



The Pathways to Resilience Project

Pathways to Youth Resilience: Youth Justice in New Zealand – a policy overview

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Table of Contents

LEGAL FRAMEWORKS	2
POLICY	3
YOUTH OFFENDING STRATEGY	3
FRESH START PACKAGE.....	4
SERVICE DELIVERY	5
YOUTH JUSTICE PROCESS	6
STATISTICS	7
YOUNG PEOPLE COMPARED TO POPULATION	8
CHILD OFFENDING	8
YOUTH OFFENDING	9
GENDER	10
ETHNICITY.....	10
RECIDIVISM	10
CHILD YOUTH AND FAMILY SERVICES.....	11
COSTS	12
GOVERNMENT	12
NON-GOVERNMENT	13
WORKFORCE	13
SUMMARY	13
ENDNOTES	15
BIBLIOGRAPHY	16
APPENDIX ONE: SUMMARY OF UNCROC RIGHTS / PRINCIPLES	19
ACKNOWLEDGMENTS	21

LEGAL FRAMEWORKS

New Zealand's Youth Justice system is governed by the **Children, Young Persons and Their Families (CYPF) Act**¹ 1989 which sets out youth justice principles and procedures and guides the functions of the Youth Court.

The youth justice components of the Act aim to divert young people from the formal criminal justice system where possible, while holding them accountable and providing support for both young people and their families. Section 4 (f) states that one of the objects of the CYPF Act (1989) is "...to promote the well-being of children, young persons and their families and family groups by-... ensuring that where children or young persons commit offences,—

- (i) they are held accountable, and encouraged to accept responsibility, for their behaviour; and
- (ii) they are dealt with in a way that acknowledges their needs and that will give them the opportunity to develop in responsible, beneficial, and socially acceptable ways..."

The system employs principles of restorative justice and victims are invited to be involved in deciding on consequences for the offender. The diversionary approach of the Act has been described as "one of its biggest successes" (Becroft 2009:3) and sets New Zealand's youth justice system apart from that of many other western nations².

The specific youth justice principles of the Act are that:

- Diversionary approaches (warnings, diversionary plans etc) should be used unless public interest requires otherwise
- Family, whanau & victims should be involved in deciding how the offender should be dealt with, via an FGC
- Care & protection matters should be dealt with in the Family Court
- Child or young person should be kept in their own community
- The age of offender influences the sanction
- Sanctions must consider the offender's development within his/her family
- The vulnerability of children entitles them to special protection during police investigations
- Victims' interests must be considered
- Care & Protection principles (refer to the separate paper on Care and Protection Services) may also apply.

These principles are consistent with New Zealand's obligations under international human rights law.

The Act regards the offender's family and community as the most appropriate setting to deal with the causes of youth offending and as such they should be involved in decision making and planning for the offender's future. Brown refers to a "communitarian concept" underlying the act, with "attachments which evoke obligation to others within a community of concern...profound group obligations" (Brown, 1995: 2). He also refers to the idea of reintegrative shaming: "we love you but that is unacceptable behaviour" (Brown, 1995: 5).

Under the current legislation, around 80% of young people (14 to 16 years)³ who are dealt with by police are diverted from the formal court process and are subject to alternative actions organised by police and community organisations. For the approximately 20% of young people who are accused of committing offences that are more serious, police respond by asking for an intention-to-charge family group conference (FGC), or by filing charges in the Youth Court. When a young person has been charged with a more serious (purely indictable) offence, they may be denied Youth Court jurisdiction, or, after having the charge proved in the Youth Court, be transferred to the District Court for sentence.

Children (aged 10 to 13 years) whose behaviour is causing concern due to their offending are dealt with by the Family Court, with the option of a declaration that they are in need of care and protection (requiring a Family Group Conference). A child aged 12 or 13 may face charges in the Youth Court under special circumstances, but only if a judge decides that the case would not be better dealt with in the Family Court or in some other way⁴. Children and young people who have been charged with manslaughter or murder, have their committal proceedings take place in the Youth Court, while trial and sentencing takes place in the High Court where the child is dealt with as an adult.

UNCROC⁵ also provides guidance regarding the rights of young people with at least two articles⁶ specifically focussed on our responses to youth offending/youth justice:

- Article 37 - The right not be punished in a cruel, degrading or hurtful way or deprivation of liberty unlawfully or arbitrarily, and that arrest, detention or imprisonment to be as a last resort and for the shortest appropriate period; the right, if deprived of liberty to be treated with humanity and respect for dignity
- Article 40 - The right to a range of protections for children accused of breaking the law.

POLICY

Youth Justice policy in New Zealand is led by the Ministry of Justice with input from other agencies such as Child Youth and Family/Ministry of Social Development, the Police, Health and Education. The recent change of government has placed new focus on youth justice, with one of the incoming government's election platforms being a 'tougher stance' (Key 2009) on youth offending. The following section outlines current youth justice policies that impact on high needs children and young people.

Youth Offending Strategy

The Youth Offending Strategy, released in 2002, was the result of the 2000 Ministerial Taskforce on Youth Offending. The Strategy provides guidance to government about youth justice policy, and assists in coordinating services to young offenders.

The Strategy identified seven key areas for future development:

1. Coordination and Leadership of agencies involved in prevention and responses to youth offending. This led to the development of National level coordination bodies (Minister's Group, the Youth Justice Leadership group and the Youth Justice Independent Advisory Group) and local (interagency) youth offending teams
2. Information about youth offending (youth justice dataset, research & evaluation of interventions) in order to support effective intervention, policy and practice
3. Early Intervention – provision of and support for appropriate interventions with families and whanau
4. Children and Young People at risk - supporting interventions targeting at-risk children and young people, including those provided by NGOs
5. First Contact with Police – focussing on diversion and providing guidance to police on interaction with young offenders
6. Family Group Conferences – in particular improving the information available in an FGC to inform decision making
7. Serious Young Offenders – provision of comprehensive and intensive responses to reduce future offending. This has led to the development of the Reducing Youth Offending Programme and the Te Hurihanga programme, both intensive rehabilitative services for serious young offenders.

The Youth Offending Strategy continues to direct the way agencies work with young offenders, and work is currently underway across a range of agencies to address its specific recommendations.

Fresh Start Package

In August 2009 the new National led government announced its Fresh Start package of policies designed to extend the current range of options available to deal with youth offending.

These policies include:

- Extending Youth Court powers to include 12 and 13 year olds charged with serious offences (currently children up to 14 years are dealt with in the Family Court)
- Increased power to the Youth Court to issue new orders. These include parenting orders (compelling parents to undertake parenting programmes), mentoring for youth and drug and alcohol treatment
- Extended sentences for the worst offenders including longer supervision with activity and supervision with residence orders (double the current duration), military style activity camp programmes supported by community based mentoring⁷, supervised bail programmes and electronically monitored court orders

- Providing funding for additional supervision with activity programmes.
- Community Youth Development programmes, targeted at low level offenders or those at risk of offending (MSD 2009b; Key 2009).

The Children, Young Person's and Their Families (Youth Courts Jurisdiction and Orders) Amendment Act came into force on 1 October 2010.

SERVICE DELIVERY

Delivery of youth justice services involves a range of agencies (both government and community) and individuals.

The Police are generally responsible for initial responses to youth offences, warning or apprehending young people. Police Youth Aid organise diversion for young people who are referred to them.

Child Youth and Family organise Family Group Conferences for children or young people where these are required. A child or young person may also be allocated a Youth Justice social worker through Child Youth and Family. CYF also provides a limited number of residential placements for child and youth offenders. The youth justice residences in New Zealand are:

- Korowai Manaaki in South Auckland which can have up to 40 young people
- Lower North in Palmerston North (male only residence) which can have up to 30 young men
- Te Puna Wai ō Tuhinapo in Christchurch which can have up to 40 young people
- Te Maioha o Parekarangi in Rotorua which can house up to 30 young people, opened in October 2010.

The Court system becomes involved for more serious offences. As described in the 'processes' section in the Child Protection paper which complements this report, a child or young person may be seen before the Family Court, the Youth Court, the District Court or the High Court depending on their age and the seriousness of their offence. Young people appearing before the Youth Court are appointed a Youth Advocate who is a youth specific lawyer, funded by the Crown.

Programmes intended to rehabilitate and address offending behaviour are largely delivered through community agencies and Iwi Social Services. For example, CYF funds:

- "community-based treatment providers to care for sex-offenders and
- a network of providers who offer supervision with activity programmes for serious young offenders" (CYF 2008: 20).

Youth Justice Process

When a child or young person⁸ is alleged to have committed an offence, the police have four options:

- Take no action
- Issue a warning (which is recorded but cannot be used in the future)
- Make a referral to Police Youth Aid (higher tariff than a warning)
 - Police Youth Aid may issue a warning or organise diversion (typically a young person will only be given diversion once). If they believe the young person should be charged, they ask for an FGC to be convened
 - The FGC needs to establish whether the young person admits the offence. If they do, the FGC can make plans and recommendations including a formal police caution, diversion, prosecution, or a care & protection plan. If the young person does not admit the offence then court proceedings may commence.
- Arrest without a warrant
 - If a young person is arrested they can be held in police or social services custody, or released into the care of parents, guardians or social services
 - If the young person is taken into custody, they are brought before the Youth Court
 - The Youth Court may release the young person into family or guardian's care, or remand them in custody of Police or CYF.

The process comprises of “the decision to initiate criminal proceedings, the laying of an information and commencement of court proceedings, the trial and sentencing.” (Parliamentary Library, 2009). While proceedings usually occur in the Youth Court, if the young person (aged 14 to 17) has committed a ‘serious’ (purely indictable) offence s/he can also be tried and sentenced in either the District or High Courts as if s/he were an adult.

The Youth Court is able to make a range of orders on the youth involved, including (from most lenient to least):

- Discharge without further penalty
- Admonish the young person
- Order to appear within 12 months if called
- A fine
- Payment toward prosecution costs
- Payment of reparation to victim
- To make restitution of property as provided for in the Crimes Act 1961
- To forfeit property
- Disqualification from driving / confiscation of motor vehicle
- Parenting order against the young person and/or their parents
- Mentoring programme order
- Drug and alcohol rehabilitation order

- Supervision order (young person to be supervised by the CE of Child Youth and Family or a specified person or organisation (including an Iwi social service) for no more than 6 months
- Orders for community work, supervision with activity or supervision with residence
- Order to appear before the District Court for sentence or decision.

Initial processes are similar for children (those aged 10 and up to but not including 14 years) who have committed an offence with regard to police response. Court processes however differ significantly:

- Children who have committed a serious offence are dealt with by the Family Court and a declaration may be required that the child is in need of care and protection. Children aged 12 and 13 who have committed a serious offence can either be dealt with by the Family Court or the Youth Court, at the Judge's discretion
- Children charged with murder or manslaughter have their committal proceedings in the Youth Court, and trial and sentencing in the High Court which "deals with the child as if he or she were an adult" (Parliamentary Library 2009: 13).

If a young person does not comply with FGC plans or court orders there are a range of possible outcomes. If the person is under 10 years there is no criminal liability (s20 Crimes Act 1961). For children and young people (aged 10-16) matters are referred back the Family Court or the Youth Court.

STATISTICS

Many young people have contact with the police or justice system at some point during their teenage years, and the Ministry of Social Development notes that "while about 30 percent of young people are apprehended by the Police at least once, only 1 per cent of all young people become chronic offenders" (MSD 2008: 6). Similarly, the Ministry of Justice states, "The majority of offending by young people is minor and short term; nearly half of all known offences committed by young people are rated as of minimum seriousness..." (MoJ website 12 December 2009). Principal Youth Court Judge Andrew Becroft supports this and estimates that 80% of young offenders commit only 20% of offences (Becroft 2009a) while a minority of young people (estimated between 5-15%) commit serious and/or repeat offences. "This minority – referred to as 'early on-set' young offenders commits a large proportion (estimated at 40-60%) of all youth offences" (Becroft 2009b).

Statistics on offending tend to focus on two areas. The first area is the number of apprehensions by police, noting an individual may be apprehended more than once a year. Apprehensions tend to be reported as rates per 10,000 people in the population. The second area of reporting is court statistics, for example numbers of court convictions. These count individual offenders. Offending statistics

distinguish between children (0-9yrs and 10-13yrs) and young people (14-16yrs) while people aged 17-20 years are considered adults. The following statistics on youth offending are drawn from the Ministry of Justice's most up to date report on child and youth offending, examining statistics from 1992 to 2008 (Ministry of Justice 2010). The statistics reported here do not include traffic offences or infringement offences.

Young People Compared to Population

In 2008, people aged 17-20 had the highest apprehension rate of all age groups (2153 per 10,000 population) followed by young people aged 14-16 (1572 apprehensions per 10,000). Children aged 0-9 had the lowest apprehension rates of all ages (10 per 10,000) and children 10-13yrs had the 5th lowest rate (out of 7 age groups) at 336 per 10,000.

Child (0-13yrs) and youth (14-16yrs) apprehension rates have declined since 1995, particularly in the last three years, while adult apprehension rates have remained relatively stable (Ministry of Justice 2010:32).

Children and young people are most commonly apprehended for property offences over other types of offences, with these comprising the largest proportion of child (69%) and youth (61%) apprehensions from 1995 to 2008. Individuals aged 14-20 have the highest rates of apprehension for property offences of all age groups. Apprehension rates for property offences have declined over time for both children and young people while the rate of young people with proved court outcomes for property offences has increased.

Since 1995 violence apprehension rates have increased for all age groups except children, whose rates which have remained relatively stable. In 2008, violence apprehension rates for young people 14-16yrs were 198 per 10,000, up 13% on the average for 1992 – 2008. Violence apprehension rates for 17-50 year olds were 177 per 10,000, up 30% on the average for the period 1992-2008. Proved cases involving violence offences by 14-16 year olds have also increased since 1992 although fewer of these are being convicted in the District or High Court.

Child Offending

As noted above, in 2008 children aged 10-13 had the third lowest apprehension rate of all age groups, and children 0-10 had the lowest rate overall. These apprehensions were most commonly for property offences. Overall, child apprehension rates decreased from 1995 to 2008 although rates for violence have remained stable rather than decreased (Ministry of Justice 2010).

Of the 8050 child (10-13) apprehensions made in 2008:

- 41.7% received a warning or caution⁹
- 49.5% received diversion (Police Youth Aid alternative action)
- 3.6% were subject of a youth justice FGC

- 2.0% of child apprehensions were referred to the Family Court for a declaration of being in need of care and protection on the basis of the child's offending behaviour (the most serious way of dealing with child offending) (Ministry of Justice 2010:167).

The use of warning or caution with children trended upward between 1995 and 2008, while the use of diversion showed an overall decrease in the same period. Applications for Declaration that a child (aged 10 and up to but not including 14 years) is in need of care and protection on the basis of the child's offending behaviour increased over the same period (Ministry of Justice 2010).

While police apprehensions of children have decreased, the numbers of child offenders dealt with by Child Youth and Family are growing. In 2002 CYF reported dealing with 126 child offenders, in 2007 they dealt with 239 (CYF 2008: 26). This likely reflects the increase in Applications for Declaration described above and may suggest offences committed by children have become more serious, or that police responses to these offences may have become more serious.

Readers are reminded that in most instances children are dealt with in the Family Court, and while in exceptional cases they may be dealt with in the Youth or High Courts, prosecution rates for 10-13 year olds from 1992 to 2008 remain steady at 0 per 10,000 population. This is likely to reflect the small size of the number of children convicted in the Youth and High Courts.

Youth Offending

The majority of youth apprehensions are resolved without requiring court involvement. Of the 29,846 youth (14-16yrs) apprehensions made in 2008:

- 23.3% received a warning or caution
- 38.5% received diversion (Police Youth Aid alternative action)
- 6% were subject of intention-to-charge FGCs
- Only 28.6% were prosecuted (MoJ 2010:169).

The use of diversion with young people (14-16yrs) has generally trended downward from 54.9% in 1995 to 38.5% in 2008. Youth prosecutions trended upward, from 13.2% in 1995 to 28.6% in 2008 (MoJ 2010:169).

As discussed earlier, while children (0-13) usually appear before the Family Court and youth (14-16) usually appear before the Youth Court, there are some cases in which children and young people may appear before the District or High courts.

In 2008, overall prosecution rates for young people (14-16yrs) were 225 per 10,000 population. Of these:

- Most were heard in the Youth Court

- Most (104 per 10,000 population) were discharged in the Youth Court as if the charge had never been laid under s282 of the CYPF Act. The rate of section 282 discharges has steadily increased since 1992 when the s282 discharge rate was 28 per 10,000
- 65 per 10,000 were proved in the Youth Court, continuing the trend of increasing proved outcomes since 1992
- 9 per 10,000 were convicted in an adult court (convictions in adult courts have generally trended down since 1997)
- 46 per 10,000 were not proved in both the adult and Youth Court, continuing the trend of decreasing not proved outcomes (MoJ 2010:190).

Approximately 0.6% of the total population aged 14-16 had a proved prosecution outcome resulting in a Youth Court order in 2008.

Gender

Male child and youth apprehension rates decreased between 1995-2008. Female child and youth apprehension rates over the same period remained steady and consequently the proportion of apprehensions attributable to females is larger than in the past. Both male and female prosecution rates have increased since 1992.

Young males more frequently appear in court than young females. In 2008, 3432 males appeared in the Youth, District or High Courts, compared to 836 females (MoJ 2010:17).

Ethnicity

“In 2008, the estimated proportion of NZ European 14 to 16 year olds was 3.3 times greater than their Maori cohort, while Pacific 14 to 16 year olds estimated population was about half that of Maori.” (Ministry of Justice 2010:18). In this context:

- The 2008 apprehension rate for Maori children is five times higher than for Pakeha and Pacific children
- The 2008 apprehension rate for Maori young people is three times higher than for Pakeha and Pacific young people
- The 2008 prosecution rate for young Maori, at 518 per 10,000 is much higher than the prosecution rate for Pakeha (99 per 10,000) and Pacific (213 per 10,000) young people.

Recidivism

A study of 4945 offenders released from prison between 2002-2003 showed that those under the age of 20 had the highest reconviction and re-imprisonment rates of all offenders. “Offenders who commence their offending careers during their teenage years are considerably more likely to become persistent offenders, particularly if their initial crimes are ones that result in a prison sentence” (Department of Corrections 2009:26).

In a 2002 study, 20% of a sample of 1438 young people reoffended within 18 months. Those dealt with by diversion tended to reoffend at a lower rate than those dealt with by more serious responses such as Youth Court prosecution (51% reoffended within 18 months) or intention to charge FGC (37% reoffended within 18 months) (Maxwell & Paulin 2002).

More recent statistics show that “25.8% of 16 year olds with [court] proved outcomes in 2008 had a previous proved outcome in 2007, compared to 16% of 15 year olds and 3.4% of 14 year olds” (Ministry of Justice 2010).

Child Youth and Family Services

At 30 June 2008, 2328 children and young people were in receipt of a youth justice social work service (CYF 2008: 14). The number of Youth Justice FGCs¹⁰ held decreased in 2009 after increasing slightly between 2006/07 and 2007/08.

Table 1. Young Offenders involved in Youth Justice Family Group Conferences

Age of child or young person when conference was held	2007 Number	2008 Number	2009 Number
	Number of new conferences held		
10-13 years	196	219	204
14-17 years	7,571	7,723	7,225
18 years or over	13	10	8
Not recorded	23	12	2
Total new conferences held	7,803	7,964	7,439
Number of other conferences held			
Reconvened Conferences	1,242	1,113	1,172
Review Conferences	114	119	118
Total other conferences held	1,356	1,232	1,290
All conferences held			
Total conferences held	9,159	9,196	8,729

Notes:

- Number of conferences held in the years ended June
- Number of conferences may not relate to numbers of children or young people, as there may be more than one conference related to a particular individual in the same year
- Age of child or young person is as at the time of the Family Group Conference, and may not reflect their age at the time of the offending which led to the conference.

Source: MSD 2010: 225

COSTS

Government

The following tables outline estimates of appropriations for Youth Justice services reported in Treasury documents. It is very difficult to calculate exact figures for government expenditure on these service types. Money is allocated from a number of different Votes and within Votes it is allocated across a number of categories. These figures are therefore indicative only.

Table 2. 2009/10 Government Appropriations for Youth Justice

Category	Vote	Amount Appropriated 09/10
Youth Justice Services ¹¹	Social Development ¹²	\$116.703m
Social Policy Advice	Social Development	\$52.474m
Counselling and rehabilitation services (for children, young people and families - purchase in) ¹³	Social Development	\$16.906m
Intensive Intervention for Serious Recidivist Young Offenders	Justice	\$590,000
Youth Court Professional Fees	Courts	\$7.0m
Total		\$193.673m

Notes

Included:

- The Social Policy Advice figure includes advice on all social policy issues, not just youth justice (and thus will overestimate the overall care and protection spend)

Excluded:

- Vote Social Development figures do not include the following (which may support social service responses to youth justice issues)
 - o Any spending on youth justice through Family and Community Services
 - o Development and Funding of Community services (Management of government funding of community based social and welfare services) appropriation (7.761m)
 - o Children's Commission appropriation (1.757m)
 - o Families Commission appropriation (8.170m)
 - o Connected Communities appropriation (4.644m)
 - o Strengthening Providers and Communities appropriations (5.803m)
 - o Independent Youth Benefit (19.376m)
 - o Orphan's/Unsupported Child's Benefit (97.056)
- Vote Justice figures do not include costs of legal aid/youth advocates, support for victims of youth crime, prevention services or policy advice
- Police spending (e.g. costs of policing youth crime; Youth Aid services, Youth Services Teams, Youth Development Programmes)
- Court costs related to care and protection matters (noting Family Court costs are not distinguished from District Court Costs in Treasury Appropriations and thus have been excluded from this list. District Court appropriations for 09/10 are 195.627m).
- Other Notes: 2008 Actual spend on Youth Justice Services was \$100,724,000 (MSD 2009c: 55).

Non-Government

Some components of youth justice services are government funded and included under the appropriations above for MSD/CYF and Justice. As noted in relation to care and protection, the community sector (e.g. NGOs which provide youth justice support services such as Life to the Max programmes, Foundation for Youth Development, some Iwi Social Services) also makes a financial contribution to youth justice services, the costs of which are difficult to calculate but should not be underestimated. For example, the Office for Community and Voluntary Sector notes that over a 12 month period 301,000 people supported youth services and welfare (volunteered, donated or other) (OCVS 2010).

WORKFORCE

CYF employs 2952 staff (CYF 2008: 21). At March 2010 CYF employed 106 Youth Justice FGC Coordinators (Coordinators)¹⁴, and 107 Youth Justice Social Workers, 35 short of its full complement. Forty additional Youth Justice Social Workers are due be employed by CYF in conjunction with Fresh Start Initiatives¹⁵. Coordinators have a key role in the youth justice process for young people, facilitating FGCs and monitoring FGC outcomes in some cases (depending on the offence and the FGC plan). Youth Justice social workers are allocated at certain points, generally after the FGC. They work with young offenders and monitor court orders and FGC outcomes in some cases.

There are currently 225 Police Youth Aid Officers in New Zealand¹⁶. Youth Aid Officers manage police services for young people who offend or are at risk of doing so, as well as dealing with child protection issues. As well as law enforcement, police youth aid officers aim to coordinate services for young people in an effort to prevent offending, and are often involved in community activities for youth.

SUMMARY

New Zealand's Youth Justice system is governed by the *Children, Young Persons and Their Families Act*¹⁷ 1989. The Act takes an innovative approach, aiming to divert young people from the formal criminal justice system where possible, while holding them accountable and providing support for both young people and their families. The Youth Justice system employs principles of restorative justice and victims are invited to be involved in deciding on consequences for the offender.

The Youth Offending Strategy (2002) provides guidance to government about youth justice policy, and assists in coordinating services to young offenders. The recently introduced Fresh Start package extends the range of options available to deal with youth offending including extending youth court powers, creating longer sentences to better deal with the worst offenders and extending community youth development programmes.

Delivery of youth justice services involves a range of agencies. The Police are generally responsible for initial responses to youth offences and Police Youth Aid organise diversion where possible. CYF organise Youth Justice Family Group Conferences when required and may allocate a Youth Justice social worker. CYF also provides limited youth justice residential placements.

When diversion is not possible, a specialist Youth Court deals with most youth (aged 14-16). Prior to being heard in the youth court, a youth justice family group conference is held involving family, whanau and victims who decide how the offender should be dealt with. In more serious and 'purely indictable' cases a young person may be tried and sentenced in the District or High Court. Child offenders (10-13 years) are dealt with in the Family Court or in more serious cases the Youth or High Court. The Youth Court can make orders ranging from discharging the case, to fining the young person, through to supervision orders and orders for the offender's parents to undertake a parenting course. Programmes intended to rehabilitate and address offending behaviour are largely delivered through community agencies and Iwi Social Services.

While many young people have contact with the police or justice system in their teenage years estimates suggest only 1 per cent become chronic offenders (MSD 2008: 6). Some experts believe a small group of 'early on-set' offenders commit a large proportion of all youth offences (Becroft 2009b).

Child and youth apprehension rates have declined since 1995. While apprehensions are most commonly for property offences, violence apprehensions for 14-16 year olds have increased in recent years in line with an increase across the population (except for children). In recent years the proportion of apprehensions attributable to females is larger than in the past, this may be related also to a decline in male apprehension rates. Young males more frequently appear in court than young females. Maori young people are disproportionately represented in overall apprehension, prosecution and incarceration rates.

Recidivist offending is problematic among young people. In a 2002 study, 20% of a sample of 1438 young people reoffended within 18 months¹⁸ (Maxwell & Paulin 2002).

In 2009/10 the Government appropriated approximately \$193.673 million to cover costs associated with youth justice (not including Police costs). Total financial contributions to the youth justice sector by non-government agencies are unknown.

At March 2010 Child Youth and Family CYF employed 107 Youth Justice Social Workers and 106 Youth Justice FGC Coordinators. There are currently 225 Police Youth Aid Officers in New Zealand.

ENDNOTES

¹ The overall principles of and history to the Act are described in the earlier section on Care and Protection.

² E.g. – UK and USA use traditional methods of dealing with offending through the courts, while some Scandinavian countries also use diversion.

³ Within the act a Child is defined as over 10 and under 14 yrs, a young person is defined as over 14 and under 17 yrs.

⁴ This is the result of a recent change in the legislation. Previously children aged 12 and 13 who had committed a serious offence could only be dealt with in the Family Court following a declaration the child was in need of care and protection.

⁵ For a full discussion about UNCROC please refer to the Care and Protection Section.

⁶ A full summary of UNCROC principles is included as Appendix One.

⁷ At the time of writing these programmes were in the early stages of their implementation, although previous research suggests the use of traditional “boot camps” alone is unlikely to reduce youth offending (Lipsey & Cullen 2007; Walker and Brown 1983).

⁸ Within the Act a child is defined as over 10 and under 14 yrs, a young person is defined as over 14 and under 17 yrs.

⁹ “A warning is where an alleged or admitted offence is dealt with by way of Police warning a child or young person. Where an offence is admitted or proved to have been committed by a child or young person, an FGC recommends a formal Police caution, where the child or young person is formally cautioned by Police” (Ministry of Justice 2010:167).

¹⁰ “The majority of youths apprehended by police don’t become involved in the Youth Court process and/or FGC’s” (MSD 2008b: 137).

¹¹ This category (M63) includes “Social work and other services to manage and resolve offending behaviour by children and young people, by providing assessment, support, programmes, containment and care of young offenders” (Vote Social Development Appropriations 2009/10).

¹² Treasury: Vote Social Development Appropriations 2009/10.

¹³ Purchased services (from a non-departmental source). This also includes care and protection services.

¹⁴ CYF personal communication 19 June 2011.

¹⁵ CYF personal communication 6 April 2010.

¹⁶ Police personal communication March 2010.

¹⁷ The overall principles of and history to the Act are described in the paper on Care and Protection.

¹⁸ The Youth Court notes that in international comparisons, this is a normal to good result.

BIBLIOGRAPHY

Becroft, A., (2004). *Youth Offending: Putting the Headlines in Context, December 2004*. Youth Court: Wellington.

Becroft, A., (2009). *Youth Offending: Introductory Notes*, IPS Criminal Justice Forum: Wellington.

Becroft, A. (2009a). *Youth Offending: Introductory Notes*, Youth Mentoring Conference: Te Puke.

Becroft, A. (2009b). *Are there lessons to be learned from the Youth Justice System?* Presented at the Institute of Policy Studies Forum: Addressing the Underlying Causes of Offending: What is the Evidence? Institute of Policy Studies: Wellington.

Brown, Judge M. (1995). *Background Paper on New Zealand Youth Justice Process*, Paper presented at International Bar Association Judges' Forum: Edinburgh.

Child Youth and Family and Ministry of Social Development (2008). *Briefing to the Incoming Minister: Supporting Vulnerable Children and Young People*. Ministry of Social Development: Wellington.

Department of Corrections (2009). *Reconviction Patterns of Released Prisoners: A 60 Month Follow Up Analysis*. Department of Corrections: Wellington.

Key, Prime Minister John (2009). *Our Priorities for 2010: Delivering for Young New Zealanders*, National Party Website www.national.org.nz/article.aspx?ArticleID=30714, 23 February 2010.

Lipsey, MC and Cullen, FT, (2007). *The Effectiveness of Correctional Rehabilitation. A Review of Systematic reviews*" Annual Review of Law and Social Sciences, Vol. 3: 297-320.

Maxwell, G. and Paulin, J. (2002). *The Impact of Police Responses to Young Offenders with a Particular Focus on Diversion*. New Zealand Police: Wellington.

Maxwell, G., Robertson, J., Kingi, V. (2002). *Achieving the Diversion and Decarceration of Young Offenders in New Zealand*. Social Policy Journal of New Zealand, Issue 19, December 2002: Wellington.

Maxwell, G., Kingi, V., Robertson, J., Morris, A., Cunningham, C., (2004). *Achieving Effective Outcomes in Youth Justice: Final Report*. Ministry of Social Development: Wellington.

McLaren, K. (2000). *Tough is not Enough – Getting Smart about Youth Crime: A Review of Research on what works to reduce offending by young people*. Ministry of Youth Affairs: Wellington.

Ministry of Justice (2009). *An Overview of Child and Youth Offending Statistics in New Zealand: 1992 to 2007*. Statistical Bulletin, Number 3, February 2009. Ministry of Justice: Wellington.

Ministry of Justice (2010). *Child and Youth Offending Statistics in New Zealand: 1992 to 2008*. Ministry of Justice: Wellington.

Ministry of Social Development (2008). *Briefing the Incoming Minister: Working with young people for a better future – Ministry of Youth Development*. Ministry of Social Development: Wellington.

Ministry of Social Development (2008a). *Briefing the Incoming Minister: Policy and Practice Briefing*. Ministry of Social Development: Wellington.

Ministry of Social Development (2008b). *The Statistical Report for the Year Ending June 2008*. Ministry of Social Development: Wellington. <http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/statistics/statistical-report/statistical-report-2008/index.html>

Ministry of Social Development (2009). *The Social Report*, Ministry of Social Development: Wellington. <http://www.socialreport.msd.govt.nz/>

Ministry of Social Development (2009b). *Fresh Start Fact Sheet*, Ministry of Social Development: Wellington. <http://www.msd.govt.nz/about-msd-and-our-work/newsroom/media-releases/2009/pr-2009-08-26.html>

Ministry of Social Development (2009c). *Annual Report 2008/2009*. Ministry of Social Development: Wellington.

Ministry of Social Development (2010). *The Statistical Report for the Year Ending June 2009*. Ministry of Social Development: Wellington. <http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/statistics/statistical-report/statistical-report-2009.html>

Nadesu, A. (2009). *Reconviction Patterns of Released Prisoners: A 60-months follow-up analysis*. Department of Corrections: Wellington.

New Zealand Federation of Voluntary Welfare Organisations (2007). *Counting for Something: Value Added by Voluntary Agencies (VAVA) Project, Report Summary*. New Zealand Federation of Voluntary Welfare Organisations: Wellington. http://www.nzfvwo.org.nz/publications/VAVAreport_summary.pdf

Office for the Community and Voluntary Sector (2010). *Community & Voluntary Sector Non-Profit Institutions (NPIs) sub-sector profiles – Key facts*. Office of the Community and Voluntary Sector: Wellington. <http://www.ocvs.govt.nz/documents/work-programme/building-knowledge/subsectors/social-services-facts.doc>

Parliamentary Library (2009). *Youth Justice in New Zealand: Principles and procedures: Parliamentary Library research paper*, Parliamentary Library: Wellington. <http://www.parliament.nz/en-NZ/ParlSupport/ResearchPapers/a/c/4/00PLLawRP09061-Youth-Justice-in-New-Zealand-Principles-and-Procedures.htm>

Sturrock, F., Qiao, C., Preeti (2009). *Effectiveness of Youth Court Supervision Orders: Measures of re-offending*. Ministry of Social Development: Wellington.

UNICEF New Zealand (2008). *Young and Accountable: Should New Zealand lower the age of criminal prosecution?* UNICEF NZ: Wellington.

Walker, W and Brown, R. (1983). *Corrective Training – an evaluation*. Published by Department of Justice – out of Print – but see abstract at <http://www.ncjrs.gov/App/Publications/abstract.aspx?ID=03615>

Warren, J., with Fraser, L., (2009). *Te Hurihanga, Evaluation Report*. Ministry of Justice: Wellington.

APPENDIX ONE: SUMMARY OF UNCROC RIGHTS / PRINCIPLES

From Ministry of Youth Development website, 2 Feb 2010-02-02:<http://www.myd.govt.nz/documents/working-with-young-people/uncroc/2006-07-appendix-1-uncroc-summary-table.pdf>

Article	Summary of rights / principles
1	UNCROC applies to everyone under 18 years of age
2	The right to protection from discrimination or punishment on any grounds*
3	The best interests of the child should be a primary consideration*
4	The Government should make UNCROC rights a reality
5	Government should respect the rights and responsibilities of families to direct and guide their children
6	The rights to life, survival and development*
7	The right to a name, to acquire a nationality and to know and be cared for by parents
8	The right to an identity
9	Children should not be separated from their parents unless it is in their best interests
10	Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact or reunite as a family
11	Children should not be taken out of the country illegally
12	The right for children to have an opinion and for that opinion to be heard in all matters affecting the child*
13	The right to freedom of expression*
14	The right to freedom of thought, conscience and religion*
15	The rights to freedom of association and peaceful assembly*
16	The right to privacy
17	The right of access to all media
18	The principle that parents have primary responsibility for upbringing of child and States to give assistance and ensure institutions, services for care of children
19	The right to protection from harm or maltreatment
20	The right to special protection and support for children who cannot live with their parents
21	Best interests of child to be the paramount consideration in system of adoption, and that adoption take place on basis of informed consent, limiting intercountry adoptions and ensuring intercountry adoptions have same safeguards as national adoptions, and preventing financial gain in intercountry adoptions.
22	The right to special protection and support for refugees and children seeking refugee status
23	The right to special care and education for children who are mentally or physically disabled
24	The right to the highest attainable standard of health and to facilities for treatment and rehabilitation
25	The right for children placed away from home to have their treatment reviewed regularly
26	The right to benefit from social security
27	The right to an adequate standard of living, including material assistance and support to parents or others responsible for care regarding nutrition food, clothing and housing
28	The right to education, and to dignity in administering school discipline
29	The right to the kind of education that develops one's personality and abilities and encourages a respect for people's rights and values and the environment
30	The right for indigenous children and children in minority groups defined by race, religion or language to enjoy their own culture, practise their own religion, and use their own language
31	The right to recreation and participation in cultural life and the arts

32	The right to protection from economic exploitation and work that is bad for health or interferes with education
33	The right to be protected from dangerous drugs
34	The right to be protected from sexual exploitation and abuse
35	The right to protection from abduction and sale and trafficking
36	The right to protection from any other kind of exploitation
37	The right not be punished in a cruel, degrading or hurtful way or deprivation of liberty unlawfully or arbitrarily, and that arrest, detention or imprisonment to be as a last resort and for the shortest appropriate period; the right, if deprived of liberty to be treated with humanity and respect for dignity.
38	The right to protection in times of armed conflict; under-15-year-olds should not be eligible to join an armed forces or participate in hostilities
39	The right to help and support for children who have been abused or maltreated
40	The right to a range of protections for children accused of breaking the law
41	States may provide for further compatible rights offered to children above and beyond UNCROC
42	Information about UNCROC should be widely disseminated by the Government
Articles 43 - 54 detail the processes by which States' UNCROC commitments are entered into, reported on and administered	
*General principles of UNCROC as determined by the UN Committee on the Rights of the Child-	
Optional Protocols to UNCROC	Optional Protocol to the Convention on the Involvement of Children in Armed Conflict (ratified by NZ in 2001)
	The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (signed by NZ in 2000 but not yet ratified)

These rights may be subject to limitations prescribed in law necessary for the protection of rights or freedoms of others, or the national security, public safety or order, health or morals

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