers, former Principal Youth Court Judge and I also attended the burial service at Waikumete Cemetery.

It is Mick's pioneering vision that we still implement in the Youth Court, although with some adjustments. It is his legacy that we have inherited. Both John Walker and I have written to Mick's whānau to pass on our condolences and sympathy. Mick's passing represents the end of an era.

The photos below were taken in February this year at the launch of Carolyn Henwood's new book on the Family Group Conference, at Hoani Waititi Marae, Waitakere. It was the first time that all three Principal Youth Court Judges had been together and we were photographed. Both Sir David Carruthers and I were glad there was an opportunity to do this, because, as it turned out, Mick passed away just a few weeks later.



The three Principal Youth Court Judges since 1989 are from left: Sir David Carruthers, Retired Judge Mick Brown (the first PYCJ who established the new system throughout New Zealand) and Current Principal Youth Court Judge Andrew Becroft.



Photo credit to Cherrilee Fuller, Taiao Photography.

[You can read an obituary for Judge Brown by the New Zealand Law Society here:](#)

<https://www.lawsociety.org.nz/news-and-communications/people-in-the-law/obituaries/obituaries-list/judge-michael-john-albert-mick-brown-cnzm,-1937-2015>

He Poroporoaki: Tribute to Allan MacRae

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

Allan MacRae: Remembering a dedicated man - by Phil Dinham

Allan Cameron MacRae passed away on 26 January 2015, a few weeks before his 65th birthday. Allan took on a diagnosis of Acute Myeloid Leukemia four years earlier with bravery and self-determination in the hope of surviving to continue his dedication to his family and the work that inspired him, Restorative Justice.

Allan served Child, Youth and Family for 34 years beginning in 1980 as a field social worker. He received his diploma in Social Work from Victoria University. He worked at the Owairaka Youth Remand Centre for five years before becoming Senior Residential Social Worker at the Weymouth Residential Centre in South Auckland, also acting there as Assistant Principal for eleven months.

Even then, Allan began making his mark by proposing amendments to the "Children and Young Persons Bill." He went on to supervise the secure unit with the implementation of the new Children, Young Persons and Their Families Act in 1989. A short time later, having taken on the role of Youth Justice Coordinator in Wellington, he received the National Supreme Award for Innovation, along with Tony Moore of the Police, for their groundbreaking work on diverting young people away from the formal youth justice system. This creative approach became New Zealand's world leading model for youth justice.

He dedicated his life to victims, young people and their families through his work in youth justice, being recognized first nationally and, then internationally as a lecturer and trainer. He co-authored [The Little Book of Family Group Conferences New Zealand Style](#) with friend and colleague Professor Howard Zehr, considered the founder of the field of Restorative Justice.

Below are some reflections from firstly his wife, Rita, then Chris Polaschek, General Manager Child, Youth and Family Youth Justice Support.

From Rita, Allan's wife

Even in his youth, Allan showed early signs of leadership, courage and the urge to help others complete gigantic tasks. As a scout, while living in Australia for a few years with his family, he charged ahead with all his determination to lead a group of his fellow scouts through an orienteering feat with the fastest time ever. Later when asked how they did it, Allan told how he found a shortcut through an area of swamp. He was applauded for his efforts while being cautioned that he might not want to try that again anytime soon since it was a known stomping ground for poisonous snakes. Allan enjoyed recalling that story. For all his work and efforts, he eventually received The Queen's Scout Award.



Allan receiving the Award for Supreme Innovation from former Prime Minister Helen Clark, alongside Tony Moore, New Zealand Police

As a Youth Justice Coordinator, he ran Family Group Conferences as if he were born to it. Allan was the tool in those conferences, following his own teaching examples of attentiveness and openness in supporting victims and families alike. In each conference, he was determined that those who were hurt by the offending were listened to, and that the harm be named and addressed to everyone's satisfaction. For young offenders, Allan placed traditional and inventive opportunities at the conference by inviting representatives of the community with outreach programmes that could help. It was imperative to Allan that together the attendees would develop and solidify a plan that would reach completion by the date appointed using guided monitoring and timeframes. The best way forward was emphasized so that everyone present could experience a true sense of justice. He shared his expertise with others in New Zealand and travelled to various parts of the world to share the FGC process with as many as he could.

Allan lived his life with enthusiasm. His photographic talents enriched his family, and others, with breathtaking land and seascapes. His spirit was always lively. He knew how to tell a joke and he knew how to share the laugh when he was on the receiving end, too. He could charm with warmth and openness beyond most human capabilities. His passion for life and his work came through loud and clear. He faced adversity head on in his own personal life using the very same principles he shared with others in his work.

A champion for justice, Allan never shied away from giving his all to help make things as right as possible for others. He served people well. He was a strong, talented, humble man whose life affected, and undoubtedly will continue to affect, others in exceptional ways.

He Poroporoaki: Tribute to Allan McRae

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



One of his best friends and constant companion at home was Mac. Allan and Mac chose each other one day at the animal shelter. Their bond as man and canine was dynamic, whether it was sharing walks, playing tricks on each other or just being in their favourite chair together most evenings.

Allan's family, partner Rita and their children Eileen, Roslyn, Michael, Jacqueline and James, feel privileged to have so many loving and cherished memories of him to keep close to their hearts. We miss Allan tremendously.

Chris Polaschek recalls

I first started working closely with Allan when I became the Manager of Youth Justice at National office. Allan had been put into the role of Family Group Conference Manager and he reported to me. His reputation however was well known to me from a previous stint I had in Wellington in the late 90s where the work of the Wellington Youth Justice team was well known and Allan was the guru behind it.

As FGC Manager, Allan was leading the role for a new initiative to provide health and education assessments for young people attending FGC. This was not easy work and Allan was driving it every step of the way. In addition to that, Allan was providing advice to all and anyone who had a query or needed information about the FGC.

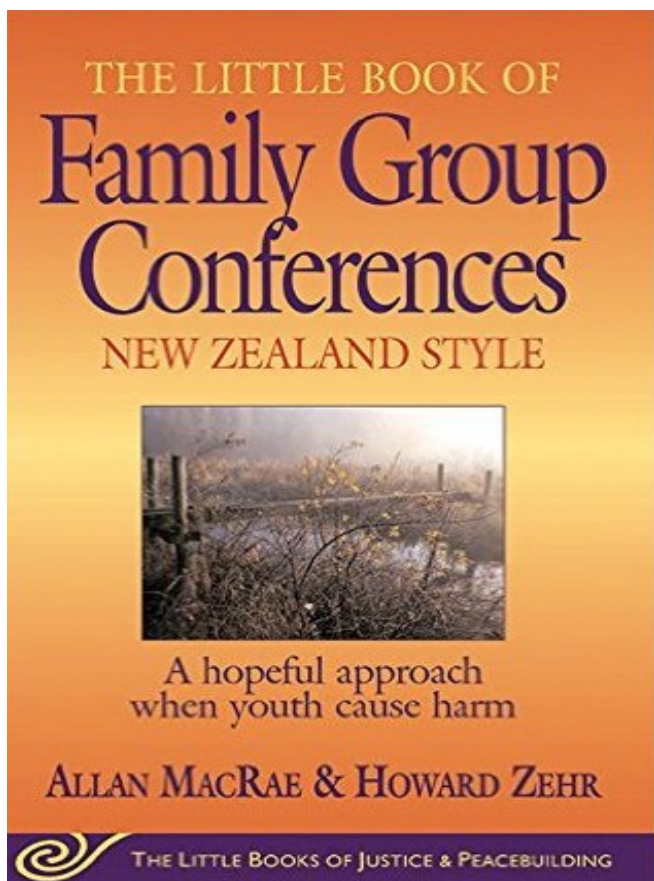
We hit it off immediately for a variety of reasons. We both had a long history of working in residences, a passion for the work, and an appreciation of the practical challenges posed for staff and young people in those environments. Also, although I did not have a long tenure as a Youth Justice Coordinator, we did have a shared experience and so could have informed discussions on the topic. We shared a vision about the absolute value of conferencing and Allan was able to articulate the many experiences he had, using the model in a wide variety of situations and applications to achieve creative and enduring results for young people and their families. Mainly I just listened.

Allan's practice has truly embodied the purpose and flexibility of the model in practical ways; empowering families, sharing leadership, engaging community, promoting participation by the young person and bringing victims into the decision making, whenever, wherever and however that could be made to happen.

When Allan moved to Christchurch I saw a little less of him however when we experienced challenges getting the transitions right for young people leaving the Military Activity Camp (MAC) at Te Puna Wai o te Tuhipino I called on Allan. I knew his residential experience would be invaluable, his practice sound, and his practicality would keep it real and achievable. As with everything Allan did, he really put the energy in and it was his personal drive that made it happen.

More recently there was a national drive to improve victim attendance at FGC. This was of particular interest to Allan, and in his role as Regional Practice Advisor he lifted his region's performance by 50% over a period of 3 months to a point where it was the highest in the country. That was Allan, his energy and drive. We could have used another ten of him!

When Allan became sick we spent an afternoon together in Christchurch. We drove around the damaged city and he talked about his experiences, not only in the region but also throughout his professional life. It seemed to me that he was happy with his achievements and understood his contribution. When he retired because of his health, his regional colleagues, Bernadine Mackenzie Deputy Chief Executive of Child, Youth and Family and I attended his farewell. While it was a truly sad day in most ways, it was great that Allan and his family were able to hear from his work colleagues how much he was valued both for his work but also for the personal engagements, guidance, leadership and friendship that he had given us all. It seemed fitting that his last public task was to attend the launch of the Henwood Trust book, "Family Group Conferences – New Zealand's Gift to the World" and hear speaker after speaker reference his contribution to youth and restorative justice.



He Kōrero Pono: A True Story

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

Pīata Fuller* undertook a project titled **Affects of Crime** as part of her Family Group Conference plan monitored by the Youth Court

*Pīata has graciously given permission for a transcription of her work to be published. Her real name has been changed to protect her anonymity.



How my crimes have affected my life

Well to be honest I am so gutted and ashamed of myself because of the crimes that I have committed. When I was a child I never dreamed or even thought I would get into trouble with the police. I thought I'd grow up get a job rent a house get me a car meet a boy fall in love get married and live happily ever after. I know now that life isn't a fairytale everything that you thought or wanted to happen came at a price. Like me wanting my friends to think I was a solid out there type of chick and now they all do and when I look at it now I don't wanna be known like that anymore. I look back on how I was brought up and on where I come from, I know for sure I wasn't taught to jump in stolen cars, take from others especially as I am of Maori descentance I like to say I am a proud Maori but what am I doing when I comit these crimes putting all those hard working Maori's down by shaming them. So disapointed in myself as I know that I could have easily avoided this by not getting into the car in the first place. Me committing these crimes has made me feel so dis-hearted, angry, sad, scared, happy, frustrated at myself and much much more I regret everything I have done if I could go back and change it all I would but I cant so I made the decision to make every moment worth living from now on as I know life is not measured by how many breath we take but by how many wonderful beautiful moments take out breath away and I am willing and wanting to make beautiful memorys with hard work and by surrounding myself with positive good influenced people and I know my real friends and family will stick by me no matter what and I am going to be fully greatful for that. I also want to prove to all the people that I have given them reason to doubt me that I am and will change my life for the better good and for my family that I love so much.

How my crimes have affected my family

Well my offences have really shocked and anoyed my family especially my mum I know I really disapointed her by my actions because she knows I can do better and she also knows I know my right from wrong. I think she feels like knocking some sense into me but she wont because that wont help the situation that I have put myself in. Also because my brothers have been through this and they have told me that after awhile its not cool to be locked up or bot being able to talk to or see your family and that they have realised that thoses friends that tought or helped them get in that situation were no longer their friends or they were getting locked up for years and thats what made them wanna change their ways of living life. But when my brothers told me this I didnt really listen to what they were saying at that time to me was just going in 1 ear and out the other and now I feel like I should have listened. My actions has also affected my 2 little sisters in a major way because they are not use to not seeing me for months because I have always been there for them no matter what I know for sure that me being in a situation where they cant come and see me or talk to me is affecting them in a huge way. Well my daddy hasn't looked at me the same as he use to after hearing that I have broken the law and I feel like shit because I know he loves me so much but he is just so angry and disapointed in me. When I try to have a conversation with him its like he doesn't even wanna talk to me and I am so angry at myself for doing these things because I know I could have avoided these offences. Thats why I really need to have a long hard think on my behaviour that I am gonna start displaying as I get out of here. I know 1 thing for sure that I never ever want my family to feel this way again ever.

[...]

He Kōrero Pono: A True Story

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

How my crimes have affected my victims

Well I can not imagine how the victims are feeling I honestly feel guilty for the victims and their families I now understand the toll it has taken on them and their lives. I know that it has affected their everyday living as they might be hard workers as they might be feeling unsafe for their children and that their car had some of their valuable personal items in there that cant be replaced also that their car was so damaged that it couldn't be repaired. I feel that if that was me in that situation I would be sad, angry, worried, frustrated and depressed. I understand that even though I wasn't the one that stole the care I feel equally responsible for my actions. I just want the victims to know that I have learn't from my actions and I am doing my time and that I will see it through to the end. Im I am honestly truly sorry for the pain and hurt Ive put you and your familys in from the bottom of my heart I am sorry. I regret my actions 100% and I can assure the victims that this will never happen again and that the affect it has had on you will never be erased but I hope in time you's will forgive me. I know I have affected their lives in a way they will never forget and nor will I forget. I am gonna reflect on this sometime in the future and I think to myself what the hell was I doing. I have learn't that I need to think before I act at all times. I know that when I am angry I am pigheaded and I will not listen to anyone at all untill I have calmed down. I am taking Counselling for my anger issues and learning how to deal with it in a polite, calm way. So I can not imagine how my crimes have affected the victims but I can geuss but I know that my guessing is not even ½ the way that my crime has affected them and for that I will forever remember that I dont ever want to affect anyone like this.

How my crimes would have affected me if I was 17

Well if I was 17 or older and unlawfully got into a stolen vehicle I would have been looking at 3yrs in prison and if I had ex theft of car as a charge also I would be looking at 7yrs in prison. So what I am trying to say is I now realise the seriousness of my charges and I know for a fact that I dont want to be sent to prison at all in my life. I have also realised somethings being here at the girlshome no matter what section your under or why you're here the staff all treat you the same as everyone else and that's something that I'd never forget because it wasn't something I was use to but something I will treasure. When I look back at when I committed these crimes I realise it was all reactions of anger at one person or I was with that one person and I cant believe how much impact he has had on my life like honestly did I just let a guy that I've only known for 9 months almost fuck my whole life up sorry excuse my language but really he must of really pull the wool over my eye I totally changed for a moment there but now I know I am stronger and I know just because I so no doesn't mean I love them any less just means I got to set my priorities straight. I know for sure that Im never ever gonna have to worry about how I would be affect by crime if I was 17 because when I turn 17 thats gonna be a wake-up call for me so going to course getting a job learning how to be independant and also learning how to be an adult. Thanks.

How I am gonna learn from my mistakes and begin on changing my life

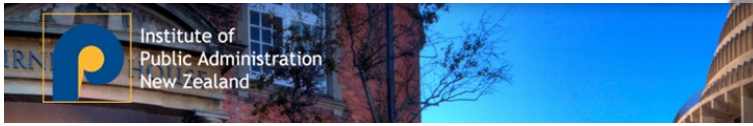
Well my goal to have achived by the end of this year is to stay out of the systems (C.Y.F and Police) and still be attending my course studying Travel and Tourism. To be completely honesty I have learnt alot in my time of being in custody 7 weeks yes I have been counting I have learn't that yes everybody makes mistakes its how they choose to learn from them the easy way or the hard road and I never want to go down that road again at all. I think for my history of running I hanged in longer than usually and for that Ive given myself a pat on the back. I have learn't that life is not as hard as it may seem to me at the time and if I just give things a go I might actually like it. I am going to cut down on how much alchol I drink because I know it affects my judgement on somethings and affects how I act. My number one goal is to show my god daughter that theirs more to life than being a dummy or a criminal I am gonna do my best to break the cycle for my darling. I now got to get out there and put my goals into action I will give this my up most 100% participation till I have succeded I will assure you one thing though I will never ever put myself in this situation again I have learn't from my mistakes and also I am willing to change for the better good.

Thank you for taking the time to read this.

Yours Sincerely – love: Pīata Fuller

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



Ian Axford (New Zealand) Fellowship Seminar

Diverted from Counsel: Filling the Rights Gap in New Zealand's Youth Justice Model

Date: 25 August 2015

Time: 12.30—1.30pm

Location: Fulbright New Zealand, Level 8, 120 Featherston Street, Wellington

Diverted from Counsel: Filling the Rights Gap in New Zealand's Youth Justice Model was prepared by Ziyad Hopkins at Ministry of Social Development and Ministry of Justice. Ziyad works in Boston as an attorney for the Youth Advocacy Division for the public defender's office and was hosted by the Ministries of Social Development and Justice. A full copy of the final report will be published on 2015 August here: <http://www.fulbright.org.nz/news-publications/publications/axfordreports/>

Abstract

This report provides observation and commentary on the following question: What are the merits of increasing access to Youth Advocates, specialised lawyers for young people facing criminal allegations, within the youth justice sector? The release of the *Youth Crime Action Plan 2013-2023* (YCAP) marks a period of reflection and focus on New Zealand's youth justice sector and the landmark Children, Young Persons and Their Families Act 1989 (CYPFA). This policy analysis reviews CYPFA, and the implementation of youth justice, from a rights-based perspective.

Despite the well-earned positive international reputation of New Zealand's youth justice model, many young New Zealanders miss out on legal advice. Approximately 80 per cent of youth charges are addressed informally, before court proceedings and the appointment of a lawyer. Drawing on interviews and observations from all phases of youth justice—from apprehension through sentencing—the report argues that increasing young people's meaningful access to trained Youth Advocates can ensure their individual rights when faced with state intervention whilst also promoting youth development. Mindful of budgetary restraints, but also with the need to promote equity, the report recommends five specific actions that can align New Zealand's youth justice sector with principles expressed in CYPFA; the UN Convention on the Rights of Children; and positive youth development:

- Appoint a Youth Advocate to each child or young person within twenty four hours of arrest
- Require the presence of a Youth Advocate for all police interviews with young people
- Provide a legal-advice scheme for young people offered alternatives to prosecution as well as independent oversight of the alternative action programme
- Invite Youth Advocates to each "intention to charge" family group conference
- Update and promulgate practice standards for Youth Advocates

For Massachusetts, the New Zealand experience—with the protection of access to legal advice—offers three important opportunities to adapt practice:

- In lieu of lawyer-driven courtroom based plea bargaining, use family group conferencing to reach dispositional agreements
- Upon the successful completion of a state intervention plan, empower judges to deem that the charges had never been filed
- Develop state-wide principles that encourage and govern pre-court resolution of charges

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AOTEAROA CONFERENCE ON THERAPEUTIC JURISPRUDENCE

Weaving Strands : Ngā Whenu Rāranga



Weaving strands in Aotearoa New Zealand: Call for papers and registrations

We invite you to the Fourth International Conference on Therapeutic Jurisprudence being held on the 3rd-4th of September 2015 at The University of Auckland

Building on the success of three previous forums of this kind held in England (1998), America (2001), and Australia (2006), the 2015 conference will foster an inter-disciplinary and collegial environment to discuss and constructively debate the place of therapeutic jurisprudence in a variety of contexts.

The theme of the conference 'Weaving Strands: Raranga nga whenu' signifies the unique interlacing of cultural, legal, psychological and social practice and philosophy in Aotearoa New Zealand to the international concept of therapeutic jurisprudence. Already the conference has an impressive line-up of international keynote speakers, including Professors David Wexler, Michael Perlin, Ian Freckelton, and from Aotearoa New Zealand, Ms Khlyee Quince, Judge Lisa Tremewan and Professor Chris Marshall.

Further announcements will also be made shortly on additional speakers at the conference who will officially open and close the event, and take part in interactive panels.

www.tjaotearoa.org.nz read more on the keynotes, view call for papers, submit an abstract, register your attendance – we would love to see you on the shores of Aotearoa!

Co-chairs Katey Thom and Warren Brookbanks, University of Auckland.



FASD Lecture



HOW YOUTH AFFECTED BY FETAL ALCOHOL SPECTRUM DISORDER (FASD) ARE TREATED IN CRIMINAL JURISDICTIONS

Judge Catherine Crawford - 19 May 2015



On 19 May, the Faculty of Law and Alcohol Healthwatch presented a public lecture by Children's Court Magistrate Judge Catherine Crawford of West Australia on how children adversely affected by neurodisability resulting from pre-natal alcohol exposure, can be at increased risk of committing crime or being a victim of crime. Such outcomes are doomed to be repeated when there is systematic failure to identify and appropriately accommodate their disability across the lifespan.

The lecture was attended by over 300 people from multiple sectors. You can watch a video of Judge Crawford's lecture here: <https://www.youtube.com/watch?v=Cllol3ij0pE>

Neuropsychologist Dr Valerie McGinn also spoke at the forum. You can access a radio interview with Dr McGinn discussing the forum here: <http://www.newstalkzb.co.nz/on-air/mike-hosking-breakfast-with-asb/audio/valerie-mcginn-foetal-alcohol-syndrome-court-system/>

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Building Pathways to Health Relationships: Now and Into the Future

14-16 October 2015, Tapu Te Ranga Marae, Wellington



The Building Pathways 2015 Wānanga is a chance for the youth sector to meet, connect, share and learn from and with each other.

For young people to thrive in their relationships with their peers, family/whānau, community, agencies and society they need good support, systems and frameworks that recognise and create space for the diversity of New Zealand's young people.

Building Pathways to Healthy Relationships provides space to explore how we build, strengthen, start and maintain healthy relationships: with the young people we work with; the organisations we collaborate and work with; and Government and other key influencers.

The programme

Our three-day event will feature inspiring and thought-provoking speakers and discussions, a research showcase, a Government Ministries' panel discussion, presentations and workshops on the latest initiatives and approaches happening across Aotearoa. There will be time to caucus - to explore topics critical to your area of work and identify ways that we can work together to take action - and to reinvigorate yourself and your work!

We're excited to announce our first keynote - Dr Pat Bullen. She is a senior lecturer at the University of Auckland and her work focuses on the factors that contribute to thriving during adolescence and emerging adulthood.



Interested in sharing your work?

We are seeking submissions for research (in the Pecha Kucha model), short presentations (up to 15 minutes), workshops or trainings (1-2 hours) to deliver on the theme of *Building Pathways Healthy Relationships - now and into the future*.

If you have a suggestion for a panel discussion or panellist or would like to discuss a topic before you submit formally please contact us: <http://www.arataiohi.org.nz/>

Please note that youth workers can apply to the DIA Youth Worker Training Scheme to support their attendance at the Wānanga. If you would like to be kept in the loop about the Wānanga including registrations please join our enews.

About the Wānanga

Ara Taiohi has developed a two year cycle of Building Pathways Wānanga, *Hangatia Te Ara, He Ara Tika Mo Tātou Katoa - Building a pathway, the right pathway for all* that curls like a kowhaiwhai from year to year, connecting with members at the national and regional level. Our Wānanga forms the direction of our Te Hautaki regional hui, which flows into our next Wānanga. The first wānanga, *Building Pathways to Engagement, Resilience and Standards* was held in 2013 at Tapu Te Ranga Marae in Wellington.

In consultation with our Kaumātua, Kaihautū and Kaiurūngi we named our Wānanga, Building Pathways. This expands on the name Ara Taiohi 'pathway to/for young people' and reflects the collective efforts of our membership, the youth sector, young people and our wider communities toward creating positive outcomes for the young people of Aotearoa.

The imagery of pathways is threefold, it acknowledges the past and all the work that has gone before; it acknowledges where we are now and the progress we've made; and it looks to the future as we lay the foundations together today, building brick by brick the pathway of Ara Taiohi - *Hangatia te ara, he ara tika mo tatou katoa*, building a pathway, the right pathway for all.

Our Wānanga is an opportunity for professional development, discussion, debate, and deliberation and to meet with the membership and wider sector nationally.

If you've got insights, projects, research or reflections that explore visibility, inclusion, ethical practice, insight, connection and support young people to thrive, please get in touch: communications@arataiohi.org.nz

Order Form



New Zealand's Gift to the World: *The Youth Justice Family Group Conference*

"This book is a New Zealand story, a celebration of the innovative family group conference as a process – a human strategy where the state, whanau and families, young people who have offended and victims come together.

Here is an engaging exploration of the powerful tool for resolving youth crime using true stories and real youth justice family group conference outcomes. Here you will find opinions from New Zealanders working within the field of youth justice inside and outside government.

This remarkable interface between the law, the community and young people who offend shows the human cost of crime and the human commitment to repair harm. Not only does this book look at how it is done and why it is done, it also considers the future of the youth justice family group conference. New Zealand has done well and has much to celebrate but is there more to do?"



Review in NEW ZEALAND LISTENER <http://www.listener.co.nz/culture/books/group-think/> written by Catherine Masters

Please send _____ copies of **New Zealand's Gift to the World: The Youth Justice Family Group Conference** to:

Name: _____

Address: _____

Cost: \$30.00 plus P&P \$6.50

Bank account details – please make sure you identify your name in the transaction details
BNZ 02-0536-0035471-00

Direct any enquiries to:
henwoodtrust@xtra.co.nz or Jennifer George jennifer@snapdragon.co.nz



Latest Research / Articles



New Zealand

Title: *New Zealand's Approach to Sentencing Defendants with Foetal Alcohol Spectrum Disorder*

Author: Akane Sandom

Source: Paper submitted towards LLB (Hons) – request a copy from sacha.norrie@justice.govt.nz

Abstract: This paper discusses the extent to which current sentencing approaches in both the adult jurisdiction and youth court jurisdiction adequately address the needs of sentencing offenders with FASD. This is carried out by first outlining the current sentencing approaches that are taken in both jurisdictions in New Zealand. Secondly, the paper considers the extent to which these approaches adequately address the issue of sentencing offenders with FASD. Upon concluding that there is room for improvement in both these approaches, this paper considers potential changes that could be introduced that may help more adequately meet the needs of sentencing offenders with FASD.

United Kingdom

Title: *Children and Young People with Neuro-Disabilities in the Criminal Justice System.*

Author: Professor Huw Williams

Source: <http://www.bps.org.uk/news/children-and-young-people-neuro-disabilities-criminal-justice-system>

Abstract: In the UK children and young people with neuro-disabilities are often failed by society and the criminal justice system. There is an overemphasis on costly incarceration and secure care facilities, and a lack of understanding of neuro-disabilities and their potential impact on young people. Assessments and interventions are poorly timed and have led to a system where children and young people are not properly screened for conditions until they enter a secure estate. By which time such young people are in a cycle of reoffending. The paper contains four principle calls to action: wider recognition and understanding of neuro-disabilities in children and young people across health, social, education and justice agencies; earlier assessment and intervention of neuro-disabilities in children and young people before coming into contact with the criminal justice system; screening for neuro-disabilities in children and young people at earlier stages within the criminal justice process and adoption of neuro-disability assessments when developing offender management plans to ensure appropriate neuro-rehabilitation is provided.

Australia

Title: *Preventing the Onset of Youth Offending: The Impact of the Pathways to Prevention Project on Child Behaviour and Wellbeing.*

Author: Ross Homel, Kate Freiberg, Sara Branch, Huong Le.

Source: Trends and Issues in Crime and Criminal Justice No 481, May 2015

Abstract: The idea has been gathering momentum for 50 years or more that institutions of care such as families or schools are more important in preventing crime than institutions of regulation such as the police. However, there are big gaps in our knowledge about how well civil-society initiatives work, including the effectiveness of family-support services that are often available in socially disadvantaged communities. This paper addresses this knowledge gap through an analysis of data from the child longitudinal database constructed through the Pathways to Prevention Project, a 10 year developmental crime-prevention initiative that operated until 2011 as a partnership between Mission Australia, Education Queensland and Griffith University.

Title: *Gender, Pressure, Coercion and Pleasure: Untangling Motivations for Sexting Between Young People.*

Author: Murray Lee and Thomas Crofts

Source: British Journal of Criminology 55, 2015.

Abstract: What has been problematically termed 'sexting' has attracted considerable legal, political, public, media and academic attention. Concern has focused on sexting between young people who may experience emotional and reputational damage and are at risk of being charged with child abuse or pornography offences in many jurisdictions. Recent research has rightly highlighted sexting's gendered dynamics. Accordingly, a discourse has developed that imagines the common sexting scenario involves girls feeling pressured into sending boys sexual images. This article develops an analytic framework of pressure and critically reviews research into sexting. It suggests that while such scenarios occur, they do not reflect the experiences expressed by the majority of girls who actually engage in sexting, who are more likely to express motivations associated with pleasure or desire.

Title: *Juvenile Sex Offenders in the Criminal Justice System.*

Author: Dianna T Kenny

Source: Judicial Officers' Bulletin 27(4), May 2015.

Abstract: In this article, the author examines the characteristics and early history of juvenile sex offenders, the rates and patterns of their sexual offending and recidivism, and therapeutic programs that support their rehabilitation.

Latest Research / Articles



United States

Title: *Practical Tips to Help Juvenile Drug Court Teams Implement the 16 Strategies in Practice*

Authors: National Council of Juvenile and Family Court Judges

Source: <http://www.ncjfcj.org/resource-library/publications/practical-tips-help-juvenile-drug-court-teams-implement-16-strategies>

Abstract: The In-Practice Tip Sheets are resources for juvenile drug court teams and are meant to provide operational steps to implementing the 16 Strategies in Practice.

Title: *Practice Parameter for the Assessment and Management of Youth Involved with the Child Welfare System*

Authors: Terry Lee, George Fouras, Rachel Brown

Source: *Journal of the American Academy of Child and Adolescent Psychiatry* 54(6) June 2015.

Abstract: This Practice Parameter presents principles for the mental health assessment and management of youth involved with the child welfare system.

Title: *Trauma Changes Everything: Examining the Relationship between Adverse Childhood Experiences and Serious, Violent and Chronic Juvenile Offenders*

Authors: Bryanna Fox, et al.

Source: *Child Abuse and Neglect* 46, Aug 2015.

Abstract: This study aims to examine how effective the adverse childhood experiences index, a childhood trauma-based screening tool developed in the medical field, is at identifying children at higher risk of SVC offending.

Title: *Supportive Relationships and Active Skill-Building Strengthen the Foundations of Resilience: Working Paper 13*

Author: National Scientific Council on the Developing Child

Source: http://developingchild.harvard.edu/resources/reports_and_working_papers/working_papers/wp13/

Abstract: Working Paper from the National Scientific Council on the Developing Child explains how protective factors in the social environment and highly responsive biological systems interact to produce resilience, and discusses strategies that promote healthy development in the face of significant adversity.

Title: *Programs that Promote Positive Development Can Help Young Offenders Grow Up and Out of Crime.*

Authors: Carol A Schubert and Edward P Mulvey

Source: <http://www.modelsforchange.net/publications/695>

Abstract: It appears that programs that promote an examination of one's thoughts and actions (such as cognitive behavioral therapy), combined with opportunities to practice and internalize that thinking (such as employment), can help young offenders mature and significantly reduce their offending.

Title: *Psychosocial Maturity and Desistance from Crime in a Sample of Serious Juvenile Offenders*

Authors: Laurence Steinburg, Elizabeth Cauffman

Source: *Juvenile Justice Bulletin*, March 2015.

Abstract: How and why do many serious adolescent offenders stop offending while others continue to commit crimes? This series of bulletins presents findings from the Pathways to Desistance study, a multidisciplinary investigation that attempts to answer this question.

Title: *Developing Effective Policies for Addressing the Needs of Court-Involved Youth with Co-occurring Disorders.*

Authors: Robert Kinscherff and Joseph J Cocozza

Source: <http://www.ncmhji.com/developing-effective-policies-for-addressing-the-needs-of-court-involved-youth-with-co-occurring-disorders/>

Abstract: This brief focuses on modifications to policy and practice that juvenile drug courts should consider if youth with co-occurring disorders are to be effectively served.

Title: *Ten Strategies to Reduce Juvenile Length of Stay*

Authors: Jessica Feierman, Kacey Mordecai, Robert Schwartz

Source: <http://csgjusticecenter.org/youth/publications/ten-strategies-to-reduce-juvenile-length-of-stay/>

Abstract: This publication from the Juvenile Law Center provides recommendations on how to reduce the length of confinement for youth involved with the juvenile justice system. It draws from a 50-state review of state statutes, conversations with national stakeholders and decision-makers, and input from researchers and scholars in the field.

Canada

Title: *Juvenile Offenders on Trial: Does Alibi Corroboration Evidence and Defendant Age Interact to Influence Jurors' Perceptions and Verdicts?*

Authors: Joanna D Puzzolo, et al.

Source: *Psychiatry, Psychology and Law* 22(2), 2015.

Abstract: In the present study the potential interaction between defendant age and alibi corroboration on mock jurors' perceptions and assessments of guilt was examined.

He pito kōrero: a final comment

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“ Young people get into trouble and that has always been so. But now more than ever, we know about the connections between offending and neuro-disability, alienation from whānau, school and community, substance abuse, and young people who have been victims themselves of abuse and neglect. This knowledge must be seized upon.

Most young people grow out of their offending behaviour – they are at a transitional phase in their development. However, some young people are irreparably damaged by their circumstances and also by the system. In this respect, it is vital that we in the youth justice system ‘get it right’ when we respond to these young people.

It is through socialisation, inclusion and connection, not punishment, that young people learn to obtain respect for others by respecting themselves. As a community, we are all invested in growing healthy, respectful and supported young people.

The Rangatahi Courts acknowledge a certain kind of alienation for young Māori – alienation caused by inter-generational processes of urbanisation, the loss of tribal connections and the loss of te reo Māori. In this respect, the Rangatahi Court is about fostering a sense of belonging and an attempt to bring Rangatahi ‘home’.

”

- Chief Justice Sian Elias



Delivered at the opening of Te Kōti Rangatahi o Ōtautahi - Christchurch Rangatahi Court, Ngā Hau e Whā Marae, 22 March 2014