

# “Court in the Act”

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

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

**Youth Court Website:** <http://www.courts.govt.nz/youth/>

No.11, July 2004

***“It is easier to build children’s lives than to repair the broken lives of adults.”***

*Trevor Grice*  
(Founder Director, Life Education Trust)

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*“My recent experiences may be of some use in the issue of young people; as they indicate a new trend perhaps concerning young people – especially girls. I encounter, almost on a weekly basis now, teenage girls who have become so rebellious their behaviour is mind boggling. Generally the girls are European, 14 - 16 years of age and they simply set their minds to making life hell for their parents and their family. They refuse to attend school and tend to dictate terms to get what they want.*

*The help available to assist us with these kids are few and far between; we desperately cling to hope for change.*

*In time I guess their behaviour will become more anti social as society becomes less tolerant and then we have far greater problems to deal with.*

*I have no answers or suggestions. I just thought Judge Becroft may be interested in a recent developments here within Dargaville and the District.*

*With kind regards, Clive Fremlin.”*

## **Letters to the Editor**

*(an email received from Clive Fremlin – a Youth Advocate from Northland.)*

**Youth Justice  
"Capability Report" for  
Baseline Review of  
CYFS**

You will remember that the Treasury led Baseline Review of Child Youth and Family Services (CYFS), recommended that CYFS undertake a review as to its capability to provide Youth Justice services across its sites throughout New Zealand. This project was due to report by 30<sup>th</sup> of June 2004.

The project has now been widened to include two phases. A **first phase**, is a "detailed stock take" of the current youth justice resources across the whole CYFS organisation. **Phase 2** analyses the extent to which the existing resources are sufficient to "adequately ensure that CYFS is able to achieve its youth justice outputs and outcomes".

**Phase 1**, the Youth Justice "Stock-take" is due to report by 10 September 2004. **Phase 2** completion will be "within 12-14 weeks after completion of Phase 1".

While the reasons for the delay are clear, this delay will be a great disappointment to all of us within youth justice who were awaiting a detailed assessment of CYFS youth justice capabilities.

In this respect, it must be said, the original Baseline Review was rather disappointing. Only a small part of the Baseline Review Report specifically dealt with youth justice and even then, few conclusions were reached other than general concerns regarding the

profile of youth justice within CYFS and the extent to which it was adequately led within Head Office. The very question which it was hoped the Baseline Review would address regarding youth justice i.e. the extent to which current resources enabled proper delivery of optimum youth justice resources was effectively postponed, pending the 30 June report described above.

Many of us in the youth justice arena, felt that the Baseline Review, whether because of time or other pressures, simply did not grasp the nettle regarding youth justice.

Clearly no final decisions as to CYFS capability to deliver youth justice can be made until the CYFS capability review is finally completed, now unlikely to be available before early next year. Watch this space!

**Recent National Youth  
Justice Conference**

Most of you will have heard of and many will have attended the recent National Youth Justice Conference held in Wellington on the 17<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup> of May 2004. It was initially planned by a small group representing various Government Departments within the youth justice process. It was funded by Child Youth and Family Services (CYFS) and brilliantly organised by a CYFS team led by Shannon Pakura. Real thanks are due to Shannon and her "orange t-shirted" organising team. The conference was attended by over 550 participants in the youth justice system and was generally agreed to be a stunning success.

The only slight disappointment was the unexpectedly high number of

applicants meant that some people had to be turned away. Also, as noted at the conference, it would have been good to have had a more widespread participation by community groups. These are all matters for consideration at the next conference.

Everyone agreed that there should be another conference, in about three years time. It might be appropriate for the National Youth Justice Leadership Group (NYJLG) chaired by Ministry of Justice representatives, to take the lead to organise the next conference. This has already been suggested.

In the meantime, the NYJLG is considering a series of local youth justice forums that could be conducted around the country with the local Youth Offending Team (YOT) taking the lead to plan and publicise such forums.

### ***Youth Justice and Education Issues***

I recently had the opportunity to speak at the annual Secondary Schools Principals Conference, held in Rotorua in June. The PowerPoint presentation for this speech is available from the Principal Youth Court Judge's office, through Jayne Collins.

I also produced a summary of issues facing the education sector that directly and indirectly impact on the education system. A copy of that paper can also be obtained through my office.

As part of my speech, I listed 10 challenges facing the education sector, from a youth justice point of view.

I list them as follows:

- i. School attendance is a protective factor against risk e.g. criminal offending
- ii. Significant correlation between offending and school attendance
- iii. Implications for truancy policy
- iv. Exclusions / suspensions
- v. Alternative Education
- vi. Drug Abuse and Dependency
- vii. Male Role Models
- viii. Psychological / Psychiatric Services; Learning disabilities
- ix. Values Education
- x. But...teachers are not Social Workers...or are they?

### ***Youth Justice and Education: A discussion document prepared by Pat Harrison***

Ms Pat Harrison, Retired Principal, Queen's High School, Dunedin and Chairperson, Otago Youth Wellness Trust has prepared a discussion document on education issues and youth justice.

This can be obtained through the Otago Youth Wellness Trust, PO Box 669, Dunedin. Those involved in education issues including truancy, alternative education, school suspensions / exclusions and correspondence school issues will find this very interesting and informative.

# SPECIAL FEATURE

Article from "Policy Review – Criminal Justice Magazine – Summer 2003"  
(An English Youth Justice Magazine)

Youth Justice Board Case Study

***Intensive Supervision and Surveillance Programmes in  
England: A New Initiative for our Interest in New Zealand?  
Would this sentence work in New Zealand?***



Intensive Supervision and Surveillance Programmes (ISSP), funded by the Youth Justice Board, are robust community penalties targeted at the worst persistent young offenders.

ISSP, first rolled out in major urban areas in summer 2001, now covers all of the Youth Offending Teams (Yots) in England and Wales.

The six-month programme is targeted at the small but hardcore group of young offenders who cause a quarter of all juvenile crime. It combines intense supervision with the toughest surveillance of any community programme.

Around 4,200 persistent young offenders each year will be subject to surveillance, such as electronic tagging or voice verification and an intense programme of education and training, offending behaviour work and one-to-one supervision. A report conducted by the Board found ISSP offers more supervision and activities that challenge behaviour than short spells in custody.

Robbie is a 15-year-old with a string of offences to his name including street robbery. As part of his ISSP, he is on a strict curfew monitored by a tag secured to his ankle. He has to be home by 9pm and cannot leave the house again until 7 the next morning.

Such intensive surveillance imposes a strict regime, which a parent cannot, or sometimes is not, willing to impose. Breaches are dealt with swiftly and the result can be severe – those who refuse to abide by the electronic curfew could find themselves in jail.

Robbie may complain about restrictions to his freedom but this is a regime he says he will try to stick by for four and a half months if it means keeping out of custody and further trouble.

“I’ve been to a local authority secure unit but I don’t want to go to a normal prison,” says Robbie. “I don’t want to go to prison, it scares me. Once you’ve been in prison, you’ll always go to prison and I don’t want that. I want to stop offending.”

Robbie is small for his age and the thick black strap that secures the tag to his leg hangs heavily from his ankle. His evenings would normally involve playing around the local AstroTurf. Now, because of his curfew, he has to be home by 9pm. “I live with me mum and she all right, but I get on her nerves after 9 o’clock,” he says.

“I have had to rush home sometimes so I’m not late. They should put the time on these things (the tags). They wanna make them smaller, too, for small people. When you wear shorts, you can see it, so I have to cover it up with me sock. I say it’s money in me sock.”

A six-month ISSP costs £6,000 compared to £21,000 for six months in a Young Offenders Institution. ISSP offers 25 hours of purposeful activity and direct supervision a week during the first three month intensive phase, double the number of hours of those serving four and six-month Detention and Training Orders (DTOs). That does not include curfew times, during which time many young offenders, such as Robbie, are electronically tagged.

Sue Walker, ISSP manager for West Manchester, believes the ISSP and electronic monitoring can be powerful tools in imposing structure in an otherwise chaotic life.

“You will find that these youngsters who are persistently offending are out until two, three or four o’clock in the morning and then sleeping all day. If they are tagged, they are more likely to go to bed and more likely to comply with what we want from them.

“I was talking to one of the mums who said the tag had taken a lot of pressure off her because she was not being the unreasonable mother. Most of these young people don’t like the tag, but I believe it’s having an effect.

“There are kids who will rush home. One auntie told me it was quite comical. Her nephew had never stuck to any discipline but there he was running down the road to be home in time for his electronic curfew. He knew, because it is made very clear to them all, that if he breached his order then it’s back to court – and that might mean custody.”

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## ***Alcohol Consumption by Young People – Possible Effects of Lowering the Drinking Age***

Recently released statistics, summarised in the March issue of the Ministry of Justice's "Just Published" pamphlet<sup>1</sup>, indicate some possible effects of the lowering of the drinking age by the Sale of Liquor Amendment Act 1999. Here is a summary prepared by Clare Needham, Research Counsel to the Principal Youth Court Judge.

### **Drinking behaviour of young New Zealanders**

A comparison of national surveys of drinking in New Zealand undertaken in 1995 and 2002 showed that:

- The proportion of 14 – 15 year olds who had consumed alcohol in the previous 12 months had remained relatively static, but the frequency of drinking by those who drank and the amount of alcohol consumed on a typical occasion had significantly increased.
- Similarly, while the proportion of 16 – 17 year olds who drank did not change much between 1995 and 2002, those who did drink had increased the frequency of doing so and increased their average consumption on a typical occasion.

Surveys of drug use in New Zealand in 1998 and 2001 showed increases in the percentages of males and females ages 15-17 who reported feeling drunk at least monthly in the last year.

### **Alcohol-related offending by young people**

Statistics as to the numbers of under-18-year-olds apprehended or given infringement notices for drinking or possessing alcohol in a public place rose from 834 in 1994 to 2597 in 2002. Police in most of the 12 Police districts indicated that there had been an increased problem with young people drinking in public since the change in the law.

On the other hand, from 2000 – 2002, there were decreases in:

- the number of minors in restricted/supervised areas of licensed premises who were dealt with by the Police;
- the number of minors purchasing liquor from licensed premises who were dealt with by the Police; and
- the number of managers, licensees and employees convicted for offences related to minors under the Sale of Liquor Act 1989.

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<sup>1</sup>Lash, B., Ministry of Justice, *Just Published*, Number 30: March 2004, "A Summary of Young People and Alcohol: Some Statistics to 2002 on Possible Effects of Lowering the Drinking Age".

## **Disorderly behaviour**

Before the lowering of drinking age, a trend of increased apprehensions for disorderly behaviour by people of all ages had begun and this continued after the change in the law. Police largely attribute this, however, to better enforcement and targeting of offenders.

## **Alcohol-related traffic offences**

There was no significant change in the percentage of under-20-year-old drivers with roadside excess breath alcohol readings between 1997 and 2002 (it remained around 2 – 3%).

There was, however, a trend of increased prosecution of 15 – 17 years olds for driving with excess breath or blood alcohol. This trend began before the law change (596 prosecutions in 1993 rose to 911 in 1999) and continued after it (1155 in 2002), but may have been attributable to factors other than the law change.

The number and percentage of young people aged 15 – 19 involved in traffic accidents where alcohol was a contributory factor decreased from 1993 to 1999, continuing to do so immediately after the law change, in 2000, then increased slightly in 2001 and 2002 (although the number in 2002 was still lower than the 1993 figure).

Police perceptions as to whether drink driving by young people increased after the law change varied among Police districts.

## **Alcohol-related health problems for young people**

There was an increase in hospitalisations of young people with alcohol-related conditions after the law change, although this could be seen as a continuation of a trend that began in 1997.

## **Conclusions**

The Ministry of Justice pamphlet concludes that while there are some indicators that suggest the lowering of the drinking age may have had “a detrimental effect on young people’s drinking behaviour” there were several indicators that appeared simply to be the continuation of trends that had begun before the 1999 amendment.

The main area of concern highlighted by the pamphlet that will be of interest to those working in the youth justice system is the “more robust evidence that, while the number of young people drinking alcohol may not be increasing, those who do drink appear to be drinking more frequently and higher volumes of alcohol”.

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## ***New Responses to Juvenile Delinquency in the European Union***

In a recent article in the *International Association of Youth and Family Judges and Magistrates' Chronicle*, entitled "New Ways of Dealing with Juvenile Delinquency, A New Recommendation from the Council of Europe", Dr Peter H. van der Laan summarised a Recommendation adopted by the Committee of Ministers of the Council of Europe (Rec(2003)20E, 24 September 2003) concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

Most interesting, from a New Zealand perspective, were the 14 "New Responses" to juvenile delinquency contained in the Recommendation, which are intended to guide legislation, policy and practice of member states and are a reminder of some basic principles, many of which are reflected in our own legislation:

1. Expansion of the range of suitable alternatives to formal prosecution should continue. They should form part of a regular procedure, must respect the principle of proportionality, reflect the best interests of the juvenile and, in principle, apply only in cases where responsibility is freely accepted.
2. To address serious, violent and persistent juvenile offending, member states should develop a broader spectrum of innovative and more effective (but still proportional) community sanctions and measures. They should directly address offending behaviour as well as the needs of the offender. They should also involve the offender's parents or other legal guardian (unless this is considered counter-productive) and, where possible and appropriate, deliver mediation, restoration and reparation to the victim.
3. Culpability should better reflect the age and maturity of the offender, and be more in step with the offender's stage of development, with criminal measures being progressively applied as individual responsibility increases.
4. Parents (or legal guardians) should be encouraged to become aware of and accept their responsibilities in relation to the offending behaviour of young children. They should attend court proceedings (unless this is considered counter-productive) and, where possible, they should be offered help, support and guidance. They should be required, where appropriate, to attend counselling or parent training courses, to ensure their child attends school and to assist official agencies in carrying out community sanctions and measures.
5. Reflecting the extended transition to adulthood, it should be possible for young adults under the age of 21 to be treated in a way comparable to juveniles and to be subject to the same interventions, when the judge is of the opinion that they are not as mature and responsible for their actions as full adults.



6. To facilitate their entry into the labour market, every effort should be made to ensure that young adult offenders under the age of 21 should not be required to disclose their criminal record to prospective employers, except where the nature of the employment dictates otherwise.
7. Instruments for assessing the risk of future re-offending should be developed in order that the nature, intensity and duration of interventions can be closely matched to the risk of re-offending, as well as to the needs of the offender, always bearing in mind the principle of proportionality. Where appropriate, relevant agencies should be encouraged to share information, but always in accordance with the requirements of data protection legislation.
8. Short time periods for each stage of criminal proceedings should be set to reduce delays and ensure the swiftest possible response to juvenile offending. In all cases, measures to speed up justice and improve effectiveness should be balanced with the requirements of due process.
9. Where juveniles are detained in police custody, account should be taken of their status as a minor, their age and their vulnerability and level of maturity. They should be promptly informed of their rights and safeguards in a manner that ensures their full understanding. While being questioned by the police they should, in principle, be accompanied by their parent/legal guardian or other appropriate adult. They should also have the right of access to a lawyer and a doctor. They should not be detained in police custody for longer than forty-eight hours in total and for younger offenders every effort should be made to reduce this time further. The detention of juveniles in police custody should be supervised by the competent authorities.
10. When, as a last resort, juvenile suspects are remanded in custody, this should not be for longer than six months before the commencement of the trial. This period can only be extended where a judge not involved in the investigation of the case is satisfied that any delays in proceedings are fully justified by exceptional circumstances.
11. Where possible, alternatives to remand in custody should be used for juvenile suspects, such as placements with relatives, foster families or other forms of supported accommodation. Custodial remand should never be used as a punishment or form of intimidation or as a substitute for child protection or mental health measures.
12. In considering whether to prevent further offending by remanding a juvenile suspect in custody, courts should undertake a full risk assessment based on comprehensive and reliable information on the young person's personality and social circumstances.
13. Preparation for the release of juveniles deprived of their liberty should begin on the first day of their sentence. A full needs and risk assessment should be the first step towards a reintegration plan which fully prepares offenders for release by addressing, in a co-ordinated manner, their needs relating to

education, employment, income, health, housing, supervision, family and social environment.

14. A phased approach to reintegration should be adopted, using periods of leave, open institutions, early release on licence and resettlement units. Resources should be invested in rehabilitation measures after release and this should, in all cases, be planned and carried out with the close co-operation of outside agencies.

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*Hana Brown*

*(Judge Mick Brown's wife)*

Judge Mick Brown will be known to most of you as New Zealand's first Principal Youth Court Judge.

All of you will know of his enormous contribution.

Some of you will know that after a lengthy illness Mick's wife, Hana, passed away a few weeks ago. There was a huge funeral in Auckland, that I was able to attend, representing the Youth Court.

I have written to him, conveying our sorrow, on behalf of the whole Youth Justice community in New Zealand.

This is an updated list of all the Administrative Youth Court Judges (previously referred to as Youth Court Liaison Judges). They have regional responsibility to ensure the smooth and efficient operation of the Youth Courts within their regions.

## **Administrative Youth Court Judges**

### ***Northern Region:***

**Judge Heather Simpson**

Kaitaia  
Kaikohe  
Whangarei  
Dargaville  
Warkworth  
North Shore  
Auckland  
Waitakere  
Manukau  
Papakura  
Pukekohe

### ***Waikato***

**Judge Neil MacLean**

**Thames**

Huntly  
Morrinsville  
Hamilton  
Te Awamutu  
Te Kuiti

### ***Bay of Plenty/Rotorua Region***

**Judge Chris Harding**

Waihi  
Tauranga  
Whakatane  
Opotiki  
Rotorua  
Tokoroa  
Taupo

### ***Gisborne/East Coast Region***

**Judge Stan Thorburn**

Ruatoria  
Gisborne  
Wairoa

### ***Central North Island Region***

**Judge Greg Ross**

Taumarunui  
New Plymouth  
Taihape

Hawera  
Napier  
Hastings  
Wanganui  
Waipukerau  
Marton  
Fielding  
Dannevirke  
Palmerston North  
Levin

***Wellington Region***

**Judge Tony Walsh**

Masteron  
Upper Hutt  
Lower Hutt  
Porirua  
Wellington

***Nelson/Marlborough Region***

**Judge Paul Whitehead**

Nelson  
Blenheim  
Kaikoura

***Canterbury/Westland Region***

**Judge Trish Costigan**

Westport  
Greymouth  
Rangiora  
Christchurch  
Ashburton  
Timaru

***Lower South Region***

**Judge Stephen O'Driscoll**

Queenstown  
Alexandra  
Lumsden  
Gore  
Oamaru  
Dunedin  
Balclutha  
Invercargill

**JUDGES RESPONSIBLE FOR EACH YOUTH COURT  
IN NEW ZEALAND**

| <b>North Island</b>  |  |
|--|--|
| <b>Auckland / Northland</b><br>Kaitaia<br>Kaikohe<br>Whangarei<br>Dargaville<br>Warkworth<br>North Shore<br>Waitakere<br>Auckland<br>Manukau<br>Papakura<br>Pukekohe | <i>Judge Simpson</i><br><br>Judge Taumaunu<br>Judge Taumaunu<br>Judge Druce<br>Judge Taumaunu<br>Judge Perkins<br>Judge Perkins<br>Judge Rota<br>Judge Harvey<br>Judge Malosi<br>Judge Simpson<br>Judge Lovell-Smith |
| <b>Waikato</b><br>Thames<br>Huntly<br>Morrinsville<br>Hamilton<br>Te Awamutu<br>Te Kuiti   | <i>Judge MacLean</i><br>Judge Brown<br>Judge Twaddle<br>Judge McAloon<br>Judge MacLean / McAloon<br>Judge Brown<br>Judge McAloon   |
| <b>Rotorua / Bay of Plenty</b><br>Waihi<br>Tauranga<br>Whakatane<br>Opotiki<br>Rotorua<br>Tokoroa<br>Taupo   | <b>Judge Harding</b><br><br>Judge Neal<br>Judge Harding<br>Judge Harding<br>Judge Harding<br>Judge Geoghegan<br>Judge Geoghegan<br>Judge Geoghegan   |
| <b>East Coast</b><br>Gisborne<br>Ruatoria<br>Wairoa  | <i>Judge Thorburn</i><br>Judge Thorburn<br>Judge Thorburn<br>Judge Thorburn  |
| <b>Central North Island</b><br>Taumaranui<br>New Plymouth<br>Taihape<br>Hawera<br>Napier<br>Hastings   | <i>Judge Ross</i><br><br>Judge Ross<br>Judge Bidois<br>Judge Ross<br>Judge Bidois<br>Judge von Dadelszen<br>Judge Watson   |

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|--|---|
| Wanganui<br>Waipukurau<br>Marton<br>Fielding<br>Dannevirke<br>Palmerston<br>North<br>Levin | Judge Callinicos<br>Judge von Dadelszen<br>Judge Callinicos<br>Judge Fraser<br>Judge Ross<br>Judge Ross<br><br>Judge Fraser |
| <b>Wellington</b><br>Masterton<br>Upper Hutt<br>Lower Hutt<br>Porirua<br>Wellington        | <i>Judge Walsh</i><br>Judge Walsh<br>Judge Mill<br>Judge Walker<br>Judge Ellis<br>Judge Walsh                               |

| <b>South Island</b>  |  |
|--|--|
| <b>Nelson / Marlborough</b><br>Nelson<br>Blenheim<br>Kaikoura  | <i>Judge Whitehead</i><br><br>Judge McKegg<br>Judge Whitehead<br>Christchurch Judges   |
| <b>Canterbury / Westland</b><br>Westport<br>Greymouth<br>Rangiora<br>Christchurch<br>Ashburton<br>Timaru         | <i>Judge Costigan</i><br><br>Judge Costigan<br>Judge Costigan<br>Judge Costigan<br>Judge Costigan<br>Judge E Ryan<br>Judge E Ryan  |
| <b>Southland</b><br>Queenstown<br>Alexandra<br>Lumsden<br>Gore<br>Oamaru<br>Dunedin<br>Balclutha<br>Invercargill | <i>Judge O'Driscoll</i><br>Judge Walsh<br>Judge O'Driscoll<br>Judge O'Driscoll<br>Judge Walsh<br>Judge O'Driscoll<br>Judge O'Driscoll<br>Judge O'Driscoll<br>Judge Walsh |