"Court in the Act"
A regular newsletter for the entire Youth Justice
THE YOUTH COURT OF NEW ZEALAND | TE KŌTI TAIOHI O AOTEAROA

July 2009

In this issue...

"The widening of Youth Court jurisdiction to include more 12 and 13 year olds represents the biggest single philosophical change for youth justice in the last 20 years."

Judge Andrew Becroft
Principal Youth Court Judge
for New Zealand

Youth Court submissions on the new Jurisdiction and Orders Bill

Submissions to the Parliamentary Select Committee considering the Children, Young Persons and Their Families (Youth Court Jurisdiction and Orders) Amendment Bill have closed. A number of those who presented submissions felt strongly about the changes proposed in the Bill. Not least of these changes is the potential for 12 and 13 year old children who are alleged to have committed serious offences to be criminally charged in the Youth Court, rather than being dealt with under the care and protection powers of the Family Court.


Judge Andrew Becroft at the Social Services Select Committee (Image TV3)

Principal Youth Court Judge Andrew Becroft presented a submission on behalf of Youth Court judges, and was widely reported in the media following his presentation.

On the subject of 12 and 13 year olds in the Youth Court, Judge Becroft's submission read:

"Youth Court Judges regard the proposal to include some 12 and 13 year olds within the youth justice system, albeit on a very limited basis, as constituting the most fundamental change to the system since its inception in 1989."

"While this profound change is properly a decision for Parliament, it is appropriate for the Youth Court to raise with the Select Committee what are the perceived inadequacies with the current response to dealing with "child offenders" which might justify this response. 'Is it a result of operational failings or, more fundamentally, is it a deficiency in the present legislative philosophy?' If the real problem is with the mechanics of the current response, might not the first step be to streamline and simplify the law dealing with child offenders (long overdue) and to better resource the current misunderstood and underused process?"

"If the Bill becomes law: there is a real concern by Youth Court Judges that the Court will be assuming the responsibility for the worst child offenders, who by definition will have the most serious care and protection issues, yet the Youth Court will not have the necessary statutory "ammunition" to deal with the inevitable care and protection issues at the root of the offending. An option that could be seriously considered is whether the powers of the

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Family Court under s83 of the Act should be vested in the Youth Court, solely for those child offenders appearing before it."

"The inadequacies of the current child offender system, both as to the lack of simplicity and efficiency of the process, and its resourcing, still require urgent attention. This process will still remain in place for the vast majority of child offenders and this process is in desperate need of improvement."

Another well-known commentator and respected youth justice academic Dr Gabrielle Maxwell (Institute of Policy Studies, Victoria University of Wellington) also presented to the committee, and made the following comments:

"Evidence on the nature and circumstances of children who become involved in anything other than minor offending at the ages of 12 and 13 years shows that they are relatively few in number."

"Research indicates that if these children are dealt with in the criminal justice system, placed in residential institutions with other young offenders or otherwise subject to punishments, they are more likely to re-offend than if they are diverted through the provisions of the CYPF Act."

"It is undoubtedly true that these children are not easy to care for and a number of them are highly likely to go on to offend both as young people and adults. The quality of care they are given when they come to the attention of CYFS is therefore of considerable importance. Evidence indicates that the type of support given to caregivers at this point in time is crucial if these children are to thrive, in particular various types of supported care based on multi-systemic approaches have proved to be able to markedly increase the probability of good outcomes for these children."

"If we are to reclaim these children then it is crucial that we resource the types of support programmes that enables parents and foster parents to respond effectively to their needs. The costs of such support for these children are far less than those of responding to the potential costs of later criminal offending and adult criminal justice system sanctions."

In her submission, Dr Maxwell also criticized the Bill for dropping the age of criminal responsibility, which she said was contrary to the United Nations convention on the Rights of the Child. She said:

"The failure to comply with such an important Convention is not only an embarrassment to those who work in the area of children's rights in New Zealand but it is also detracts substantially from New Zealand's reputation as a country where human rights are respected and honoured."

'Take Two' and 'Moving On' in Timaru

Take2Timaru—a collaboration between schools in Timaru to provide two therapeutic holistic intervention programmes for students at risk of long term failure.

Six schools in the Canterbury town of Timaru (population 27,000) have joined together to develop specialised programmes for students at risk of being stood down, being excluded, or not achieving. The programmes include behaviour modification and the development of social skills, and the aim is to return the students to mainstream education in the short to medium term.

Take2Timaru accepted its first students at the beginning of Term 2 2008, and is presently located in a disused school site, but is looking for new premises. There are two separate programmes:

Take Two

This programme caters for students who break school rules and have exhausted their school's in-house behaviour strategies, and are thus at a critical period which might otherwise see them stood down from school. Students attend the programme for 2 to 3 days.

Take Two students complete work relevant to their misdemeanour, discuss their behavioural issues, and complete a written reflection.

Moving On

This programme seeks to support students who are at high risk of failing in mainstream education, and their families and whanau, to learn skills and strategies to access educational opportunities available at their regular school.

Moving On takes students who have a history of being unable to successfully participate in mainstream classes, and many display high level behavioural needs.

Each student is provided with an individual programme based on initial literacy and numeracy testing. Core skills academic programmes are then provided in literacy, maths and social studies, in an effort to bring the

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students' basic skill levels up to their chronological age.

Alongside the academic programmes, Moving On provides counselling and support, and co-ordinates all the other agencies and service providers that might be involved in the student's life. These include Child Youth and Family, Child and Adolescent Psychiatric Services and Police Youth Aid, as well as other community and private organisations.

Other services offered by the programme include daily emails sent to students' regular schools, regular contact with parents and whanau, and a negotiated reintegration plan that sets out the roles and responsibilities of students, regular schools, parents and support agencies.

Take2Timaru also monitors students who have been prescribed medications for behaviourally related conditions, and, in conjunction with Child and Adolescent Psychiatric Services, can monitor periods without the medication to required dosages. Take2Timaru comment that concerned educationalists and clinical psychologists need to address the issue of students who are prescribed medication yet still considered at high risk of failing in the mainstream education system.

At the end of 2008 Take2Timaru undertook a self review which showed that over 80% of students stayed at their regular school after participating in the programmes.

Inquiry recommends more youth sex offender beds, better assessment, and better follow up

A Social Services Select Committee inquiry into the treatment of youth sex offenders makes a number of recommendations.

Before 1988 there were no specialised services for youth sex offenders in New Zealand. Most youth sex offenders are now treated in community based settings (with low reported rates of reoffending), while a small number of high risk individuals can be accommodated at Te Poutama Arahi Rangatahi residential facility in Christchurch.

Currently, child sex offenders aged 10-13 years old are dealt with by the Family Court as part of its care and protection function, while youth sex offenders aged 14-16 years can be charged by Police and dealt with first in the Youth Court, and may be transferred to the District Court for sentencing. Under the new CYPF Youth Court Jurisdiction and Orders Amendment Bill, more 12 and 13 year old child sex offenders will be capable of being charged in the Youth Court.

The report admits to being unsure about the scale of sex offending by young people in New Zealand. It says that actual numbers are hard to know, given the widespread belief that these offences are under-reported.

Custody, supervision and placement

The Ministry of Social Development funds placements for young sex offenders in specialist group homes, specialist one-on-one placements, and Child Youth and Family residences.

There are specialist group homes in Auckland, Wellington and Christchurch. These homes are for young people who receive treatment from providers such as SAFE, WellStop, or STOP, and do not need to be in a secure facility.

Five organisations throughout New Zealand provide specialist one-to-one care, with a total of up to 34 placements available. Specialist one-to-one placements can last up to a year, but are not usually available to high risk offenders.

Child, Youth and Family residences provide 24 hour secure supervision. Young sex offenders are only sent to a 'residence' if there is no other practical alternative, or if they pose a danger to themselves or others.

After reviewing submissions relating to placement, supervision and custody, the Committee felt that there were not enough specialised group, and one-to-one placement beds available. They attributed this to a lack of trained carers, and a reluctance by other carers to accept responsibility for young sex offenders.

Although no child or young person who is diagnosed as a sex offender goes without treatment, provider agencies report that their average waiting list time is 4 to 6 weeks. The Committee recommended that communication be improved between Child, Youth and Family and providers of treatment services, and that more specialised group homes be established for those young people who live too far away from one of the existing homes

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(Recommenadtion 1).

The Committee also recommended developing a 'continuum of care' for young sex offenders, with a full range of treatment options available from managed care in the home to treatment for young sex offenders in prison (Recommendation 2). The Committee noted that presently there is no treatment available for sex offenders under the age of 18 in prison.

Support and rehabilitation

The Committee visited Te Poutama Arahi Rangatahi (TPAR) in Christchurch, which provides 24 hour secure care and treatment for up to 12 boys aged between 12 and 16 years old who present a high risk of reoffending. A placement at TPAR can last 18 to 24 months, but those subject to custody orders cannot be compelled to stay beyond their 17th birthday, while those on guardianship orders can stay past the age of 17 as long as they consent.

The Committee was impressed with TPAR, and noted that residents found the environment to be safe and supportive, and thought their individual therapies were more beneficial than group therapy sessions. The Committee said TPAR staff reported a low rate of sexual reoffending, however a recent evaluation highlighted a high incidence of non-sexual reoffending after release from the programme.

The funding of community based treatment services was also examined by the Committee. The report notes that the Government has developed a multi-year plan to increase funding to, and build stronger relationships with community providers. The plan is called 'Pathway to Partnership' and aims to fully fund 'essential services' such as youth sex offender treatment programmes by 2011.

Treatment programmes not required to run their full course

The Committee highlighted the long standing problem of young sex offenders who are placed into treatment programmes by the Youth Court through supervision orders which expire well before the programmes have been completed. The Committee noted that young people can only remain in Youth Court ordered treatment programmes after they turn 17, if they consent.

Proposed changes in the Children, Young Person and Their Families Amendment Bill #6 will partially address these concerns by lengthening supervision orders, extending the jurisdiction of the Youth Court to include 17 year olds, and removing the age barrier to longer periods of treatment. The Committee recognised that passage of this Bill would be a partial solution to these problems.

Early intervention

The Committee urged the Government to give serious consideration to a proposal for a pilot programme by WellStop for early intervention services that will target at-risk young people and their families. It was recognised that some early intervention programmes exist, but the Committee said that investigation of the possibility of increased funding for these programmes is needed (Recommendation 5).

Data

On hearing that Child, Youth and Family's data system does not keep a record of how many referrals are made to the agency for sex offending by young people, the Committee recommended an upgrade of the system (Recommendation 6).

Sending young people back in to the community

The Committee reported on transition and release methods from care and protection residences, youth justice residences and Te Poutama Arahi Rangatahi (TPAR). They recommended that 'step-down' facilities should be established to help those young sex offenders who qualify for TPAR to help them reintegrate back into their communities (Recommendation 7). The Committee also recommended that placements for young people due to leave residential facilities should be confirmed at least 3 months in advance of their release date so that young people can establish relationships with care-givers well before entering their homes (Recommendation 8).

In response to submissions, a recommendation was also made to provide for more family involvement with a young person, during the treatment phase of their programme (Recommendation 9).

Transition to adulthood

The Committee supported the proposed extension of Child, Youth and Family's involvement with young people under guardianship orders, which could include young sex offenders. The recently shelved Children, Young Persons and Their Families Amendment Bill #6 would have required Child, Youth and Family to provide advice and assistance to young people in care up til the age of 25, should they ask for it.

In particular, the Committee recommended that social workers
assigned to youth sex

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offending clients should be experienced in handling these cases, and should stay with each client until their case is closed (Recommendation 10).

Caregivers and other service providers

In submissions to the Committee, Child, Youth and Family admitted that they found it difficult to find willing and appropriate one-on-one caregivers for young sex offenders. In response, the Committee recommended that the Government establish a pool of specialised caregivers and support staff, who would trained, supported and supervised (Recommendation 12). Services to these caregivers could be provided by Child, Youth and Family or NGOs with experience in the young sex offenders, such as Barnardos.

The Committee also recommended to the Government that it consider adopting a new model of foster care developed in the United States, despite the "greatly increased" resources need by Child, Youth and Family to achieve this (Recommenadtion 13). This new model of foster care is said to work best for young people with a persistent history of offending.

Conclusions

The Committee concluded that, although some New Zealand programmes for child and youth sex offenders are held in high regard, there are other areas which need urgent attention. Recruiting and retaining effective community caregivers is difficult, however treatments delivered in the community are known to be more effective.

The Committee stressed the need for responses that allow offenders to successfully reintegrate back into their communities, and although New Zealand generally achieves good outcomes, there is room for improvement.

Violence

The following was written by a 14 year old girl as part of an Alternative Action plan following her involvement in a serious assault at school.

"Violence

Saturday 16th May 2009

Violence never seems to make things more simple. In fact it tends to make things more complicated. It also never seems to hurt only one person. It affects the familys of the victims, it also affects the victim but in a more serious and physical way, to see someone you love so beat up breaks your heart. I personally know that. I watched my dad beat my mum up and it was horrible. To see someone your supposed to love beat up the person who brought you into this world, and the person you love most, is horrible. It breaks your heart, and sticks with you your whole life. To have to run away and not be able to do anything is worse. The feeling is undiscribable its the worst feeling. Wakeing up the next morning see the person you love so much, so bruised and cut up and knowing you just sad there so terrified to even move, tears you apart. Each time you watch it, it just takes away every little bit of hope you have. To think how scared you were listening and watching it, you cant even imagine just how terrified the person who had to sit there and take it all was, to broken hearted and to unenergized to even fight back. Hearing your mother cry every night and just imagining the tears rolling down there face, well you dont know what to except cry alongside with her. You dont know what quite what to say not wanting to make them more upset, Yet you feel bad for saying nothing at all. I remember been to afraid to sleep at night and trying to count sheep it never seemed to work. So I would sit there alnight just thinking about what had happened that day or what could possibly happen would dad show up or not and I knew mum was just sitting there thinking the same. Its horrible to think that im supposed to love that man for the rest of my life after what he done to my mum and what he put me and my sisters Through its really difficult to what he done will stay with me the rest of my life. "

Steve's story

The following is from a letter to Principal Youth Court Judge Andrew Becroft from His Honour Judge Tony Fitzgerald, a Youth Court Judge in Auckland and founder of the Auckland City Youth Court Intensive Monitoring Group (IMG).

Dear Andrew

Every now and then a story comes out of the Youth Court that is worth sharing. I have the permission of the young person involved in this case to share his story (with his anonymity protected), perhaps with a view to it being included in a future edition of "Court in the Act". It is something I hope will provide motivation and encouragement to others.

The young man concerned, who I will refer to as "Steve", admitted charges of being found without reasonable excuse in an enclosed yard on 23 June 2006 (amended down from an original charge of burglary) and injuring with intent to injure on 19 August 2006. The second offence was committed while Steve was on an FGC plan for the first. At the time of the offending Steve was aged 16.

The assault was a brutal and unprovoked attack by members of a gang of which Steve was then a member. As a result of the beating, the victim suffered some brain damage from the concussion, a fracture to the left cheekbone and damage to the left eye which resulted in permanent blurry vision. He was a promising rugby player who will never be able to enjoy playing his sport again to the same extent.

The victim and members of his family attended Steve's original FGC and were prepared to forgive him for his part in what happened because he played a lesser role in the assault than the main offenders who were adults.

Steve was ordered to undergo supervision for six months plus 120 hours of community work. He did not properly engage or comply with either order and his family were said to not be interested or supportive. Therefore application was made to the Court to cancel the community work order and substitute another. By the time the application regarding the supervision order was made, the order had expired.

To this point the picture seems gloomy and all too familiar.

The Family Group Conference that was then directed was attended by a friend of Steve's family who is involved with the Habitat for Humanity organisation. The FGC was again attended by the victim and a victim support person.

Agreement was reached about Steve being able to go to Ethiopia with other young people for three weeks and complete work for the Ethiopian community as part of the Habitat for Humanity programme. To earn his place on the team, Steve was required to first complete 60 hours of community work in Auckland which he did.

Habitat for Humanity houses in the Debre Berhan affiliate.

What follows are some extracts from the reports (in October 2008) that came back from Ethiopia:

"Steve has shown great progress in the time he has been under my care. He has had a change of heart and attitude.

He is a natural people's person who showed respect for all people and got on well with his whole team. He is a young person who loves kids and really respects old people. He was popular with the Ethiopian people and was a real hit and they loved him for that.

Steve certainly put his weight's worth of work in and worked hard consistently for all the days we were on site. He has a great sense of humour and is a real story teller.

He was a hit on the team and a great team player. His natural charming personality warmed him to the other team members.

Steve is a young man at a crossroads who was challenged in Ethiopia to the core and did some soul searching while there. He made some brave decisions whilst there which he will now need to follow up when he returns home.

There were no problems at all with him and we developed a healthy respect for one another. It was a pleasure to mentor Steve for the three weeks we were in Ethiopia.

This positive progress by Steve has continued. On 6 March 2009 an evening was organised at which Steve made a 15 minute powerpoint presentation about his experiences in Ethiopia in front of a large crowd. Those who know him see his natural leadership abilities.

At that event it was publicly proposed that Steve go again to Ethiopia this year as a mentor and that another at-risk-youth be chosen to go as an understudy. Steve would be required to contribute significantly towards his own costs.

This success with Steve has led the family friend and sponsor (from Habitat for Humanity) to

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want to work closely with the Youth Court and CYFS in future to develop similar opportunities for other young people. This of course will require financial support from the wider community to make such ventures possible and thought is being given now as to how to go about obtaining such support and developing this opportunity for others.

Yours sincerely
A J FitzGerald
Youth Court Judge

How the Youth Court is dealing with youth justice kids who also need care and protection

Though the Children, Young Persons and Their Families Act largely separates youth justice from care and protection, it also contains two important mechanisms (s261 Family Group Conference, and s280 Referral to a Care and Protection Coodinator) for dealing with young people whose care and protection concerns impact on their offending. Added to these is a new protocol which allows the Youth Court and the Family Court to know that they are 'on the same page' when it comes to information about a particular young person.

Many young people appearing before the Youth Court have care and protection (welfare) issues. Some will have previous or existing care and protection proceedings before the Family Court. For others there will be information provided to the Court to suggest the young person meets one or more of the criteria in s 14 of the Children, Young Persons and Their Families Act 1989 (CYPFA) which define children or young persons in need of care and protection.

If a young person falls into either of these categories there are two likely scenarios. The charges the young person has before the Youth Court are either a combination of both care and protection and youth justice issues, or care and protection issues only.

Young people who have (or have had) care and protection proceedings in the Family Court can be identified by a Child Youth and Family Court Officer via computer records, as can young people who have been the subject of a notification to CYFS about care and protection concerns that has not resulted in proceedings. These checks can be done for all young people appearing before the Youth Court.

When the Court finds a young people who has past or current care and protection proceedings, the Youth Court Judge can make a request for relevant information concerning that young person from the Family Court under the information-sharing protocol (see next page).

"This new protocol should ensure that a young person with matters before the Youth Court and the Family Court does not end up with 2 sets of judges, 2 sets of social workers, and 2 sets of lawyers, each set potentially knowing very little about what the other is doing."
Judge Andrew Becroft
Principal Youth Court Judge for New Zealand

There are two options provided by the CYPFA for dealing with young people who 'crossover' the line between youth justice and care and protection.

SECTION 261 Family Group Conference (FGC)
If there are current care and protection proceedings before the Family Court, or care and protection issues are believed to exist, then a FGC that would otherwise be dealing with youth justice matters ***may*** make decisions, recommendations and plans relating to care and protection of the young person.

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These decisions, recommendations and plans must be made with the approval of the agreement of a Care and Protection Coordinator.

The plans that come back from such an FGC enable coordination of what is happening in the Youth Court and the Family Court. For example, it may be that any ongoing "need" issues are more appropriately dealt with, long-term, in the Family Court under a care and protection plan, while the Youth Court plan is focussed more on accountability and putting things right with any victims.

A Youth Court Judge does not have power to direct or order an FGC to make care and protection recommendations, and the approach that s 261 provides for is entirely up to the FGC participants to decide upon, but the Youth Court considers it good practice to recommend to those concerned that this approach be adopted in appropriate cases.

When the matter returns to the Youth Court after a s 261 FGC has been held, there is usually one plan regarding the young person's care and protection issues and another for the matters before the Youth Court

SECTION 280 Referral to a Care and Protection Coordinator

Under s 280 CYPFA, where it appears to the Court that a young person is in need of care and protection as defined in s 14, the Court may:

- refer the matter to a Care and Protection Coordinator under s 19(1) CYPFA; and
- adjourn the proceedings pending the outcome of that referral or, where a declaration is made pursuant to s 67,

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PROTOCOL—SHARING INFO BETWEEN FAMILY & YOUTH COURTS

Introduction

1. The Principal Family Court Judge and the Principal Youth Court Judge have agreed that there should be a protocol in place to provide for the sharing of information between their two Courts.

2. Such information is only to be sought, shared and used where it is necessary to further the interests of justice and in particular for the Family Court to discharge its functions under the Care of Children Act 2004 and the Children, Young Persons and Their Families Act 1989 and for the Youth Court to discharge its functions under the Children, Young Persons and Their Families Act.

3. No information shall be released pursuant to this Protocol where such release is otherwise prohibited by any legislative enactment.

Definitions

4. Unless the context otherwise requires, "Court" shall include both the Family Court and the Youth Court and "Judge" shall include both a Family Court Judge and a Youth Court Judge.

5. The term "youth" shall include "child".

6. The term "counsel" shall include the lawyer appointed to represent the child under the Care of Children Act and the Youth Advocate appointed under the Children, Young Persons, and Their Families Act.

7. The term "professional report" includes reports obtained under sections 132 and 133 of the Care of Children Act and sections 178, 181, 186, 187, 333, 334 and 336 of the Children, Young Persons, and Their Families Act.

Sharing of information

8. On any occasion when a Judge has reason to believe that there are proceedings before the Court concerning any child the subject of an application under the Care of Children Act or the Children, Young Persons, and Their Families Act, that Judge shall be entitled to obtain information as to –

- the nature of the proceedings;
- the stage at which the proceedings have reached;
- any order, sentence or direction made; and
- what professional reports have been ordered.

9. The Judge shall be entitled to obtain copies of –

- any professional report; and
- any plan obtained for the youth under sections 128, 135 and 260 of the Children Young Persons, and Their Families Act and any report and plan obtained for the purpose of making any order under section 283 of that Act;

subject to the discretion of the Court not to permit the release of that report or plan or to permit its release only upon certain conditions.

10. Before deciding whether or not to release any professional report or plan the Court shall obtain the views of the parties and counsel for the youth and shall give them the opportunity to be heard if they wish.

11. Subject to section 134 of the Care of Children Act and sections 191 and 192 of the Children, Young Persons, and Their Families Act, the information provided to a Judge shall also be provided to counsel representing the child and to any person (including the Police) who the Court considers has a proper interest in the proceedings.

12. Requests for information shall be made by using the forms attached.

Miscellaneous

13. The discretion in paragraphs 9, 10 and 11 shall be exercised preferably by the Judge who presided over the proceedings for which the professional report or plan was obtained.

14. Where practical, Judges shall ensure that the same counsel represents the youth in both the Family Court and the Youth Court.

15. Where there are proceedings affecting the same youth in both the Family Court and the Youth Court the respective files in each Court shall be identified for administrative purposes accordingly.

16. Judges shall ensure that Court staff are aware of the content of this Protocol and that they be assisted in its implementation.

P F Boshier A J Becroft

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adjourn the proceedings until that application is determined.

This section is used where there are no current care and protection proceedings before the Family Court.

A referral to a Care and Protection Coordinator under s 19(1) must be accompanied by:

• a statement of the reasons for believing that the young person to whom the referral relates is in need of care and protection; and

• particulars sufficient to identify any person, body or organisation that may be contacted to substantiate that belief; and

• a statement indicating whether the referral is being made with the consent or knowledge of the young person's parents, guardians, other persons having care of the young person, or the young person's family, whānau or family group; and

• any recommendation as to the course of action the Care and Protection Coordinator might take in respect of the referral.

The Care and Protection Coordinator may convene an FGC, report the matter to an enforcement agency or take "such other action as is appropriate in the circumstances". To determine whether an FGC is an appropriate step, the Care and Protection Coordinator may arrange for the case to be investigated by a Social Worker.

Within 28 days of receiving a s 19(1) referral, a Care and Protection Coordinator should furnish the Court with a written report and then has a further 28 days to report to the Court on the progress and likely completion date of any further action proposed.

Once any further action is completed, the Coordinator must furnish the Court with a written report as to whether and how that action has resolved the matter.

Unfortunately, section 19 referrals have not always resulted in investigations or information being relayed back to the Youth Court within a timeframe that is useful or appropriate for properly dealing with the young person's youth justice issues. Youth Court judges have no mechanism for ensuring that social workers prioritise these referrals. Sometimes the Court will end up hearing that Child Youth and Family recommends no further action some months after the case was first adjourned.

Such delays can be frustrating and disappointing, especially as there are a significant number of cases where s280 referrals are required.

It must also be acknowledged that many cases are properly brought in the Youth Court because of their basis in criminal offending, while also having tandem care and protection needs which need addressing because of their influence as underlying causes of the offending.

Recent youth justice research from CYF

The April 2009 edition of Child Youth and Family's journal Social Work Now focuses on youth justice topics, and includes articles from some of the leading lights in NZ youth justice policy and practice.

Violent offending by young people

Ministry of Justice Principal Advisor Peter Kennedy summarises recent Ministry research about the apparent rise in violent offending by young people, as well as the challenges of providing effective interventions for young people who are violent.

The statistics

Firstly, Peter Kennedy counsels caution when assessing statistics that seem to point to a recent rise in the rate of violent offending by young people. Kennedy points out that New Zealand statistics do not represent self reported data, and the data that is used does not come from surveys that are consistent over time. For this reason, he says trends are hard to discern. He also says that, because offending statistics are based on police apprehensions data, actual offending might be greater.

Peter Kennedy reports that changes in Police policies and reporting practices will also have had an impact on published statistics, even though the underlying trends they are meant to represent might be different.

The main focus for the Kennedy article is understanding and dealing with violent offending by young people, but before beginning this discussion he makes two final points about the statistics: the rate of violent offending by young people has not changed in the last ten years, and within the broad category of violence, it is minor offences (intimidation and threats) that have increased the most.

The offenders

Kennedy briefly paints a picture

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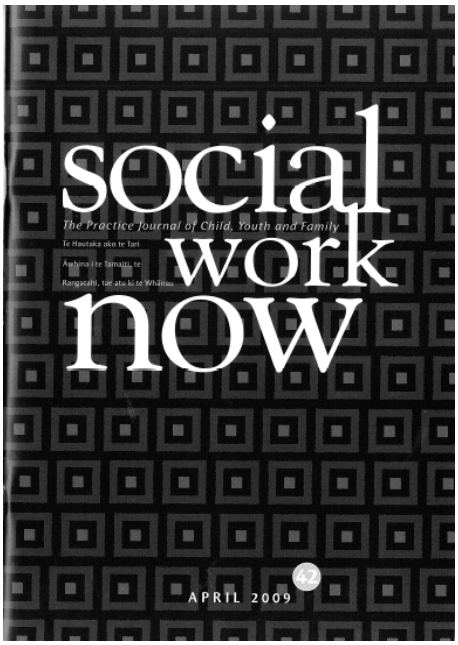
of young people who commit violent offences as either suffering from persistent conduct disorder from an early age (accounting for about half of self-reported offences), or offending during adolescence but tending to grow out of violent behaviour as they get older.

He notes that the strongest risk factors for youth violence include:
- childhood criminality
- childhood substance abuse
- antisocial peers
- not at school
- early adolescent aggression
- being a victim of violence themselves.

Intervening early

Peter Kennedy says children who look to be conduct disordered and their families should be targeted with programmes that will influence their development away from violent offending. Older adolescents who are violent but have not shown any warning signs in childhood should also be targeted.

Although it seems to be an overly obvious conclusion, Kennedy says that interventions should target risk factors that are amenable to change, and that have a strong cause and effect relationship with the young person's offending. The equally obvious implication is that there is good knowledge about the cause and effect relationships between risk factors and violent offending. Unfortunately, as Kennedy points out, there is not enough



robust evidence available about these relationships, or evaluations of programmes meant to deal with them.

Systems and programmes

Kennedy finishes by canvassing the ideal attributes of good interventions at the level of the youth justice system, and at the individual programme level as well.

He points to US research which concludes that only 3 types of programmes are effective for violent adolescents: Multisystemic Therapy, Functional Family therapy, and Multidimensional Treatment Foster Care. These programmes ave been shown to reduce reoffending by between 10 and 22% (see www. colorado.edu/cspv/blueprints/index.html).

While significant changes have been made to resources available to Police, Child, Youth and Family, and the Ministry of Justice, there continues to be a lack of knowledge about the effectiveness of the many programmes delivered to young offenders and their families by community and government organisations. Kennedy makes special mention of two programmes that both use Multisystemic Therapy, and are in the process of being evaluated—Reducing Youth Offending Programmes (RYOP) in Auckland, and Te Hurihanga in Hamilton (see Court In The Act #29).

In conclusion, Peter Kennedy thinks that the evidence base on effective interventions for young violent offenders is improving both in NZ and overseas, despite the fact that local reported apprehension rates do not help us to understand underlying trends.

Supervision with activity — a wraparound community opportunity that needs more investment

Child, Youth and Family manager of youth justice service and support Chris Polaschek makes the case for the strengthening of this top end Youth Court order that deals with serious young offenders within their communities.

Chris Polaschek points out that, from the inception of the Children, Young Persons and Their Families Act 1989, supervision with activity (s283 (m), s307) ("SWA") was intended to provide young offenders with activities that were designed to help them change their behaviour, as well as providing protection for the community. It was also meant to provide a real and more effective alternative to residential incarceration. Polaschek admits that CYF practitioners have tended to recommend supervision orders for lesser offending, and residential orders for more serious offending, resulting in a situation where there was scope for more young people to access SWA. He points to the difficulties involved in getting young people to consent to SWA orders, as well as the lack of available programmes in some areas, as reasons for this

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trend.

Accepting the underlying premise that "changing behaviour of young people is most effective when it occurs in the community", Polaschek attacks the unpopularity of this order by pushing for young people and practitioners to appreciate that remaining in the community is more valuable than attempting to successfully transition out of residential placements.

Chris Polaschek confidently predicts that intensifying efforts will make more places available for young people within SWA programmes. He envisages three main delivery methods:

- 24 hour wraparound supervision provided by a combination of family, programme providers and mentors,

- the live-in approach in a non youth justice residence with programmes designed to address offending and skills development, or

- a combination of these.

The three approaches are covered in more detail elsewhere in this edition of *Court in the Act*.

Polaschek emphasises that providers of SWA programmes need to ensure that their programmes are a good match with the young person's needs. This means that programmes should address the needs of the young person that are being met by that young person's criminal behaviour (criminogenic needs). He suggests that SWA programmes are better than residential orders because they provide the opportunity "to get the right plan around the young person at the right time to have the maximum beneficial effect".

Supervision with activity - more places, more orders, but more required!!

Editorial — Child, Youth and Family's new commitment to this important Youth Court order is a great step forward, but there is still a challenge to get supervision with activity properly used throughout New Zealand.

Child, Youth and Family (CYF) have announced that there are now 125 places available each year to young offenders who are sentenced in the Youth Court to supervision with activity (SWA) and other supervision orders (supervision, and supervision with residence (SWR)). This year, that has meant that seven youth offender programme providers throughout the country were fully funded to deliver these services. The Ministry has also said that the funding for these 125 programme places will be guaranteed for the next 4 years.

Current Ministry figures suggest that most of these places will be taken up, although it is interesting to note that orders other than SWA will fill about half of the places available. This means that, while SWA is important as a statutory alternative to SWR, it is not the only mechanism by which some of the more serious young offenders can get the benefit of these programmes.

Over the past few years, numbers of supervision with activity orders have declined to the point where such orders are nearly extinct in some parts of the country. At the same time, SWR orders have trended upwards. The inevitable conclusion was that young people who were suitable for SWA were being sent into residences instead. The Principal Youth Court Judge has spoken out strongly against this trend, saying that, because SWR is the apex of the Youth Court's sentencing pyramid of orders, in principle, it should be used more than SWA.

Latest interim figures suggest that the use of SWA is slowly increasing, and it is certainly true that, in the past year, there have been more empty bed spaces in the country's three secure youth justice residences than in previous periods. However, despite these positive indications, the rate of SWR orders compared to SWA orders handed down by the Youth Court is still roughly 2 to 1 in favour of the residential option.

The Principal Youth Court Judge Andrew Becroft has welcomed the new funding arrangements, but is urging all those in the youth justice sector (including social workers and youth court judges) to re-double their efforts to use SWA as part of plans designed to hold young offenders accountable and help them rehabilitate and reintegrate in a pro-social way back into their communities.

While Judge Becroft has publicly welcomed the new sentencing options proposed for the Youth Court in the Children, Young Persons and Their Families (Youth Court Jurisdiction and Orders) Amendment Bill, he has also publicly stated that some of the proposed orders are still not long enough to accommodate specific programmes, including those for young sex offenders, and those catering specifically for young people with conduct or other mental health disorders.

Also, he has rightly pointed out

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that it is difficult to know whether extended SWA and SWR orders will be beneficial when there is currently **no** research that tells us whether the current set of orders are producing positive results, or being effective in reducing the amount or the rate at which young people reoffend.

With this year's (interim and unreleased) figures from Child, Youth and Family looking like confirming the highest number of SWA orders, and the lowest number of SWR orders in the past three years, all eyes are now on MSD, who will soon announce final figures for these high profile orders.

What is a SWA order and who are the providers?

SWA (ordered under s283(m) of the Children, Young Persons and Their Families Act 1989, and described under s307) is the highest ranking non-residential order available to the Youth Court. It provides the Court with the power to place a young person under the supervision of the Ministry of Social Development for up to 24 hours per day for 3 months, and to order the young person to take part in any approved programme or activity. Being under the Ministry's 'supervision' means that a young person can be subject to the order while still living within their community.

There are three approaches used in SWA programmes in New Zealand.

The 'wrap-around' approach. In this approach, a young person stays in their own community and a variety of programmes or services are provided to meet the requirements of the young person's individual plan. For example, a young person might attend school, counselling, undertake a life-skills course, and participate in sports activities. The Youth and Cultural Development Association in Christchurch is an example of a provider who uses this approach.

The 'mixed' approach. This is a combination of the 'wrap-around' approach above and a short residential programme. A young person would, for example, attend a residential programme followed by a return to community where he or she would undertake specific activities such as vocational training and curfew requirements. The Male Youth New Directions (MYND) programme in Counties Manukau is an example of this approach. Through MYND, a young person attends a camp for up to ten days, and then services are wrapped around the young person and his family in their community.

The 'live-in' approach. In this approach, a young person leaves their own community to attend a three month residential programme. Examples are the programmes provided by Tirohonga Hau Mo Nga Rangatahi in Auckland or Life Skills for Life in Rotorua. A provider of any of these approaches may also provide supervision and other activities for the duration of the Supervision order (up to an additional 3 months).

Supervision with Activity programmes are made up of a number of components which can vary according to the programme approach (ie, wraparound, mixed, placement), the provider's own expertise, their relationship with other agencies to deliver specialist inputs to the young person or the programme, and the needs of the young person themselves.

The programme components offered by the comprehensive

Proposed Providers and Volumes of Comprehensive Supervision with Activity Programmes for 2008/09

Location	Providers	Type of programme	Places
Auckland	Male Youth New Directions (MYND) programme	Mixed	30
	Tirohonga Hou Mo Nga Rangatahi	Live-in	15
Rotorua	Life Skills for Life	Live-in	25
Napier	Premier Youth Training	Mixed	12
New Plymouth	S.T.A.R.T Taranaki	Live-in	28
Christ-church	Youth and Cultural Development Association (CEO: Annie Watkins)	Wrap-around	10
Inver-cargill	YMCA	Wrap-around	5
Total			125

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programmes in Table 1 below include:

Individual focus: individual client therapeutic work, and family work

Education focus: numeracy and literacy, returning to school, stair-casing to polytechnic, training or apprenticeships

Health focus: first aid, food preparation, drug and alcohol abuse

Employment focus: job search, CV writing, interview skills, business, skills

Personal/social focus: hygiene, anger management, peer relationships, pro-social networks, living inside the law, and

Cultural focus: Te Reo, Noho Marae, Tikanga, music, recreation.

Through the Family Group Conference process, programmes or component parts of them are identified and agreed to meet the goals of the young person's Individual Plan. This plan is generally completed after a range of assessments by the social worker and/or other specialists. CYF then provides specific funds, where necessary, to support the plan.

The proposed providers and volumes for 2008/09 are set out in the table on page 12.

Guest Editorial by Peter Clague, Executive Principal Kristin School, Albany.

Great expectations

I am pleasantly surprised not to have perished in a nuclear holocaust yet. Throughout my childhood the prevailing expectation was that the Cold War would inevitably become a very hot and irradiated war. The question was never whether it would happen, just when? This gloomy outlook extended well beyond the daily media who, it may be argued, have a financial imperative to forecast impending disasters - bad news sells papers. Unfortunately though, the certainty of being obliterated in an instant because Leonid Brezhnev and Richard Nixon finally got fed-up with each other was also being promoted in the classrooms of our schools.

I can remember Social Studies lessons in which we were earnestly instructed on how to construct underground blast bunkers in our backyards (no great hardship for 13 year old boys I might add). We were taught a shorthand vocabulary of atomic annihilation: MAD (Mutually Assured Destruction), ICBM (Intercontinental Ballistic Missile), RAD (Radiation Absorption Dose). In Science we learned the difference between fallout and yield. Our English teacher fed us a diet of novels about the doomsday scenario and movies depicting life in a nuclear winter. I still have a cartoon given to me by a teacher which shows a dozy-looking Ronald Reagan waking up in the White House. His finger hovers uncertainly over two buttons above the bedside table – one labelled LUNCH, the other, LAUNCH.

Mushroom clouds over Auckland may seem a little silly now, but the fact remains that my generation grew up with a fair degree of fatalism that the end of the world really was nigh. And I sometimes wonder how that has affected our subsequent outlook on life. Are we more cautious, less committing, perhaps even cynical and blind to some of the joys of life as a result of being raised in a climate of such pessimism?

Such introspection might not really matter, were it not for the fact that mine was not the only generation to have been educated against a backdrop of global fear. Throughout the past four decades, successive generations of young people have grown up knowing variously they were all going to die from either HIV/AIDS, SARs, Ebola, or Mad Cow Disease. An electronic infection, the Millennium Virus, threatened us all for a while, but it didn't catch on. Sadly, Terror did, and the Net Generation were born into a world which threatened bombs on buses and guns in schools . More recently, the threat has gone truly global - climate change, oil shocks, ozone depletion and now, an economic meltdown that apparently jeopardises everyone on the planet.

I do not mean to be flippant; each of these crises undoubtedly held the potential for disaster. But my concern is the effect of all this doom-saying has on impressionable young minds. Our children learn to expect what the adults in their lives expect. If we constantly portray the world as a fragile and doomed place, what impact does this have on their outlook?

Expectation is a powerful force. In the late 1960s, Dr Robert Rosenthal of Harvard University conducted a study in which a school principal called three teachers to his office at the start of the year.

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He told them " Based on your teaching excellence over the past three or four years, it is clear that you are the best teachers in the school. As a reward, you will each be given a class of 30 of the brightest students in the school to teach this year." The student's selection would be based on their high IQs and their keenness to do well. He added: "Teach the children as you would any other class and do not tell them or their parents that you know they are special."

At the end of the school year, these three classes led the entire school district in academic accomplishment, performing twenty to thirty percent above average.

The principal then dropped his bombshell on the teachers; "These students were not chosen for their academic ability – they were chosen out of a hat!" Surprised, the three teachers could only reason that the students had excelled because they, the teachers, were brilliant. But then the principal dropped bombshell number two – the teachers had also been chosen out of a hat!

The teachers simply believed in themselves and expected the students would do very well. The students proved them correct. The message is simple and time honoured, people usually rise (or sink) to your expectations of them. Could it be that the same is true for our children's expectation of the world they are growing up in? As you spend time with your kids over the holiday break, I encourage you to encourage them. Even if it's a little harder to find these days, accentuate the positive and maybe help them build tree-huts, not fallout shelters.

What the Fire Service are doing about children and young people who light fires

Each year throughout New Zealand children light fires in New Zealand causing damage, injury and huge cost to our communities. FAIP aims to reduce the number of deaths, injuries and the millions of dollars of damage caused by young people lighting fires.

FAIP stands for NZ Fire Service Fire Awareness and Intervention Programme

FAIP is a free, confidential programme delivered by trained fire-fighters that helps young people understand the consequences of dangerous fire play, and gives parents important tools for sustaining changed behaviour. Over several weeks, a fire fighter visits the child at home. By using consequences-based educational material, they help build a respect for fire and its uses and raise the awareness of the serious consequences of firelighting.

The FAIP programme content varies according to the age, maturity and ability of the child. By working with children and their parents, the firefighter also develops an awareness of the fire safety issues in the home and can offer practical advice and solutions.

The fire service receives approximately 700 FAIP referrals from concerned parents and families, schools and community agencies each year. Evaluation of the programme shows 95% of children who complete the programme stop fire lighting.

To contact FAIP phone 0800 FireInfo, e-mail FAIP@fire.org.nz or visit www.fire.org.nz for more information.

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