At our recent appearance to give evidence to the committee Berry Street indicated that we would provide some additional material on evidence informed interventions and approaches with capacity to reduce re-offending and divert children and young people from further involvement in the youth justice or criminal justice system.

Please find attached three supplementary papers provided in addition to our written submission and oral testimony for the advice and consideration of the committee:

- *Review of Effective Practice in Juvenile Justice*; Report for the Minister for Juvenile Justice Noetic Solutions Pty Limited

- *Solution Focussed Justice for Young People*
  Judge AJ Fitzgerald

- *Rangatahi Court Best Practice Guidelines and Operating Protocol*

We trust that this material will prove useful to the committee and look forward to continuing to contribute to this important area of work.

With thanks – Julian Pocock

Julian Pocock
Director Public Policy & Practice Development

EFFECTIVE PRACTICE IN JUVENILE JUSTICE

noetic

Review of Effective Practice in Juvenile Justice

Report for the Minister for Juvenile Justice

Noetic Solutions Pty Limited
ABN 87 098 132 024
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Distribution

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Authors

Role	Name
Principal	Peter Murphy
Primary Authors	Anthony McGinness, Tom McDermott

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Noetic Solutions Pty Limited
ABN: 87 098 132 027
PO Box 3569
Manuka ACT 2603 Australia

Phone +61 2 6232 6508
Fax +61 2 6232 6515
Web www.noeticgroup.com

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EXECUTIVE SUMMARY

This report forms part of a broader review of the New South Wales (NSW) juvenile justice system which is currently being undertaken by Noetic Solutions Pty Ltd (Noetic) for the Minister for Juvenile Justice. The purpose of the review is to propose a plan for future policy, programs, and practices within the NSW juvenile justice system. This plan was developed through the identification of emerging trends, evaluating existing government legislation, policy and practices, with the aim of reducing re-offending (particularly of Indigenous offenders). In doing so, the Review took into account relevant national and international research, and provides the costs and benefits of various strategies and options available to the NSW Government.

This report identifies and describes effective practice in juvenile justice. The report reviews important international and Australian juvenile justice systems and draws from the '*what works'* literature to evaluate a range of programs, as well as traditional penal and 'get tough' programs including juvenile incarceration. Specific issues of reducing Indigenous overrepresentation, and realising and coordinating whole-of-community action are also discussed. The report will be used to build a comprehensive evidence base from Australia and overseas in order to test current practice and new ideas in the NSW context.

International Juvenile Justice Systems

There are significant differences between international juvenile justice systems. The majority of English speaking countries operate within a justice model focused on holding young people accountable for their actions and enforcing punitive measures through due process. A range of other countries, generally in Europe, tend to employ a welfare based model characterised by an informality of proceedings and interventions based on the best interests of the young person. There is however a growing trend towards hybrid juvenile justice systems incorporating elements of both justice and welfare models.

There is a large variation in the rate at which young people are placed in custody across the jurisdictions examined. In Finland for example, the rate is 0.2 per 100,000 young people, while in the UK that figure is 23. These custody rates are generally characteristic of the types of juvenile justice systems in place within those jurisdictions, with high custody rates associated with justice based systems and lower rates with welfare based systems.

The majority of countries reviewed believe that diverting young offenders, and utilising community based programs when they do enter the juvenile justice system, is the most effective way to reduce juvenile crime. While there will always be a need for incarcerating certain young offenders, the critical issue is finding the most effective balance between such punitive measures and preventative and diversionary approaches.

Australian Juvenile Justice Systems

The average national rate at which young people are placed in custody in Australia is 31 in every 100,000. The rate at which young people are placed in custody in NSW is 38 in every 100,000. This compares with 56 in Western Australia, 99 in the Northern Territory and 9 in Victoria (where greater emphasis is placed on diversionary and preventative programs). In response to these high ratios (compared to international figures), the majority of states have undergone reform in recent years with a focus on diversion and restorative justice. For example, most states and territories now have a youth justice conferencing

program (or equivalent) and formal cautioning. It is difficult to compare the effectiveness of juvenile justice initiatives between Australia's jurisdictions due to the general lack of evidence and formal evaluations concerning state juvenile justice systems and programs. Further, it is important to consider particularities in population, demographics and crime trends when comparing the effectiveness of juvenile justice outcomes between Australian jurisdictions.

Juvenile Justice Programs – Overview

Empirical studies conducted in Australia, the USA, New Zealand and Europe clearly show that traditional penal or 'get tough' methods of reducing juvenile crime, such as juvenile incarceration, overly strict bail legislation, trying juveniles in adult courts, 'scared straight' programs and so on, are not effective. Traditional penal or 'get tough' approaches are ineffective due to the stigmatising effect of labelling young offenders, reinforcement of offenders' criminal behaviour resulting from the collective detention, lack of pro-social influences and failure to address the underlying behaviour behind the offending behaviour. Not only do these methods tend to be ineffective in reducing recidivism among young people, but they are also amongst the most costly means of dealing with juvenile crime due to high immediate costs and ongoing long-term costs to the juvenile justice system due to continued contact with the criminal justice system.

Effective juvenile justice programs focus on addressing the underlying factors behind the offending behaviour of juveniles. This may involve focusing on reducing 'risk factors', such as family dysfunction, a delinquent peer group, truancy or alcohol abuse, as well as the adding or strengthening of 'protective factors' such as good parenting, having a positive role model or part-time employment. They generally emphasise the need to divert young offenders from entering the juvenile justice system. Effective responses to youth crime often include programs which deliver family, school or community-based therapies and services.

In particular, prevention programs are very cost-effective in generating long-term savings to taxpayers through reduction in future demand on the juvenile justice system. They can also produce further benefits to the community by avoiding the incurrence of costs by victims of crime. Early intervention programs (for children of preschool age) which provide parenting training and support (from teachers, nurses or other agents) for disadvantaged households are among the most effective of prevention programs in terms of their ability to reduce the number of juvenile crime outcomes and deliver substantial long-term savings to taxpayers.

Institutional programs and post-release programs are essential components of any juvenile justice system, especially where the safety of the community or the young offender is at risk. In these circumstances, the evidence suggests that the most effective secure corrections programs are those which serve only a small number of participants and provide individually tailored services.

Indigenous Overrepresentation

The rate, proportion and actual numbers of Indigenous people in custody continues to rise. While the national Indigenous juvenile imprisonment rate has declined by 33% since 1997, over half of people aged 10–17 years in juvenile corrective institutions in 2006 were Indigenous. In NSW, 52% of people aged 10–17 years in juvenile corrective institutions in 2005 were Indigenous, despite only making up 2-3% of the total population. A range of diversionary alternatives to imprisonment (e.g. cautioning, conferencing etc.) have proven to be effective in reducing reoffending, however, Indigenous young offenders are less likely to

be diverted than non-Indigenous offenders. For example, in NSW, Indigenous young people are more likely than non-Indigenous young people to be taken to court (64% compared with 48%) and less likely to be cautioned (14% compared with 28%) by the NSW Police Force.

International and national research shows that the following responses are effective in addressing Indigenous overrepresentation in the juvenile justice system:

+ maximum access to and utilisation of alcohol and substance abuse programs;

+ avoidance of incarceration wherever possible;

+ promotion of sustained engagement with the education system;

+ a high level of participation by the Indigenous community in formulating and implementing responses to Indigenous youth crime; and

+ adequate provision of local community-based support and parental training for 'at risk' families.

Whole of Government and Community Approaches

The complexity and scope of an effective response to juvenile crime requires a whole-of-community approach involving coordination between government, the non-government sector and the community. This is because youth offending is often related to other problems that the juvenile justice system cannot address in isolation (e.g. mental illness, substance abuse etc.). Therefore, juvenile justice systems need to coordinated and cover the full spectrum of required services including early intervention, family and school-based therapies, drug and alcohol rehabilitation services, mental health services, foster care services, specialist Indigenous services, housing and employment services and detention services etc.

Conflicting institutional attitudes and perceptions which exist between the child welfare and justice systems can also inhibit juvenile justice outcomes. Measures need to be established to ensure maximum buy-in from stakeholders and effective multi-agency engagement in formulating and implementing new programs, services and initiatives. In the US for example, San Diego has implemented a strategy that recognises the importance of whole-of-community participation in order to create an effective juvenile justice system. This involves collective teams whose role it is to develop cross system communication, multi-agency partnerships, joint responses, services and policies to support youth. Partnerships are also established between government entities and community organisations to maximise resources, eliminate duplication of services, and develop strength-based services to support youth in their communities.

Effective Practice Summary

This report identifies six key principles to support the implementation of effective practice in juvenile justice:

+ **Evidence-based policy formulation**. Policy makers need to take into account the empirical evidence concerning 'what works' and what does not work. While 'get tough' approaches may be politically attractive, evidence indicates they are not effective. Hence, effective juvenile justice systems are those which ensure policy is guided by scientific research and cost-benefit analyses rather than by political convenience.

+ **Avoidance of youth incarcerations wherever possible**. Evidence suggests that the majority of incarcerated juvenile offenders could be treated safely and more effectively outside of custody. Therefore, tertiary responses to youth offending should emphasise community-based programs rather than incarceration. Effective juvenile justice systems should set guidelines to reduce the population of juveniles in custody.

+ **Comprehensive and complementary programming**. This requires a suite of primary, secondary and tertiary risk-based programs to address delinquency across the entire developmental lifecycle. Emphasis should be placed on delinquency prevention through early-age intervention, school, family and community-based prevention programs. Where custody is required, appropriate institutional and post-release therapy must also be provided in order to effectively reduce recidivism.

+ **Tailored strategies for Indigenous and other culturally diverse groups**. Disproportionate minority contact with the juvenile justice system can only be reduced through tailored strategies which address the unique risk-factors associated with each minority group. For Indigenous Australians, this may involve increasing access to alcohol and substance abuse programs and ensuring culturally relevant programming through encouragement of Indigenous participation in juvenile justice and human service initiatives.

+ **Whole-of-government collaboration**. Integration of the juvenile justice and welfare/human services systems with police, courts, education and health authorities is crucial. Measures should be taken to maximise stakeholder buy-in and strengthen multi-agency collaboration in all areas, including policy formulation, information sharing, and personnel training.

+ **Whole-of-community collaboration**. Effective juvenile justice systems address risk-factors in all facets of the environments of young people through collaboration with a range of community agents including schools, Indigenous and other minority communities and non-government organisations. Government effort is required to encourage community participation in program design and delivery.

INTRODUCTION

Background

Noetic Solutions Pty Limited (Noetic) was engaged by the Minister for Juvenile Justice to undertake a four-phase strategic review of New South Wales (NSW) juvenile justice policy. This report focuses on desktop research, analysis and stakeholder interviews for the purpose of developing an understanding of '*Effective Practice in Juvenile Justice*'. This report identifies effective practice in juvenile justice by reviewing policy and practice in international and national jurisdictions, as well reviewing the results of a range of programs, evaluations and evidence of outcomes. The report also provides insight into prevalent juvenile justice issues such as Indigenous overrepresentation and whole-of-community collaboration, and highlights effective practice for addressing these challenges.

Aim

The aim of this report is to detail effective practice in whole-of-government approaches to juvenile justice.

Scope

The report identifies and describes effective practice in juvenile justice with respect to evidence-based strategies, programs and services which are able to demonstrate the following benefits:

+ lower recidivism and crime rates;
+ reduced incarceration of young people; and
+ cost savings for the government and taxpayers.

The report also investigates juvenile issues such as Indigenous overrepresentation, whole-of-community collaboration, remand and links to adult offending, and identifies effective measures to address these challenges.

Methodology

Noetic has conducted an extensive desktop review of existing research and literature. This includes extant reports and data sources, government websites and overseas inter-jurisdictional experience. Semi-structured interviews were also conducted with stakeholders from all Australian states and territories, and New Zealand. These interviews focused on current and emerging trends and evidence of effective practice.

Structure

The report begins by providing an overview of international juvenile justice systems, including:

+ Canada;
+ UK;
+ New Zealand;
+ Scandinavia; and
+ USA.

The next section of the report is primarily a review of the '*what works'* literature. This is a well known and accepted body of research that provides an evidence based assessment of juvenile justice programs. Types of programs covered in the review include:

+ Early-Age Programs;
+ School-based Programs;
+ Mentor Programs;
+ Community/Family-based Programs;
+ Institution-based Programs;
+ Policing Programs; and
+ Non-therapeutic Tertiary Program.

The final two sections of the report focus on the important issues of Indigenous overrepresentation and whole-of-community collaboration.

INTERNATIONAL JUVENILE JUSTICE SYSTEMS

Models of Juvenile Justice

There are three distinct international models for juvenile justice, comprising:

+ The 'Justice model' which is prevalent in English speaking countries (except Scotland) and the Netherlands. It is about holding young people accountable for the actions, enforcing punitive measures and ensuring that due process is followed.

+ The 'Welfare model' which is common in areas of Europe including Germany, France, Belgium as well as East Europe. It is based on informality of proceedings and interventions are developed based on the best interests of the young person.

+ 'Hybrid model' which exists in Scandinavia and Scotland and incorporates a mix of justice and welfare elements.[1]

While there are significant differences between international juvenile justice systems, there appears to be a trend toward convergence with elements of the 'welfare' model gaining popularity in North America and increasing pressure for European juvenile justice systems to use elements of the 'justice' orientated systems[2].

Canada

Canada enacted the Youth Criminal Justice Act (YCJA) in April 2003. The Act was intended to reduce the country's high rate of youth incarceration based on an understanding that community-based responses are more effective at dealing with most young offenders. The Act protects the legal rights of youth, such as access to counsel, and addresses problems in youth justice that were uncovered by empirical research.

The YCJA provides a broad framework which encompasses issues of public awareness, crime prevention, education, child welfare, health, family and the community. It adopts an integrated approach to all areas of young peoples' lives including mental health, education and welfare, and emphasises rehabilitation and reintegration as well as the long-term public safety[3]. A central component of the YCJA is the mandate that the youth justice system "reserve its most serious interventions for the most serious crimes". Hence, the YCJA includes provisions with aim of ensuring that serious offenders serve longer sentences, while less serious offenders are diverted from youth courts and custodial facilities to community correctional services.

Youth correctional services include both custodial and community supervision programs. Custodial supervision includes sentenced custody (both open and secure custody) and remand. Community supervision consists of probation and YCJA sentences, which encompasses the community portion of

[1] Junger-Tas, J. 2004. *Trends in International Juvenile Justice*. Utrecht: University of Utrecht.
[2] Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[3] Tustin, L. and R. Lutes. 2006. *A Guide to the Youth Criminal Justice Act — 2006 Edition*. Lexis Nexis Canada Inc. Markham, ON.

custody and supervision orders, and deferred custody and supervision orders. Community supervision programs often include placing a number of restrictions on the young person. Community supervision orders are sometimes given with other sanctions and, at a minimum, require the young person to keep the peace, be of good behaviour, report to correctional personnel and appear before the court as required[4].

Canada is a good example of effective practice in juvenile justice. Legislation has been successfully implemented to reduce the number of youth in custody based on the understanding that community-based programs are more effective than incarceration in dealing with young offenders.

Further, the Canadian system adopts an integrated approach to all areas of young peoples' lives including mental health, education and welfare, and emphasises rehabilitation and reintegration as well as the long-term public safety.

UK

England and Wales

The English juvenile justice system focuses on early identification and intervention with young people at risk, and intensive intervention with young offenders who persist in committing youth crime. Recently England introduced multi-agency Youth Offending Teams, and underwent a policy shift towards preventing youth crime as the primary aim of intervention with young offenders[5].

Early intervention approaches include the 'On Track' program and services for 'high risk' children in deprived communities between the ages of 4 and 12. Community-based prevention programs are also provided such as leisure activities, mentoring and educational training for 'high risk' children[6]. Further, the Youth Justice Board (YJB) has developed a focus on prevention and is developing an evidence-based approach to working with young offenders. It has also created training programs for people who work with young offenders on how to implement this research[7].

However, as Welsh and Farrington's note, there is no agency whose primary mandate is the prevention of crime[8] and most crime prevention initiatives in recent years have narrowly focused on 'high risk' individuals and areas, such as burglary reduction through targeted policing, or are probation or prison oriented[9].

Furthermore, statistics show that more children are imprisoned in England and Wales than in any other western European country. Across England and Wales, 23 children per 100,000 are incarcerated

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[4] Milligan, S. 2006. *Youth custody and community services in Canada, 2005/2006.* Statistics Canada – Catalogue no. 85-002-X, Vol. 28, no. 8

5 Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.

6 Gray & Seddon 2005 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.

7 Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.

8 Welsh and Farrington 2004 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.

[9] Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.

compared with 6 in France and 0.2 in Finland[10]. Although the number of youth incarcerated in the UK decreased by 12.7% in the twelve months to August 2009, this figure is only 0.4% lower than in April 2000[11]. The high rate of youth incarceration in England and Wales exists despite a longitudinal study of over 4,300 youth offenders conducted by Edinburgh University which clearly demonstrated the ineffectiveness of youth incarceration in reducing juvenile crime.

While there is a growing awareness that alternatives to youth incarceration should play a greater role, especially community-based diversion and prevention programs, there still are significant cultural barriers within England's juvenile justice system which are preventing the increased use of these alternatives. For example, in 2008, Frances Done, head of the Youth Justice Board noted that judges and magistrates do not feel confident that community sentences are "robust enough alternatives to locking people up" and urged courts to make greater use of community penalties[12].

The juvenile justice systems of England and Wales have begun to implement elements of effective practice, yet the jurisdictions continue to have high rates of youth incarceration and crime.

Research shows that institutional misconceptions and cultural beliefs, particularly within the courts, have served as barriers to the implementation of evidenced-based reforms and reinforced traditional yet ineffective 'get tough' and penal responses.

Scotland

The Scottish Children's Hearing system was implemented in 1971 to deal with children and young people who commit offences or require care and protection. As a welfare-based system, all young people are treated in a very similar manner regardless of whether they are perceived as being 'victims' or 'offenders'[13].

Under the Scottish system, allegations of a youth offence are referred to a Children's Reporter who then investigates the circumstances. In most instances, information is collected from multiple agencies including social workers, police, schools as well as health and voluntary organisations. A decision is then made at the discretion of the children's reporter on whether a compulsory intervention should be ordered– in which case the young person is referred to a children's hearing[14].

Children's hearings consist of three panel members who are trained community volunteers. The main participants are usually the child and their family or guardians and all decisions are made in a transparent manner. Local authorities have a statutory obligation to implement the decisions ordered by panels.

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[10] Allison, E. 2009. *Inside the Youth Justice System: Prison is no place for children*, Guardian News and Media Limited. http://www.guardian.co.uk/society/2009/feb/09/children-youth-prison/print accessed 23 December 2009.
[11] Youth Justice Board. 2009. *Custody Figures*. http://www.yjb.gov.uk/en-gb/yjs/Custody/CustodyFigures/ accessed 23 December 2009.
[12] BBC News. 2008. *Youth Chief Urges Cut in Custody*. http://news.bbc.co.uk/2/hi/uk_news/7455912.stm accessed 23 December 2009.
[13] Allison, E. 2009. *Inside the Youth Justice System: Prison is no place for children*, Guardian News and Media Limited. http://www.guardian.co.uk/society/2009/feb/09/children-youth-prison/print accessed 23 December 2009.
[14] *ibid.*

Usually a supervision requirement is ordered, which may involve supervision at home or secure accommodation. Temporary emergency measures, such as child protection orders, may also be used[15].

A lower number of children under 16 years of age are incarcerated in Scotland (26) compared with England and Wales (816) despite close similarity in the demographics and social problems faced by the two jurisdictions[16]. Further, as pointed out by the Minister for Community Safety in Scotland, Fergus Ewing, most people working in the Scottish system view it as a far more effective approach to the problem of youth and child crime[17].

The Scottish juvenile justice system adopts a welfare-based approach whereby young people who commit offences are dealt with through the same community-based system as children requiring care and protection.

A far lower number of children under 16 years of age are incarcerated in Scotland (26) compared with England and Wales (816) despite close similarity in the demographics and social problems faced by the two jurisdictions.

New Zealand

The New Zealand system emphasises diversion from courts and custody and holding young persons accountable. The system aims to facilitate rehabilitation and reintegration of young people, provide support for their families and serve the needs of victims. The New Zealand system pioneered the restorative approach to offending by young people particularly in regard to its use of family group conferences for determining the outcomes of the more serious youth offending.

When a young person offends, the police can respond by:

+ issuing a warning not to reoffend;
+ arranging informal diversionary responses after consultation with victims, families and young people;
+ where intending to charge, making referrals to Child Youth and Family Services for a family group conference; or
+ arresting and laying charges in the Youth Court.

The Youth Court refers matters to a family group conference before making a decision and gives preference to decisions that respond to the needs of victims and keep the young person in the community (public safety permitting). Family Group Conferencing enables those involved in the life of the young person and the victim(s) to be involved in decisions with the aim of ensuring accountability, repairing harm and enhancing wellbeing. Evaluation has shown that the system is largely successful in reducing reoffending and promoting the wellbeing of young people who have offended.

[15] *ibid.*
[16] *ibid.*
[17] *ibid.*

The age of criminal responsibility in New Zealand is 10. However, "children" (under the age of 14) cannot be prosecuted except for the offences of murder and manslaughter. Offences of murder and manslaughter committed by any young person aged 10 years or over are transferred by the Youth Court to the High Court. In other cases where such children's offending causes concern, they may be dealt with either by warning, police diversion or a Family Group Conference. Alternatively they may be referred to the Department of Child, Youth and Family Services as in need of care and protection. The vast majority of offending by young people (83%) is now dealt with under the alternative youth justice procedures under the control of the Police[18].

At the local level, there are 32 Youth Offending Teams (made up of Youth Justice, Health, Education and the Police) to monitor offending within local communities. The teams are staffed by each agency and meet on a monthly basis to coordinate services for offenders within their area. The Youth Offending Teams will develop initiatives relevant to their local circumstances such as tackling high levels of truancy. There is also an inter-agency group attended by Chief Executives of agencies (e.g. Chief Executive of Youth Justice, the Commissioner of Police etc.) that examines specific youth justice issues such as the number of youth held in police cells and average time of youth held in remand. The inter-agency group will also conduct individual investigations for any youth that has been held in remand for over 50 days. The high level representation on this group demonstrates the importance placed on diversionary measures and cross-agency collaboration.

New Zealand place emphasis on diverting young offenders from custody and on rehabilitation and reintegration of young offenders back into the community. The system of family group conferencing has been largely successful in reducing reoffending and promoting the wellbeing of young offenders.

Scandinavia

The age of criminal responsibility in Scandinavian countries (i.e. Denmark, Finland, Iceland, Norway and Sweden) starts at 15 years. Particular juvenile justice systems do not exist in Scandinavia, although there are exceptions from the general criminal justice system in order to serve the needs and rights of juveniles – for example the diversion of juvenile offenders into the social welfare system.

The rate of youth incarceration in Scandinavian countries is very low. In Finland, for example, only 0.2 children in 100,000 are incarcerated compared with 23 in the UK and 6 in France[19]. This low rate is largely attributable to the broad approach used by Scandinavian countries which emphasises cross-professionalism (integration of knowledge and skills across the entire juvenile justice continuum) and welfare-based prevention of juvenile crime.

In Norway, the Ministry of Children and Family Affairs coordinates no less than five ministries in its efforts to prevent child and youth crime by involving children and juveniles, parents and voluntary organisations

[18] Maxwell 2002 in The Youth Court of New Zealand. 2009. *About Youth Justice – Overview of Principles and Process*. http://www.justice.govt.nz/youth/about-youth/overview.asp accessed 23 December 2009.
[19] Allison, E. 2009. *Inside the Youth Justice System: Prison is no place for children*, Guardian News and Media Limited. http://www.guardian.co.uk/society/2009/feb/09/children-youth-prison/print accessed 23 December 2009.

and groups[20]. Norway promotes multiagency collaboration between various authorities and services on a local level including schools, police, child welfare services, educational psychological services, health services, child and youth psychiatric services, cultural and leisure-time administration[21]. As a diversionary alternative to residential placement, 19 Norwegian municipalities have implemented Multi-systemic Therapy (MST) programs licensed and supervised by the South Carolina company, MST Services, as of 2005[22].

The Danish SSP-concept is another example of the effective multi-agency collaboration which is characteristic of Scandinavia's approach to juvenile justice. The SSP concept involves systematic collaboration between schools (S), local social welfare (S) and local police (P). As of 2005, SSP-committees have been established in more than 90% of Danish municipalities for the purpose of educating school students, teachers and parents on the prevention of criminality as well as other sorts of dysfunctional behaviour such as alcohol and drugs misuse[23].

The exchange of information about groups and individuals within SSP committees is less restricted and more transparent than between the involved agencies in general[24]. While this is a significant factor behind the success of the Danish system, some concerns have been raised in relation to a perceived lack of legal control over the exchange of information, the potential for breaches of confidentiality between social workers and clients and the possibility of being assumed guilty of a crime without fair trial[25].

Further evidence of effective practice in Sweden is demonstrated by the national crime prevention program, entitled 'Our Community'. It is based on the principles of dealing with crime from an 'overall view' using a 'broad policy approach' involving initiatives in 'all areas' of society and efforts to address the causes of crime locally[26]. Similarly, Finland's national crime prevention program, 'Secure Together', focuses on prevention at the local level and early intervention, including curfews for young people[27].

With respect to tertiary responses to youth crime, that is those that deal with the offending behaviour of youth crime after it has occurred, Scandinavian countries place significant emphasis on combining prosecution together with other services.

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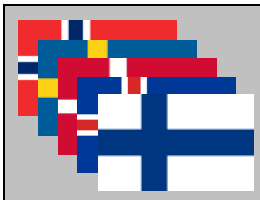
[20] Storgaad, A. 2005. *Juvenile Justice in Scandinavia*. Journal of Scandinavian Studies in Criminology and Crime Prevention. 5:2,188 — 204.
[21] Nordic Ministries of Justice 2000 in Storgaad, A. 2005. *Juvenile Justice in Scandinavia*. Journal of Scandinavian Studies in Criminology and Crime Prevention. 5:2,188 — 204.
[22] MST is a family-based therapeutic program which has been rigorously tested in numerous jurisdictions with participants of varying socio-economic and ethnic backgrounds and has been found to be amongst the most cost-efficient and effective programs in reducing juvenile crime (refer to Juvenile Justice Programs below).
[23] Nordic Ministries of Justice 2000 in Storgaad, A. 2005. *Juvenile Justice in Scandinavia*. Journal of Scandinavian Studies in Criminology and Crime Prevention. 5:2,188 — 204.
[24] Procedural Code, no. 815 of 30.09.03, section 115b in Storgaad, A. 2005. *Juvenile Justice in Scandinavia*. Journal of Scandinavian Studies in Criminology and Crime Prevention. 5:2,188 — 204.
[25] Storgaad, A. 2005. *Juvenile Justice in Scandinavia*. Journal of Scandinavian Studies in Criminology and Crime Prevention. 5:2,188 — 204.
[26] Nordic Ministries of Justice 2000 in Storgaad, A. 2005. *Juvenile Justice in Scandinavia*. Journal of Scandinavian Studies in Criminology and Crime Prevention. 5:2,188 — 204.
[27] *ibid.*



Scandinavian countries operate welfare-based juvenile justice systems which are highly effective in many respects and characterised by very low rates of juvenile incarceration. Scandinavia places strong emphasis on prevention of youth crime through whole-of-community collaboration between various authorities and services on a local level. Tertiary responses emphasise diversion and the combining of prosecution together with therapeutic services.

USA

USA's juvenile justice system is complex in that it varies greatly from state to state. Similarly to Australia, states have responsibility for their own juvenile justice legislation, policies and practices. This report concentrates on Pennsylvania and Washington, as these states were selected for inclusion in the John D. and Catherine T. MacArthur Foundation's well-known 'Models for Change' initiative on the basis of their leadership, commitment to change and likelihood to influence reforms in other locations[28]. The juvenile justice systems of these two states are summarised below.

Pennsylvania

The primary emphasis of the Pennsylvania Juvenile Court is balanced and restorative justice. The minimum and maximum ages of juvenile court jurisdiction are 10 years and 17 years (or 20 years for disposition purposes) respectively. Court intake, probation supervision, and aftercare supervision are organised at the county level under the administrative authority of the juvenile court judge. Judges decide where juveniles will be committed and for what duration. Relatively few juveniles end up in state facilities. Youth remain subject to local court custody and probation department supervision. The Bureau of Juvenile Justice Services administers a network of non-secure youth forestry camps, non-secure and secure youth development centres, and secure treatment units.

There are strong partnerships among judges, district attorneys, public defenders, probation departments, community leaders, and city, county, and state officials. Reform efforts in Pennsylvania are focusing on bringing about change in the following areas:

+ the coordination of mental health and juvenile justice systems;

+ the system of aftercare services and supports; and

+ disproportionate minority contact with the juvenile justice system.

Pennsylvania has a number of policies and practices that have been shown to be effective, including:

+ the Juvenile Court Judges Commission conducts research and training, develops and oversees compliance with standards, and engages in legislative and policy analysis on juvenile justice issues;

[28] Ziedenberg, J. 2006. *Building Momentum for Juvenile Justice Reform*. Models for Change: Systems Reform in Juvenile Justice, Washington.

+ legislated financial incentives for counties to keep young offenders at home, in their communities, and in least restrictive placements, rather than in locked state institutions;

+ the Allegheny County Juvenile Court's Community Intensive Supervision Program which is a community-focused alternative to incarceration , fosters closer ties between youth and their communities while providing meaningful supervision for juvenile justice-involved youth;

+ evidence-based prevention and treatment practices that are empirically proven to be effective and central to treatment approaches in the state;

+ use of the Massachusetts Youth Screening Instrument for screening incarcerated youth to identify needs for mental health assessment and treatment. This instrument is used nearly statewide to help detention centres better meet the mental health needs of incoming youth; and

+ Detention Population Control at the Philadelphia Youth Study Center which has made it possible to keep the detention population under 105 in a city of nearly 1.5 million residents[29].

Pennsylvania operates a progressive juvenile justice system incorporating numerous aspects of effective practice. Strong partnerships exist across government and with the community in promoting better integration between the mental health and juvenile justice systems, improving aftercare services and reducing disproportionate minority contact with the juvenile justice system. Strong emphasis is placed on evidence-based practices and treatments and financial incentives are provided to counties to keep young offenders in the community rather than in custody.

Washington

Washington is known for its use of evidence-based interventions with juvenile offenders, its application of program evaluation and cost-benefit analysis techniques to juvenile justice policy-making, and the progress it has made in combating disproportionate minority contact and integrating juvenile justice programs with child welfare and mental health services.

Washington is unique in the amount of statutory guidance provided to the court and other components of the system with respect to diversion, filing and sentencing of cases. For example, state statutes place limits on the utilisation of detention and other sanctioning and service options for juvenile offenders. However, much of this statutory guidance is based on empirical research and is intended to encourage efficiencies in resource utilisation and to address potential biases in individual decision-making[30].

Washington has implemented a range of progressive measures to reengage youth with school and reduce unnecessary detention with truancy laws[31]. The state has also implemented numerous measures to advance the integration and coordination of the child welfare and juvenile justice systems. For example, the King County Systems Integration Initiative (KC-SII) was setup as special body to focus on multisystem

[29] *ibid.*
[30] *ibid.*
[31] Snyder, Howard N., and Sickmund, M. 2006. *Juvenile Offenders and Victims: 2006 National Report.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

integration and service coordination at both the individual case and system levels with the aim of disrupting the path between child maltreatment and delinquency. This involved the development of an interagency policy and protocol for the joint functioning of the juvenile court probation and state child protection agencies in supporting dual status youth and their families[32].

Washington has adopted an effective evidence-based approach to juvenile justice policy formulation which utilises the work of research institutions including the Washing State Institute for Public Policy (WSIPP) and Models for Change. The work of the WSIPP has been particularly useful in developing a comprehensive model for cost-benefit analyses (CBAs) of juvenile justice programs. The CBAs produced by WSIPP have been relied upon extensively by the government to inform investment decisions in effective and cost beneficial youth crime prevention and intervention programs.

Washington applies rigorous program evaluation and cost-benefit analysis techniques to juvenile justice policy-making and has a comprehensive range of evidence-based programs in operation. The state has made significant progress in combating disproportionate minority contact and integrating juvenile justice programs with child welfare and mental health services.

Summary

There are significant differences between international juvenile justice systems. This is evidenced by the variances in rates at which young people are placed in custody across the jurisdictions that have been examined. In Finland for example, the rate is 0.2 per 100,000 young people, whilst in the US the figure is 295. These custody rates are generally characteristic of the types of juvenile justice systems in place within those jurisdictions, with high custody rates associated with justice based systems and lower rates with welfare based systems. The rate at which young people are placed in custody in NSW is 38 young people per 100,000. This is higher than the national average and much higher than any comparable western European country (as demonstrated by the table below).

Jurisdiction	# of young people incarcerated (per 100,000)
NSW[33]	**38**
Australia[34]	31
United States[35]	295
UK[36]	23
France[37]	6

[32] Wiig, JK and Tuell, JA. 2008. *Guidebook for Juvenile Justice & Child Welfare System Coordination and Integration. A Framework for Improved Outcomes*. Arlington, VA: Child Welfare League of America.
[33] Australian Institute of Criminology. 2007. *Juveniles in Detention Monitoring Program 1981–2007*.
[34] *ibid*.
[35] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2008. *Census of Juveniles in Residential Placement Databook*.
[36] Campbell D. and Travis A. 2007. *UK headed for prison meltdown.* http://www.guardian.co.uk/uk/2007/mar/31/ukcrime.prisonsandprobation2 accessed 23 December 2009.

Spain[38]	2
Finland[39]	0.2

There is a growing trend towards hybrid juvenile justice systems incorporating elements of both justice and welfare models. This can be attributed to a growing realisation that diverting young offenders, and utilising community based programs when they do enter the juvenile justice system, is the most effective way to reduce juvenile crime. It is generally acknowledged that traditional 'get tough' and penal responses are ineffective in most cases, but the challenge in implementation is balancing public safety outcomes, public perceptions, and the needs of young offenders.

The evaluation of international juvenile justice systems is somewhat limited by a lack of rigorous system and program evaluation and analysis. The bulk of publicly available information is focused on describing the services available within jurisdictions, not evidence based evaluations of juvenile justice outcomes.

[37] *ibid.*
[38] *ibid.*
[39] *ibid.*

AUSTRALIAN JUVENILE JUSTICE SYSTEMS

The average national rate at which young people are placed in custody in Australia is 31 in every 100,000. The rate at which young people are placed in custody in NSW is 38 in every 100,000. This compares with 56 in Western Australia, 99 in the Northern Territory and 9 in Victoria where greater emphasis is placed on diversionary and preventative programs[40].

Several broad observations and trends in Australian juvenile justice can be identified at the national level. Over the last ten years, there has been a decrease in the number of cases heard in Australian children's courts due to the increasing trend of diverting juveniles during the early stages of processing[41]. Such diversionary measures typically include conferencing, drug and alcohol courts and programs, juvenile justice teams and special courts and programs for Indigenous young people[42]. The most common types of offences for which juveniles are adjudicated in children's courts include burglary or theft, assault and dangerous or negligent driving[43]. Of all juvenile defendants who appeared in Australian children's courts during the 2006-07 financial year, ninety-two percent received a criminal conviction and eighty-two percent pleaded guilty[44]. Ninety-two percent of convicted juvenile offenders received non-custodial penalties such as fines, good behaviour bonds or community supervision orders[45]. Five percent of convicted juvenile offenders were ordered to a period of time in a correctional facility and one percent received a suspended sentence or ordered to custody in the community[46].

The following section summarises the juvenile justice systems of each state and territory in Australia. The assessment of each state's effectiveness is limited by a lack of publicly available evaluations and outcome reporting.

Victoria

The Victorian Department of Human Services (DHS) is the primary agency responsible for the administration of juvenile justice services. Its main service areas are community supervision, custodial services, legal and policy, support services, youth parole and group conferencing.

Community supervision is undertaken through Youth Justice Units which are means of providing support and supervision to young people on community-based correctional orders and represent a realistic alternative to institutional custodial care. Community-based orders consist of:

+ Probation – usually given to young people who have offended once or twice before.

+ Youth supervision orders – for serious or chronic young offenders.

+ Youth attendance orders – for serious or chronic offenders. A youth attendance order is a direct alternative to being locked up, so it is a very serious order.

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[40] Mission Australia. 2009. *Australia's approach to Juvenile Justice must change*.
[41] Richards, K. 2009. *Juveniles' contact with the criminal justice system in Australia*. Australian Institute of Criminology. AIC Reports. Monitoring Reports 07
[42] *ibid.*
[43] *ibid.*
[44] *ibid.*
[45] *ibid.*
[46] *ibid.*

+ Parole – allows young people to serve part of a custodial sentence given by a magistrate or a judge back in the community under the supervision of a parole officer.

Court advice and support services are available to the Children's Court and the adult court system under the Youth Justice Court Advice (YJCAS) program. These services provide assistance in regard to sentencing options and facilitate diversion where appropriate. .The Afterhours Bail Placement Support Service is one such service provided under the YJCAS program. The after hours service provides support to children and young people aged from 10 to 18 who are being considered for remand or who need accommodation options in order to access bail. During business hours, children and young people are referred to the regional Youth Justice Unit. When recommending the remand of a child or young person police must notify either the Youth Justice Unit or the Afterhours Bail Placement Support Service[47]. According to the Australian Institute of Health and Welfare, the Afterhours Bail Placement Support Service has been effective in reducing inappropriate remands in custodial centres[48].

Victoria is unique in Australia in providing a 'dual track' custodial sentencing option for young people aged 18 to 20 years into the Senior Youth Justice Centre system rather than the adult prison system. This provides an alternative to prison and helps to prevent lower risk offenders from entering the adult system. Custodial orders for youth under 18 years of age in Victoria consist of remand, youth residential orders and youth centre orders.

A client service plan (CSP) is developed for every young person on an order (community or custodial) and updated regularly to change the offending pattern of the individual and prevent their entry into the criminal justice system. Case planning, management and interventions are based on comprehensive assessment of specific offending-related needs which may be addressed through individual casework, group work, or specialist services[49].

The Koori Youth Justice Program provides support through local Aboriginal agencies using preventative and responsive measures to reduce offending and reoffending by Aboriginal youth on community-based orders and in custody. The Koori Youth Justice Program utilises Koori custodial workers, Koori community workers (one per centre) and a central Koori program adviser. An evaluation of the Koori Court Pilot Program between 2002 and 2004 found, amongst other benefits, reduced levels of re-offending amongst Koori defendants, which in turn has direct ramifications for the levels of overrepresentation within the prison system, and increased the level of Koori community participation in, and ownership of, the administration of law.[50]

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[47] UnitingCare Burnside. 2009. *Releasing the Pressure on Remand: Bail Support Solutions for Children and Youth People in New South Wales*.
[48] Australian Institute of Health and Welfare. 2009. *Juvenile Justice in Australia 2007–08*. Juvenile Justice Series No. 5. Cat No. JUV 5. Canberra: AIHW.
[49] *ibid.*
[50] Dr Mark Harris, La Trobe Law, La Trobe University. 2006. *"A Sentencing Conversation" Evaluation of the Koori Courts Pilot Program October 2002 – October 2004*.

Victoria operates restorative justice conferences known as 'group conferences' which use "a problem-solving approach to offending that aims to balance the needs of young people, victims and the community by encouraging dialogue between individuals who have offended and their victims"[51].

Post-release services funded by the Department of Human Services are provided through several community service agencies with the capabilities to assist difficult and disadvantaged young offenders. These agencies develop relationships with offenders before they are released from custody and continue to provide support after release to assist with reintegration into the community. The intensity, frequency of contact and duration of support are determined according to the particular needs of the individual.

The Juvenile Justice Housing Pathways Initiative provides housing referral services and accommodation for young people at risk of homelessness upon release from custody. According to AIHW, the initiative has had a positive impact on meeting the transitional housing needs of young people released from custody[52].

The Youth Residential Board and Youth Parole Board facilitate reintegration of young offenders into the community and into youth custodial facilities from prison on referral by the Adult Parole Board. Decisions of the boards are made on the basis of consultation with custodial and parole officers and within a framework which considers individual detainee needs as well as community safety[53].

In August 2000, Victoria undertook its Juvenile Justice Reform Strategy with a focus on:

+ diversion of young people from entering the criminal justice system;

+ rehabilitation of high risk young offenders; and

+ support to assist young offenders to establish crime-free lifestyles after their release through better pre-release and post-release support programs.

As part of these reforms, the Victorian government has developed the Vulnerable Youth Framework which outlines an approach to strengthen prevention and early identification of vulnerable youth who may exhibit truancy, low-level offending, alcohol and other drugs (AOD) misuse or family conflict as well as promote youth engagement in education, training, employment. The Vulnerable Youth Framework is founded on an evidence-based understanding of precursors to youth vulnerability including genetic and environmental factors.

A recent audit conducted by the Victorian Auditor-General examined the extent to which diversionary and rehabilitation services provided by DHS and the Magistrates' Court of Victoria maximise diversion of young offenders from the criminal justice system, reduce the risk of reoffending and improve rehabilitation and reintegration into the community. The audit found that there are "indications of success, including the diversion of young offenders from custodial sentences, demonstrated good practice with respect to need identification, case management and the delivery of rehabilitation programs, and increased access to pre-

[51] Victorian Government Department of Human Services. 2007. *Youth Justice Group Conferencing Program Guidelines: Youth Justice*.
[52] Australian Institute of Health and Welfare. 2009. *Juvenile Justice in Australia 2007–08*. Juvenile Justice Series No. 5. Cat No. JUV 5. Canberra: AIHW.
[53] *ibid.*

release, transition and post-release programs". While the audit found that the reform aims and objectives are being worked towards, there are no performance and outcome reporting frameworks to measure the success of the reforms. The audit also noted that there are multiple government and non-government agencies involved in the delivery of youth justice services, however more formal planning arrangements would benefit the youth justice system[54]

Tasmania

In Tasmania youth justice services are by provided by the Department of Health and Human Services (DHHS), Disability, Child, Youth and Family Services (DCYFS). DCYFS is a new entity which is responsible for disability, health care and parenting, community development, adoption and permanency planning, child protection, family violence counselling and support, sexual assault, and youth justice community and custodial services. These services were brought together under DCYFS to ensure client-focussed service delivery and better integration across services to avoid service gaps and overlaps and improve client-provider communication[55].

The high level focus of Tasmania's juvenile justice system is 'working together with the community and the young people, with the emphasis on encouraging young offenders to take responsibility for their offences'[56]. The Youth Justice Act 1997 outlines a set of principles and objectives that are intended to meet the needs of young people who offend with the intention to divert them from a criminal pathway. It also seeks to deliver these services in an integrated and collaborative way with young people, parents and guardians, significant others and services within and outside the Agency. This is achieved through formal partnerships with the Magistrates Court, Tasmania Police, local government, the non-government sector, the Education Department and DHHS Colleagues.

Tasmania Police is responsible for deciding whether to divert or refer alleged youth offenders to the courts. Diversionary pre-court, informal and formal cautioning services are provided by Police Early Intervention Units. Police can also refer a young person to participate in a community conference run by Youth Justice Services (YJS). When making decisions, cultural, religious and community considerations must be taken into account. YJS, which works closely with Tasmania Police, participates in overseeing a number of diversionary programs such as U-Turn, for youth who are involved or at risk of becoming involved in motor vehicle theft[57].

The Magistrate's Court (Youth Justice Division) was established under the Youth Justice Act 1997. Community conference undertakings are registered with the Court Registrar and non-compliance with conference undertakings may result in referral to Tasmania Police to decide whether to prosecute the matter in the court. Available sentencing options of the court include, dismissing the charges, releasing and adjourning proceedings on conditions, fines, community conference, probation, rehabilitation orders for family violence offences, community service orders, detention orders, and suspended detention orders

[54] Victorian Auditor-General. June 2008. *Services to Young Offenders*.
[55] Australian Institute of Health and Welfare. 2009. *Juvenile Justice in Australia 2007–08*. Juvenile Justice Series No. 5. Cat No. JUV 5. Canberra: AIHW.
[56] Victorian Government Department of Human Services. 2007. *Youth Justice Group Conferencing Program Guidelines: Youth Justice.*
[57] Australian Institute of Health and Welfare. 2009. *Juvenile Justice in Australia 2007–08*. Juvenile Justice Series No. 5. Cat No. JUV 5. Canberra: AIHW.

with conditions. For more serious sentences, the court is required to obtain a pre-sentencing report from YJS[58].

The Community and Custodial Youth Justice Services work together closely to provide integrated assessment and case management practices. The Community Youth Justice Service provides supervision and case management for young people who have received a court order or a community service undertaking as decided during a community conference. Custodial Youth Justice Services are provided at the Ashley Youth Detention Centre in close coordination with the Community Youth Justice Service to ensure that the assessments which inform case management, including pre- and post-release planning, are comprehensive and up to date[59].

The Ashley Youth Detention Centre provides various education and training and health and wellbeing services for detainees. The centre, which has a dedicated programs officer, provides a range of drug and alcohol, employment, life-skills and other programs that take account of participants' cultural needs. The centre also has a dedicated Advisory Group which meets regularly and receives compliance reports on service standards that inform its advice on improvements to services and centre development[60].

South Australia

South Australia's Young Offenders Act 1993 specifies adaptations and modifications of general state law for dealing with young people. The juvenile justice system applies to people aged 10 to 17 years of age who have committed or alleged to have committed an offence, as well as some older youth who were 17 years of age or under at the time of committing an offence[61].

South Australian police play an important role as first point of contact with the juvenile justice system and are responsible for deciding whether to direct young people to the Youth Justice Court or through the diversionary system. Police also have the discretionary power to issue 'on the spot' informal cautions for minor offences and formal cautions for more serious offences[62]. For offences considered too serious for cautioning, young people may be directed to participate in a Family Conference run by a Family Conference Team under the Courts Administration Authority. Eligibility for participation in a Family Conference requires the young person to admit responsibility for the offence. Young people who do not admit to the offence are directed to the Youth Court.

The Youth Court is presided over by a judge of the District Court. Young people may also be referred to a higher court depending on the seriousness and frequency of their offending. For example, charges of homicide are always dealt by the Supreme Court regardless of the offender's age[63].

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[58] *ibid.*
[59] *ibid.*
[60] *ibid.*
[61] Australian Institute of Health and Welfare. 2008. *Juvenile justice in Australia 2006–07*. Juvenile justice series no. 4. Cat no. JUV 4. Canberra: AIHW.
[62] *ibid.*
[63] *ibid.*

Families SA, which is primarily a child welfare division within the Department for Families and Communities, has statutory responsibility to manage orders made by the Youth Court. The responsibilities of Families SA under the Young Offenders Act and Youth Court Act include:

+ assisting young people at risk from becoming involved in offending;

+ reducing reoffending through the provision of appropriate services and programs;

+ providing the Youth Court with viable alternatives to detention;

+ protecting the community by providing appropriate detention facilities; and

+ addressing the specific issues of disadvantage, inequity and lack of cultural recognition confronting young Aboriginal people[64].

Families SA currently manages two youth secure care facilities in Magill and Cavan, which are due to be replaced with an improved combined facility in 2010[65]. In recent months the South Australia Government has been heavily criticised for failing to provide adequate funding to alleviate poor conditions at its juvenile detention centres, particularly at Magill which is significantly overcrowded[66].

Family SA's youth crime and justice service responsibilities are sentence management, remand management and programs. Sentence management involves allocation, assessment and sentence planning, implementation and review, and discharge planning for youth justice sentences ordered by the court. Court orders, which may involve supervision or intervention or both, include secure detention, home detention, conditional release, suspended detention, supervised obligation, community service orders, and fines payment[67].

Remand management is a supervisory function for young people on detention remand and community bail. Remand management aims to ensure that young people return to court and comply with court orders, which may consist of custodial remand, home detention bail, or conditional bail[68].

Family SA's programs functions underlie its case management responses and aim to reduce offending, build skills and promote the young person's integration into the community[69]. Youth support programs currently in place in South Australia include:

+ Aboriginal Culture and Identity Program;

+ Byte Back;

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[64] Families SA, Department for Families and Communities, Government of South Australia. *Crime and justice.* http://www.dfc.sa.gov.au/pub/default.aspx?tabid=343 accessed 23 December 2009.
[65] Casey, S, Day, A. 2008. *Review of Programmes in Youth Training Centres—Part 1: Literature Review. Guardian for Children and Young People*.
[66] The Australian. 2009. *Youth 'hellhole' misses out on bulk of funding.* http://www.theaustralian.news.com.au/story/0,25197,26139129-5006787,00.html accessed 23 December 2009.
[67] Australian Institute of Health and Welfare. 2008. *Juvenile justice in Australia 2006–07.* Juvenile justice series no. 4. Cat no. JUV 4. Canberra: AIHW.
[68] *ibid.*
[69] *ibid.*

+ Marni Wodli ("Good House");

+ Mentoring coordination;

+ Metropolitan Aboriginal Youth and Family Services (MAYFS); and

+ Youth Support Teams[70].

Families SA also provides social welfare services, including poverty prevention and intervention services, family and child support and alternative care responses.

Western Australia

In Western Australia the Community and Juvenile Justice Division of the Department of Corrective Services is responsible for administering both adult community corrections and juvenile corrections under the Community Justice Services Directorate as well as juvenile remand and detention services under the Juvenile Custodial Services Directorate. The rate at which young people are placed in custody in Western Australia is 56 in every 100,000. Further, Indigenous Australians constitute 75% of all juvenile inmates across the state[71].

Community Justice Services provides funding for community agencies to supply prevention programs and services for juveniles who have offended or are at risk of offending. In addition, diversionary alternatives are available for young people charged with minor offences which allow them to undergo therapy and mediation with victims and stakeholders.

The Killara Youth Support Service is a program which provides counselling and support for 'at risk' young people and their families. The program targets young people who may have recently begun offending and aims to resolve the problems which may underlie their offending behaviour.

Juvenile justice teams are another diversionary alternative used to keep minor offenders from entering the formal court system. Juvenile justice teams allow police, mediators, victims, parents or carers and the young people themselves to be collectively involved in determining the penalties for a young offender. Juvenile justice teams can also run court conferences which are a restorative justice process for offenders, victims and other stakeholders. While in metropolitan areas juvenile justice teams receive dedicated support, in country areas the responsibilities of juvenile justice teams are assigned to Juvenile Justice Officers in addition to their other duties.

Young people may be directed to the Children's Court where diversionary alternatives are not used. Sentencing options available for convicted juvenile offenders include:

+ no punishment;

+ no punishment with conditions;

[70] Families SA, Department for Families and Communities, Government of South Australia. *Youth programs.* http://www.dfc.sa.gov.au/pub/default.aspx?tabid=342 accessed 23 December 2009.
[71] Mission Australia. 2009. *Australia's approach to Juvenile Justice must change*.

+ no punishment with recognisance;

+ fine;

+ youth community-based order (with possible conditions of community work and therapeutic programs);

+ intensive youth supervision order without detention (with possible conditions as above);

+ intensive youth supervision order with detention/conditional release order (with possible conditions as above; also, breach or re-offending while on the order can result in a custodial term being imposed at the magistrate's discretion); and

+ custodial sentence usually followed by supervised release (juvenile parole).

Sentencing of juvenile offenders requires a written court report which is usually prepared by a Juvenile Justice Officer and verbal sentencing advice to the courts is also given when required. After sentencing, the role of the Juvenile Justice Officer becomes primary case management for both custodial and community-based sentences.

Services provided under supervision orders depend on the nature of the offence, the age and developmental stage of the offender as well as any apparent personal issues and requirements of the disposition. Examples of supervision services include:

+ generic case management by a Juvenile Justice Officer;

+ psychological counselling;

+ referral to external statutory agencies and local service providers;

+ referral to the Victim–Offender Mediation Unit (if there are victim issues that require intervention);

+ the use of Youth Support officers or mentors; and

+ referral to Department of Corrective Services Education Advisory officers[72].

Western Australia's supervised bail program is available for juveniles when a responsible adult can't be found to sign the bail undertaking. However, not all juveniles charged with an offence are granted bail by the courts, in which case the juvenile is remanded in custody to the state's Rangeview Remand Centre.

Juvenile Custodial Services operates two juvenile custodial facilities for young people remanded in custody or sentenced to a period of detention. The two centres use experienced professionals, including juvenile custodial officers, education and training staff, program facilitators, psychologists, and case planning, supervised bail and medical staff.

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[72] Australian Institute of Health and Welfare. 2008. *Juvenile justice in Australia 2006–07*. Juvenile justice series no. 4. Cat no. JUV 4. Canberra: AIHW.

Numerous programs are provided to young people in custody by both internal and external providers. These include drug counselling, abuse prevention programs, personal development programs, healthy relationships programs, conflict resolution, life skills programs and health care.

Western Australia's Intensive Supervision Program (ISP) is a specially designed program for the state's most serious repeat young offenders. The ISP operates under license from the US Multi-Systemic Therapy (MST) model, which has been applied in a number of international jurisdictions and which numerous studies have found to be effective in reducing recidivism and producing significant savings to taxpayers. Under the program, ISP Teams work with serious and repeat juvenile offenders (and their families) with complex personal circumstances associated with their delinquent behaviour.

Northern Territory

Juvenile justice in Northern Territory (NT) is the responsibility of Corrective Services under the Department of Justice and the Police. Before appearing in court, police may deal with young offenders by referring the youth through the NT Police Youth Diversion Scheme, releasing the youth on bail (with or without conditions) or, where the alleged crime is serious, remanding the youth in custody[73]. Despite these measures, the Northern Territory has the highest rate of juvenile incarceration in Australia at 99 per 100,000, particularly among Aboriginal and Torres Strait Islanders which comprise 89 percent of this figure[74].

Diversionary pathways may consist of issuing a written or verbal warning, or requiring the youth to participate in a family or victim-offender conference. Conference outcomes may involve a range of undertakings including informal or formal conditions, such as apologising to victims, as well as participation in programs including substance abuse, training and education and community service programs[75].

If a charge against a youth is proven in court, it may adopt any of the following actions and may or may not proceed to conviction:

+ dismiss the charge;
+ discharge without penalty;
+ adjourn the matter for up to 6 months and if, discharge the youth without penalty if the youth does not commit a further offence during that period;
+ adjourn the matter for up to 12 months and grant bail in accordance with the Bail Act to assess the youth's prospects for rehabilitation or for other purposes;
+ adjourn the matter and order the youth to participate in a program approved by the Minister;
+ order that the youth be released with conditions;

[73] *ibid.*
[74] Mission Australia. 2009. *Australia's approach to Juvenile Justice must change*.
[75] *ibid.*

+ fine the youth;

+ order that the youth participate in a community work project for up to 480 hours;

+ for youth older than 15 years of age, order that the youth serve a term of detention or imprisonment (or suspended or periodic detention or imprisonment); and

+ any other order that could be made if the youth were an adult convicted of the same offence[76].

In determining an appropriate sentence for a youth who has been found guilty of an offence, the court may adjourn the proceedings and order the youth to participate in a pre-sentencing conference run by a qualified convenor, which may involve the victim(s) of the offence, family members, community representatives or others. The convenor must then report to the court as to the outcome of the conference[77].

In the case of bail, the young person is subject to the supervision of Correctional Services with conditions including place of residence, curfew and attendance at specific appointments such as alcohol and drug testing[78].

All youth placed on orders, whether detention or community-based, undergo case management, which varies depending on the individual and family circumstances of the youth and the services available in their community[79].

As part of a new crackdown initiative on juvenile crime, the Northern Territory government is currently introducing a number of measures including stopping repeat offenders from being able to access juvenile diversion programs repetitively. Family Responsibility Orders are also being introduced with the aim of holding parents accountable for the repeat offending behaviour of their children. Parents will be provided with support including access to parental guidance counselling and will be required to meet certain conditions. This may involve participating in rehabilitation programs, ensuring their child attends school, ensuring their child is home by a certain time or that the child avoids contact with a particular person or place. Parents in breach of their Family Responsibility Order may be fined or have non-essential household items seized. In addition to these measures, the government is establishing youth camps and increasing the level of police patrols and CCTV in public places[80].

Queensland

The Department of Communities and the Police are the primary institutions responsible for administering juvenile justice in Queensland. The Department of Communities is responsible for administering youth justice conferences, services and programs as set out under the Juvenile Justice Act 1992.

Key juvenile justice functions of the department include:

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[76] *ibid.*
[77] *ibid.*
[78] *ibid.*
[79] *ibid.*
[80] Northern Territory Department of Justice. 2009. *Cracking Down on Youth Crime*. http://www.nt.gov.au/justice/youth_crime/index.shtml accessed 23 December 2009.

+ carrying out court-related activities;

+ administering the Conditional Bail Program and providing bail support services;

+ administering and supervising young people on community-based orders;

+ meeting the safety, wellbeing and rehabilitation needs of detained young people;

+ coordinating and operating youth justice conferencing; and

+ providing youth detention.

Diversion in Queensland includes informal cautioning and warnings, or formal cautioning by police, and being referred to a Youth justice conference[81]. Youth justice conferencing is generally provided at youth justice centres, where supervisory, rehabilitation and reintegration services for youth leaving detention or on community-based orders are also delivered in collaboration with the state's two detention centres[82].

Most young people who are directed to court have their matters completed in Children's Courts but may also be directed to District Courts, the Children's Court of Queensland or the Supreme Court[83]. Sentencing options for young people who are found guilty by a court may include one or more, or a combination of the following:

+ Reprimand, or a warning, for a young person who is found guilty or pleads guilty to an offence.

+ A good behaviour order for a period of up to one year. Any breach of a good behaviour order will be taken into account by the sentencing court.

+ Fines for committing an offence (provided that the young person has the ability to pay).

+ A probation order which places the youth under supervision by a Department of Communities officer for the duration of the probation period. Offenders must adhere to the requirements of the order and agree to be placed on a probation order.

+ A community service order requires the youth to perform work without pay in the community for the number of hours ordered by the court. The Department of Communities is responsible for organising this work and arranging supervision for the young person for the duration of the sentence. A young person must agree in order to be placed on a community service order.

+ Intensive supervision orders can apply to young people aged 10 to 12 years of age for a period of up to 6 months. This requires the young person to agree to participate in the activities organised by the Department of Communities including conferencing with the young person and their family, supervision and other activities.

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[81] Dennison, S., Stewart, A. and Hurren, E. 2006. *Police cautioning in Queensland: the impact on juvenile offending pathways*. Australian Institute of Criminology. Trends & Issues in crime and criminal justice No. 306

[82] Australian Institute of Health and Welfare. 2008. *Juvenile justice in Australia 2006–07*. Juvenile justice series no. 4. Cat no. JUV 4. Canberra: AIHW.

[83] Queensland Department of Communities. *Types of sentences*. http://www.communityservices.qld.gov.au/youth/youth-justice/sentences/ accessed 23 December 2009.

+ Conditional release orders which involve immediate suspension of a detention order to allow the young person to participate in an intensive program in the community for up to 3 months. The young person must agree to take part in the activities organised by the Department of Communities, which may include work, schooling, counselling and community activities. A young person's breach of the agreement may result in being brought back to court and given a detention order.

+ Courts can order that a young person be sent to a detention centre for up to a year, or for a longer period for serious offences. Between 50 and 70 per cent of the duration of the detention order must be spent in a detention centre. The remaining time is served in the community under a supervised release order.

+ A court can direct a young person to participate in a Youth Justice Conference instead of, or before making a sentence order. The conference outcome can be considered by the court at the time of sentencing.

+ Restitution and compensation can be ordered for property loss or injury incurred by a victim of an offence. However, this can only be made in conjunction with another order and where the young person has the capacity to pay the required amount.

+ Licence disqualification for certain charges may disqualify a young person from holding or obtaining a driver's licence[84].

In support of regional services, state-wide units provide policy, operational and strategic direction as well as funding for community juvenile justice programming[85].

Two notable state-wide therapeutic programs, Aggression Replacement Training (ART) and Changing Habits and Reaching Targets (CHART), were implemented in 2008. ART, which is delivered via all Youth Justice Service Centres and the state's two detention centres, is an intensive ten week program which teaches social skills, anger management and moral reasoning to young people at risk of committing violent offences. More information about ART is provided in the Programs section.[86]

CHART is a moderate to high intensity cognitive intervention delivered via caseworkers which aims to reduce the risk of re-offending by young people. CHART was developed by the Department of Human Services in Victoria and adapted for the Queensland context. The program consists of six core modules and six discretionary modules which are selected on the basis of the young person's particular needs. Training for caseworkers and relevant staff began in 2008 with the goal of making CHART a core a core case management skill.[87]

The Conditional Bail Program provides alternatives to remanding young people in custody through the provision of activities which engage young people for the length of their bail period. The Bail Support Program provides support to young people with existing accommodation arrangements, and assists with

[84] *ibid.*

[85] Australian Institute of Health and Welfare. 2008. *Juvenile justice in Australia 2006–07*. Juvenile justice series no. 4. Cat no. JUV 4. Canberra: AIHW.

[86] Australian Institute of Health and Welfare. 2009. *Juvenile Justice in Australia 2007–08*. Juvenile Justice Series No. 5. Cat No. JUV 5. Canberra: AIHW.

[87] *ibid.*

placements for those who have been granted bail and require assistance to meet bail conditions. The Department of Communities also provides funding to non-government organisations to provide bail support in the community and further minimise reliance on remanding young people in custody.

The Bail Support Service, funded by the Department of Communities, provides accommodation and support services to young people who are in remand or at risk of being remanded as a result of lack of appropriate accommodation. The program aims to reduce the number of youths held in remand, facilitate culturally suitable placement and intervention for youths released on bail and provide courts with a supported accommodation alternative to remanding youths in custody[88].

The Far North Queensland Bail Support Service (FNQBSS), which is part of the Youth Opportunity Program, provides emergency accommodation and other support, including holistic needs-based therapy, to assist young people to meet their bail conditions. In addition, funding is provided to non-government providers to assist young people in remote areas to their meet bail conditions.[89]

Indigenous Support Officer positions were recently introduced in Youth Justice Service Centres in several areas with a high proportion of Aboriginal and Torres Strait Islander young people under supervision. These positions are intended to facilitate communication between youth justice staff and Indigenous communities, improve the cultural suitability of programs and services and provide appropriate case management services and support and to families, caregivers, elders and other community stakeholders. Additional Indigenous Support Officer positions are currently being created in further locations across the state[90]. Indigenous Conferencing Support Officer positions have also been created in various locations to improve cultural appropriateness of youth justice conferences[91].

Queensland's Employment Project Officer program is a multi-government agency initiative between the Department of Communities and the Department of Employment and Industrial Relations. The program provides specialist employment and career guidance services to youths over 15 years of age on community-based orders and under supervision from a youth justice service centre[92].

The Griffith Youth Forensic Service is funded by the Department of Communities and delivered in conjunction with the Griffith University schools of Criminology and Criminal Justice and Applied Psychology. The service provides specialist assessment and therapeutic intervention for young sex offenders, pre-sentence reports to assist court decisions and case management planning, and advice and training services for juvenile justice workers who deal with sex offenders[93].

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[88] Australian Institute of Health and Welfare. 2008. *Juvenile justice in Australia 2006–07*. Juvenile justice series no. 4. Cat no. JUV 4. Canberra: AIHW.
[89] Australian Institute of Health and Welfare. 2009. *Juvenile Justice in Australia 2007–08*. Juvenile Justice Series No. 5. Cat No. JUV 5. Canberra: AIHW.
[90] *ibid.*
[91] *ibid.*
[92] Australian Institute of Health and Welfare. 2008. *Juvenile justice in Australia 2006–07*. Juvenile justice series no. 4. Cat no. JUV 4. Canberra: AIHW.
[93] *ibid.*

The Mater FaceUp Counselling Service is a trial initiative co-delivered by the Department of Communities and Mater Health Services. The service provides support and therapy for participants of youth justice conferences in connection with sexual offences, including young offenders, victims and their families[94].

Australian Capital Territory

Youth justice services in the Australian Capital Territory are the responsibility of the Office of Children, Youth and Family Support within the Department of Disability, Housing and Community Services.

The youth justice system is primarily based on the Children and Young People Act 2008. Additional provisions for the sentencing of young people are included in the Crime (sentencing) Act 2005 and bail decisions are made under the Bail Act 1992[95].

The Children and Young People Act 2008 introduced key youth justice reforms aimed at improving conditions in youth detention by increasing accountability and transparency, protecting minimum human rights and protecting the safety of juveniles and staff. The legislation further aimed to modernise, streamline and achieve consistency with respect to the sentencing and detention of young people. Other important outcomes achieved through implementation of the Act include:

+ enabled courts to tailor sentences on the basis of the individual rehabilitative needs of young people;
+ required courts in deciding to impose a sentence of imprisonment to consider making a combination sentence comprising of a good behaviour order with a supervision condition following the period of imprisonment;
+ prohibited the imposition of life sentences for offences committed under the age of 18;
+ introduced a maximum time limit of 12 hours for the detention of young people in police and court cells[96];

For minor offences the ACT police have discretionary power to divert young offenders using warnings and diversionary alternatives. Police decisions to divert young offenders are subject to criteria which takes into account the youth's offending history, developmental maturity and capacity and parental input.

Restorative justice conferencing is available in ACT as a diversionary option for young people who have been cautioned, charged or convicted of a criminal offence. To be eligible for referral to a restorative justice conference, the youth must admit responsibility for their offence. Restorative justice conferences are not available for offences that do not have an identified victim, such as traffic and drug offences[97].

The majority of young people who are directed to court are dealt with in the Children's Court but may also be referred to the Supreme Court. A specialist departmental court officer is present in all court matters

[94] *ibid.*
[95] *ibid.*
[96] *ibid.*
[97] *ibid.*

involving young people in order to provide reports on current youth justice clients and advise in relation to custodial and community services available to young people. Dispositions available to courts include:

+ dismissal of charge;
+ reprimand;
+ conditional discharge;
+ fine, reparation or compensation order;
+ probation order;
+ community service order;
+ attendance centre order;
+ residential order; and
+ committal order (within the Australian Capital Territory or to another state institution)[98].

Bimberi Youth Justice Centre is ACT's youth custodial facility which is designed, built and operated under Human Rights legislation. The centre, which is designed in the style of a secondary school campus, is managed by the Department of Disability, Housing and Community Services. Bimberi staff work with government agencies and community organisations providing education, training, healthcare and recreation to address the needs of young people. Bimberi's key objective is to assist young offenders to understand, address and take responsibility for their offending and risk taking behaviour[99].

Community Youth Justice Section, within the Office of Children, Youth and Family Support, is responsible for supervising young people on court orders within the ACT. The Section provides this supervision through a strengths based management model which aims to provide a balance between community protection, restitution and rehabilitation. The goals of the Community Youth Justice Section are to:

+ hold young people accountable for their offending behaviour;
+ provide reports and advice to the ACT Children's Court and the ACT Supreme Court;
+ provide effective supervision of young offenders;
+ ensure the proper care and protection of children within the justice system;

[98] *ibid.*
[99] ACT Department of Disability, Housing and Community Services, Office for Children, Youth and Family Support. *Welcome to the Bimberi Youth Justice Centre*. http://www.dhcs.act.gov.au/ocyfs/bimberi accessed 23 December 2009.

+ reduce the likelihood of re-offending through the provision of a range of vocational/educational and rehabilitation programs[100].

[100] ACT Department of Disability, Housing and Community Services, Office for Children, Youth and Family Support. Community Youth Justice. http://www.dhcs.act.gov.au/ocyfs/services/community_youth_justice accessed 23 December 2009.

Overview

The following table provides an overview of the custody rates for each Australian state and the level of Indigenous representation in custody.

2007 Population breakdown, Custody Rates and Indigenous Overrepresentation by Jurisdiction (for age 10-17 population)[101]				
	Indigenous Proportion of Juvenile Population (%)	**Total Number of Juveniles in Custody (per 100,000 of relevant population)**	**Number of Non-Indigenous Juveniles in Custody (per 100,000 of relevant population)**	**Number of Indigenous Juveniles in Custody (per 100,000 of relevant population)**
NSW	4.4	38	18	467
Victoria	1.3	9	7.2	142
Tasmania	7.0	29.1	19.6	154.2
South Australia	3.4	36.5	18.9	528
Western Australia	6.2	59.4	16.4	702.7
Northern Territory	42.3	127.9	32.8	256.1
Queensland	6.5	32.3	12.5	313.5
Australian Capital Territory	2.6	37.0	26.3	416.7
TOTAL	4.7	32.8	14.4	403.0

[101] Australian Institute of Criminology. 2009. *Juveniles in Detention in Australia, 1981-2007*. AIC Reports: Monitoring Reports 05.

JUVENILE JUSTICE PROGRAMS

This section describes a range of juvenile justice programs and reviews evidence on their effectiveness in meeting their stated aims. Most of the programs included in this section are North American programs due to the fact that the majority of empirical evaluations of juvenile justice programs are from the USA[102]. A subjective summary assessment has also been made for each program using the following criteria:

+ **Effectiveness**: The effectiveness of the program in meeting its stated aims (e.g. the ability of a prevention program to divert high risk youth from the juvenile justice system).

+ **Direct Costs**: The direct costs of implementing the program (i.e. implementation and ongoing operating expenses).

+ **Indirect Costs**: Any indirect costs of the program, including future costs on the justice system (e.g. court proceedings, likelihood of future incarceration).

+ **Ease to Implement**: The ease in which the program can be implemented (e.g. it may be a common characteristic of the program that issues are experienced implementing the program effectively).

+ **Availability**: The availability (or reach) of the program (e.g. a program may be tailored to a small number of high risk youth, or all school based children).

Given the large number of programs which exist, it is useful to categorise these programs on the basis of their key characteristics. A common method of categorisation identifies programs as being either preventative or interventionist. Prevention programs aim to prevent criminal activity or other undesirable behaviour before it occurs by removing or reducing the influence of "risk factors" (environmental or genetic) which may predict such behaviour. Intervention programs differ from prevention programs in that they only aim to correct criminal or undesirable behaviour once it has already occurred.

A second method of categorisation uses the concept of primary, secondary and tertiary prevention programs. Primary prevention programs refer to universal approaches which aim to prevent crime before it occurs, for example early age prevention programs, curfews or CCTV monitoring in public places. Secondary prevention programs include elements of primary prevention but are applied to groups of young people considered to be at elevated risk of involvement in crime. Examples of secondary prevention programs include therapy for children who signs of violent or anti-social behaviour, 'scared straight' programs or targeted policing of 'high risk' individuals or areas. Tertiary prevention programs are targeted at youth who have already become involved in crime. Examples of tertiary programs include traditional probation, intensive supervision programs, restorative justice, boot camps and detention.

The categorisation of juvenile justice programs in this report is intended to encompass the full spectrum of programs available to policy makers and incorporates elements of categories used by Future of Children (FoC), Early Career Prevention Network (ECPN) and US Department of Juvenile Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP). Specifically this section approaches juvenile justice programs on the basis of the following categories:

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[102] Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.

+ Early-Age Programs;
+ School-based Programs;
+ Community/Family-based Programs;
+ Mentor Programs;
+ Institution-based Programs;
+ Policing Programs;
+ Non-therapeutic Tertiary Programs; and
+ Post-Release Programs.

Early-Age Programs

The David Olds Nurse Home Visitation Program

The David Olds Nurse Home Visitation Program, also known as the Nurse-Family Partnership (NFP), involves training and supervising nurses who pay home visits to young, low-income, first-time mothers identified as being at risk to infant health and developmental problems. Visits begin from the prenatal period and last until the child reaches approximately 20 months of age. The aim of the program is to improve parent and child outcomes by promoting the cognitive and social-emotional development of the child and providing support and parenting skills to parents.

FoC's summary of the NFP program described its benefits as including:

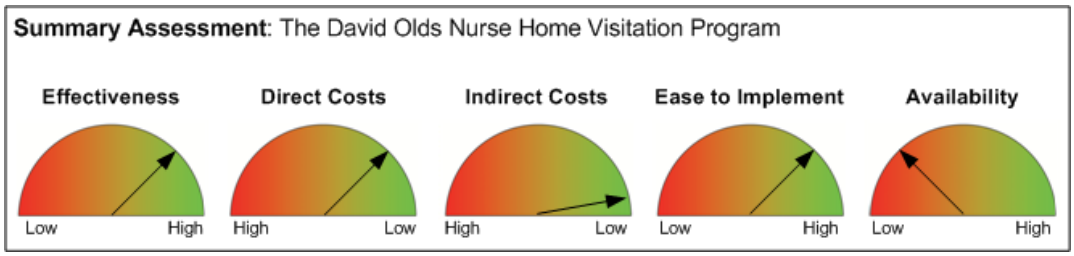
+ a significant reduction in child abuse and neglect;
+ lower arrest rates for children and mothers;
+ decrease in welfare receipts; and
+ decrease in subsequent births.

A study by Karoly and colleagues found that NFP is not cost-effective in terms of the reduction in delinquency alone but that its benefits exceed its costs by several hundred percent when taking account of the reduction in crime of mothers and children in addition to reduced welfare and schooling costs[103]. In terms of government expenditure alone, a major study of NFP conducted in Elmira, New York, found that investment in the program was on average recovered by the time the child turned four years of age[104].

[103] Karoly et al 1998 in Greenwood, P. 2008. *Prevention and Intervention Programs for Juvenile Offenders*. Juvenile Justice, vol. 18, no. 2, pp. 187-210.
[104] Olds et al 1998 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.

Studies in numerous jurisdictions have found NFP to be effective and the program is now applied in over two-hundred counties in the USA as well as in many other countries[105]. Further, evaluations have found NFP to be more consistent and successful than other cheaper and less structured prenatal home visitation programs, many of which rely on visits by social workers or professionals other than nurses[106].

NFP is recognised as a model program by the Colorado Centre for the Study and Prevention of Violence, Blueprints for Violence Prevention[107].



Perry Preschool Program – High/Scope Curriculum

The Perry Preschool Program (PPP) was modelled on the basis of the progressive Perry Preschool in Ypsilanti, Michigan. It has been evaluated in numerous studies and is listed as a 'best practice' program by FoC. The program aims to deliver collaborative planning and problem solving among teachers, parents, students, community members, and administrators. The program utilises small class sizes, continuing education for teachers, an integrated curriculum (known as High/Scope Curriculum) and student involvement in rule-setting and enforcement.

A long-term evaluation of the program cited by OJJDP observed 123 African-Americans of low IQ and low socioeconomic status between the ages of three and four with a follow-up period of 27 years. The 58 children who participated in the program showed lower delinquency and crime rates. Total arrests for program participants were significantly lower and 31% of program participants had been arrested at least once compared with 51% from the control group. Scholastic achievement, income levels and homes and car ownership rates were significantly higher for participant children while marriage rates were higher for participant children and mothers[108].

Benefits of the PPP as described in FoC's 'best practice' summary include the prevention of future drug use, delinquency, anti-social behaviour, and early school drop-out[109].

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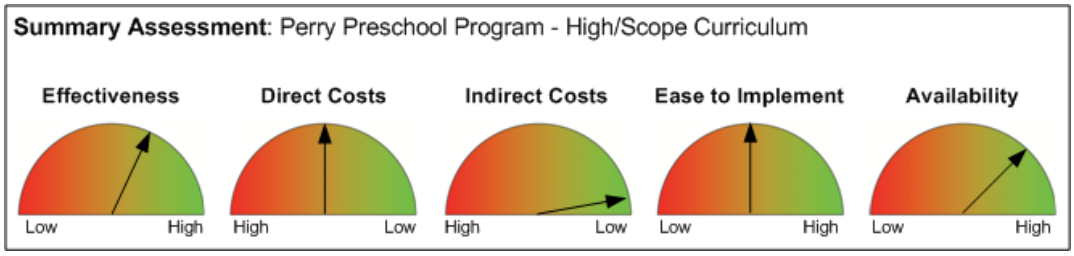
[105] Greenwood, P. 2008. *Prevention and Intervention Programs for Juvenile Offenders: Juvenile Justice*. Vol. 18, no. 2, pp. 187-210.
[106] Olds et al 2004 in Greenwood, P. 2008. *Prevention and Intervention Programs for Juvenile Offenders*. Juvenile Justice, vol. 18, no. 2, pp. 187-210.
[107] Centre for the Study and Prevention of Violence. *Blueprints for Violence Prevention: Model Programs: Nurse-Family Partnership*. http://www.colorado.edu/cspv/blueprints/modelprograms/NFP.html accessed 23 December 2009.
[108] Schweinhart et al 1993 in U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.
[109] The Future of Children, Princeton-Brookings. 2008, Juvenile *Justice*.



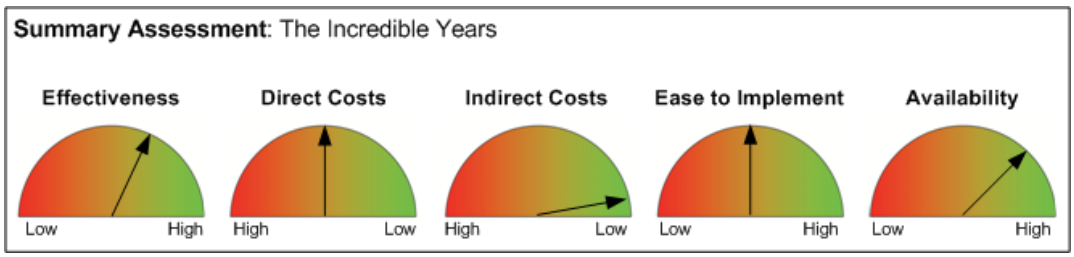
The Incredible Years

The Incredible Years is a series of curriculums for parents, teachers, and children designed to promote emotional and social competence for children of ages 2-8. The program lays particular emphasis on teacher-family socialisation processes which affect young children.

Numerous rigorous studies have found that the Incredible Years program is effective in reducing risk factors and undesirable behaviours correlated with juvenile offending. For example, several independently conducted randomised control group evaluations have found that the program delivers the following benefits:

+ improved family communication and problem-solving;
+ improved parental use of nonviolent discipline;
+ reduced behaviour problems in children's interactions with parents;
+ reduced parent depression and improved parent self-confidence;
+ improved parent bonding and parent-teacher relationships;
+ improved parenting skills including increased use of positive emotional responses and decreased use of criticism, harsh discipline, and negative commands; and
+ reduced child and peer aggression in the classroom.

The Incredible Years series has been found to be successful with children from various ethnic groups including Hispanic, Asian-American, and African-American groups as well as from diverse socioeconomic backgrounds in parts of the United States, Canada, and the United Kingdom. The Incredible Years is listed as a Blueprints Model Program.



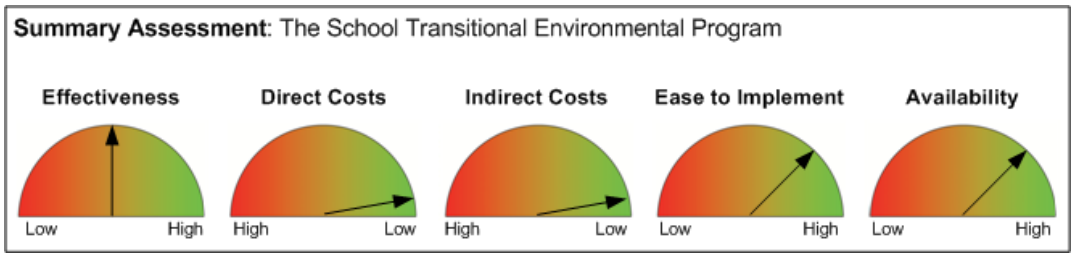
School-based Programs

Numerous school-based prevention programs exist which may be useful in juvenile justice policy making. These programs typically aim to address undesirable behaviours such as truancy, poor academic performance, substance abuse or violence and can also provide general guidance and counselling for young people.

The School Transitional Environmental Program

The School Transitional Environmental Program (STEP) is an American program that predominantly serves low income, non-white youth. The program aims to reduce student anonymity, increase student accountability and improve student's abilities to learn school rules and exceptions. STEP was designed for students in transition from elementary and middle schools to large urban junior and senior high schools. The program identifies students who are at greatest risk of behavioural problems and groups them in small homerooms in which can they receive guidance counselling from teachers in relation to class scheduling, academic difficulties as well as any personal problems. Teachers also inform the parents about the program and contact them if the student is absent from class. STEP participants are also enrolled in the same core subjects in order to foster stable peer groups and familiarity with the school.

Several rigorous studies demonstrate the effectiveness of STEP, including a study across four 'low risk' schools involving 1,204 intervention students and 761 control students from six and seventh grade. The study found that that STEP students, compared with control students, showed significantly lower levels of school transition stress and better adjustment on measures of school, family, general self-esteem, depression, anxiety, and delinquent behaviour, and higher levels of academic expectations[110]. Teachers in the STEP schools reported that their students had better classroom adjustment behaviour and fewer problem behaviours. Academic records show that STEP students had significantly better grades and attendance patterns. According to FoC, the program is effective in reducing absenteeism and drop-out, increasing academic success and producing more positive feelings about school amongst participants[111].



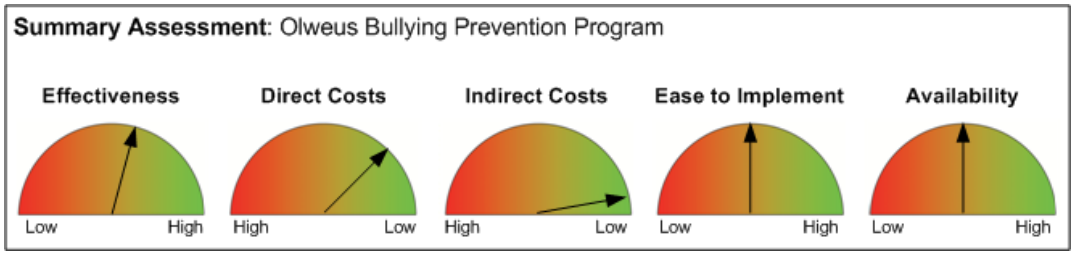
Olweus Bullying Prevention Program

The Olweus Bullying Prevention Program was developed in Bergen, Norway for elementary and middle school students. The program uses an 'ecological model' which intervenes in the children's environment on many levels by involving participation from bullies, victims, their families, teachers and classmates. The program focuses on increasing awareness of bullying and promoting involvement by parents and teachers in setting and enforcing clear anti-bullying rules. Teachers hold the primary responsibility for

[110] Reyes, Olga and Jason in U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.
[111] The Future of Children, Princeton-Brookings. 2008, Juvenile *Justice*.

implementation and they receive support from project staff. The program prescribes a number of specific measures for teachers and parents at the school, classroom and individual level and emphasises the importance of commitment on the part of adult participants in ensuring the program's success. An example of an individual level measure is interventions with individual bullies (or small groups of bullies), victims, and the parents of both to ensure that bullying behaviours cease and that victims receive necessary support to avoid future bullying[112].

The Olweus Bullying Prevention Program has been implemented in a variety of cultures including Norway, the south-eastern United States, England, and Germany, as well as in a range of school contexts (primary and middle schools). Both European and US studies have found the program to deliver significant reductions in bullying and victimising behaviours. European evaluations have also reported reductions in general antisocial behaviours including vandalism, fighting, theft and truancy. However, an evaluation conducted in South Carolina found no decrease in group delinquency, theft and substance abuse and reported no program effects after two years of program participation[113]. Nevertheless, the FoC describes the program as producing a decline in bullying by 50 percent two years after implementation in addition to a decrease in other forms of delinquency[114]. Further, the program is recognised as a Blueprints Model Program.



Other School-based Programs

Other school-based programs listed as Blueprints Model Programs include Life Skills Training (LST), Project Toward No Drug Abuse (Project TND) and Promoting Alternative THinking Strategies (PATHS). LST and Project TND are effective in reducing substance abuse amongst teens, while PATHS is an elementary school-based intervention which promotes emotional competence, including the expression, understanding and regulation of emotions.

Mentor Programs

Mentor programs involve the creation of relationships between "at risk" youth and pro-social peers. These programs aim to enhance the social-emotional development of youth by providing role models as well as improve the cognitive development of youth through dialogue and listening. Often mentors also act as advocates for youth concerns.

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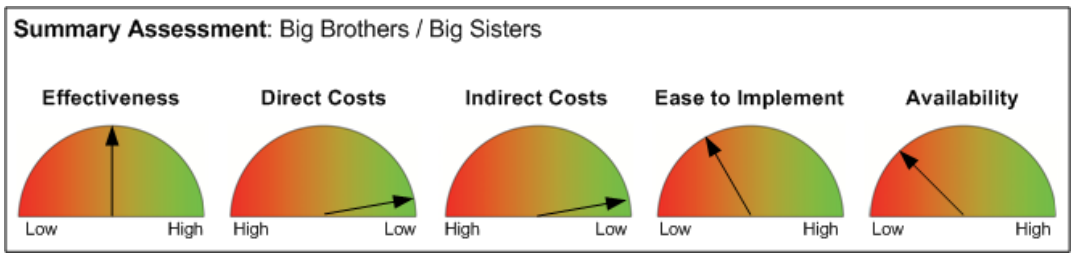
[112] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.
[113] *ibid.*
[114] The Future of Children, Princeton-Brookings. 2008, Juvenile *Justice*.

While mentor programs differ significantly, there is substantial evidence in support of the effectiveness of many mentor programs and some experts have concluded that mentoring programs can result in improvements in young people's academic performance, risk behaviour and psychosocial development[115].

Big Brothers / Big Sisters

One of the most well known mentor programs is the Big Brother/ Big Sister program (BB/BS) which serves 6-18 year old disadvantaged youth from single-parent households. BB/BS aims to develop a caring relationship between these young people and their matched adult mentors.

Early research on BB/BS found reductions in delinquency, substance misuse and crime[116]. However, later research has found that BB/BS and other mentoring schemes could have a negative effect if poorly implemented[117].



Community/Family-based Programs

Multi-systemic Therapy

MST is a home-based intervention program which targets chronic and violent juvenile offenders and seeks to address specific factors the youth's environment (including family, peer group, school and neighbourhood) that contribute to antisocial behaviour. The goal of the intervention is to help parents deal effectively with their youth's behaviour problems, including deviant peers and poor school performance by developing natural community-based support systems. Specific therapeutic techniques are drawn from empirically supported psychological theories including cognitive-behavioural theory (CBT) and pragmatic family therapy. Overall, the program provides approximately sixty hours of counselling with trained professionals including 24 hours, seven days a week crisis support for a period of approximately four months.

Since the 1980s, numerous studies have found MST to be effective in reducing re-arrests as well as out of home placements for problem youth in the juvenile justice and social services systems. The estimated reduction in long-term recidivism as a result of MST ranges from 25% to 70%. The program is well established in many jurisdictions in North America, the UK, Australia and Europe.

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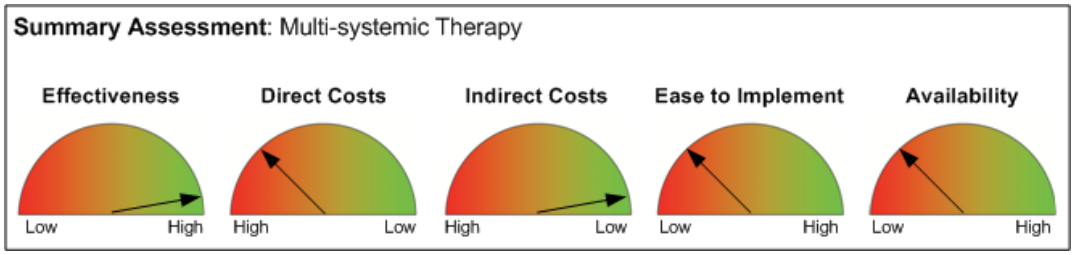
[115] Rhodes 2002 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[116] Tierney, JP, Grossman, JB and Resch NL. 1995. *Making a Difference: An Impact Study of Big Brothers/Big Sisters*. Philadelphia, PA: Public/Private Ventures.
[117] Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.

MST was included in Aos's 2003 list of the most cost-effective crime prevention interventions. In a more recent 2009 publication by Aos and his colleagues at the Washington State Institute of Public Policy, which reviewed ten evaluations of MST, the program was found to reduce recidivism by 7.7% and deliver total net dollar benefits of $17,694 per program participant over ten years. This figure embodies a total net saving to taxpayers of $2,693 per participant with the remaining benefits pertaining to the avoided costs to victims of crime. On a per dollar spent basis, MST was found to deliver taxpayer benefits of $1.62 for every dollar spent on expanding the program.

However as Kerns and Prinz note, difficulties in implementation can destroy the effectiveness of even the best tested programs, including MST[118].



Family Functional Therapy

Family Function Therapy (FFT) is aimed at 11 to 18 year-olds who are having problems with delinquency, substance abuse, or violence. FFT focuses on improving family dynamics by employing individual therapists to work with families in the home. The program aims to improve family problem solving processes, emotional connections and parents' abilities in providing structure, guidance and discipline for their children. Participants also learn how to better utilise outside system resources in dealing with family issues. The program is designed to be short term and easily trainable.

The effectiveness of FFT has been well-documented in studies spanning over 25 years. The program works for a wide range of problem youth and can be implemented effectively by social workers, counselling professionals, paraprofessionals and trainees. FFT is also an easily transportable program[119].

In Las Vegas, Sexton and Alexander found that 20% of juveniles who participated in FFT offended within one year of completing the program compared with 36% of their "treatment as normal" counterparts[120]. In Washington, Barnoski's evaluation of FFT programs implemented in 14 sites across the state found that when FFT was delivered competently, the program reduced felony recidivism by 38%[121].

One cost-benefit analysis estimated that FFT produced $2.77 in taxpayer savings for every $1 spent on the program. Further, FFT programs delivered by competent therapists were found to produce a far greater return on investment of $10.69 in benefits for each taxpayer dollar spent. This difference highlights the importance of proper implementation, including training, manuals and interagency cooperation etc.

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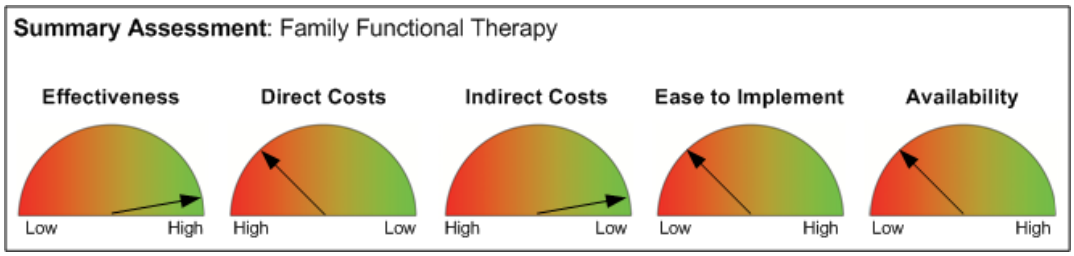
[118] Kerns, SE & Prinz, RJ. 2002. *Critical Issues in the Prevention of Violence-Related Behaviour in Youth. Clinical Child and Family Psychology Review, vol*. 5, no. 2, pp. 133-1602.
[119] The Future of Children, Princeton-Brookings. 2008, Juvenile *Justice*.
[120] Alexander J.F., Robbins M.S., Sexton T.L. 2000. *Family-based interventions with older, at risk youth: From promise to proof to practice*. The Journal of Primary Prevention.
[121] R. Barnoski. 2004. *Outcome evaluation of Washington State's research-based programs for juvenile offenders*. http://www.wsipp.wa.gov/rptfiles/04-01-1201.pdf accessed 23 December 2009.

The most recent WSIPP cost-benefit analysis of juvenile justice programs found that FFT delivered net taxpayer benefits of $14,306 per participant or $7.01 for every dollar spent on expanding the program[122].



Restorative Justice

Restorative Justice (RJ) emerged in New Zealand and later gained popularity in other countries including Australia and the USA. RJ does not refer to any specific program, but rather a set of principles which are reflected in similar RJ programs in many jurisdictions globally. Generally, the term RJ refers to a "problem-solving approach to crime which involves the parties themselves, and the community generally, in an active relationship with statutory agencies"[123]. This may involve the use of Family Group Conferences (or Youth Justice Conferencing as it is called in many Australian states including NSW) or 'Victim-Offender Mediation', as in England, Wales, Germany and other European countries amongst other programs. Circle Sentencing is another form of RJ which developed from the traditional sanctioning and healing practices of Canadian aboriginal people and American Indians in the USA[124]. Circle Sentencing is used for Indigenous adult offenders in NSW.

The effectiveness of RJ in terms of reducing recidivism is debatable. A study by Nugent and his colleagues reviewed four studies on Victim-Offender Mediation and found that RJ participants re-offended at a rate of 19% versus 28% for non-participants[125]. Another review of 46 international studies found on average that there were small but significant reductions in recidivism for RJ participants compared with normal probation. However, these reductions were smaller among juveniles than adults[126]. In another meta-analysis of 22 studies involving 35 RJ programs, it was found that such programs are more effective at improving victim/offender satisfaction, increasing compliance with restitution, and decreasing recidivism compared to non-restorative approaches[127]. In contrast, recent evaluations of two programs in New Zealand found high satisfaction of participants, but no difference in recidivism between participants and those in matched comparison groups who did not participate[128]. Przybylski notes that while RJ programs appear to be effective in reducing recidivism, more research is needed especially in the area of family

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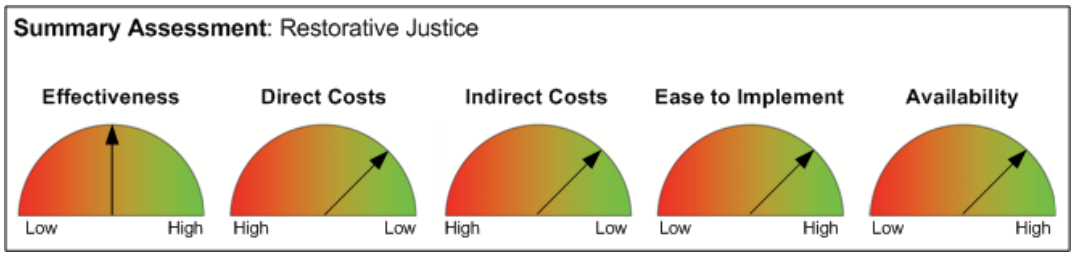
[122] Aos S. Drake E. & Miller M. 2009. *Evidence-Based Public Policy Options to Reduce Crime and Criminal Justice Costs: Implications in Washington State*. http://www.wsipp.wa.gov/rptfiles/09-00-1201.pdf accessed 23 December 2009.
[123] Marshall, TF. 1999. *Restorative Justice: An Overview*. http://www.homeoffice.gov.uk/rds/pdfs/occ-resjus.pdf accessed 23 December 2009.
[124] Stuart, 1995; Melton, 1995 in U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.
[125] Nugent, W., M. Umbreit, L. Wiinamaki and J. Paddock. 1999. *Participation in Victim-Offender Mediation and Severity of Subsequent Delinquent Behavior: Successful Replications?*
[126] Bonta, Wallace-Capretta, Rooney, & McAnoy, 2002 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[127] Latimer et al 2001 in Przybylski, R. 2008. *What Works. Effective Recidivism Reduction and Risk-Focused Prevention Programs. A Compendium of Evidence-Based Options for Preventing New and Persistent Criminal Behavior*.
[128] Paulin, Kingi, Huirama, & Lash. 2005. T*he Rotorua Second Chance Community-Managed Restorative Justice Programme: An Evaluation.* Wellington, New Zealand: Ministry of Justice.

group conferencing and circle sentencing[129]. A recent Australian evaluation found that circle sentencing was not effective in reducing the risk of reoffending by Australian Indigenous offenders[130], however, this study did not specifically focus on young Indigenous offenders.

From a cost-benefit perspective, the most recent WSIPP cost-benefit analysis found that RJ produced $2,223 in net benefits to taxpayers per program participant or $3.45 for every marginal dollar spent on the program. Thus, despite conflicting evidence with respect to the effectiveness of RJ on reoffending, restorative justice still offers substantial taxpayer benefits as well as higher satisfaction amongst crime victims.

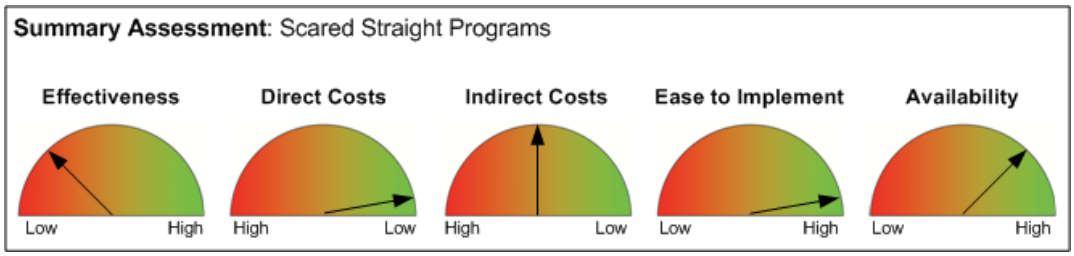


Scared Straight Programs

These programs aim to deter juveniles from crime by taking them into prisons to meet convicted offenders who tell their story to show the consequences of continued delinquency. These have been popular in the USA, probably due to the benefits of seeming tough, being cheap (in terms of upfront cost) and providing a means for convicted offenders to acknowledge the error of their ways.

Evidence suggests that scared straight programs are not effective. A meta-analysis of 9 programs funded by the Campbell Collaboration found that these programs cause more harm than doing nothing and lead to increased rates of delinquency and arrests amongst participants[131]. This is very strong evidence against the effectiveness of scared straight programs.

In the WSIPP 2009 cost-benefit analysis which covered ten evaluations of Scared Straight programs, Scared Straight programs were found to increase reoffending by 6.1%. Further, this type of program was calculated to result in a net loss to taxpayers of $5,630 per program participant which translates to a taxpayer loss of $92.83 for every dollar marginal spent on the program.



[129] Przybylski, R (RKC Group). 2008. *What Works: Effective Recidivism Reduction and Risk-Focused Prevention Programs: A Compendium of Evidence-Based Options for Preventing New and Persistent Criminal Behaviour*. Prepared for the Colorado Division of Criminal Justice.
[130] Fitzgerald, J. 2008. *Does circle sentencing reduce Aboriginal offending?* NSW Bureau of Crime Statistics and Research. Contemporary Issues in Crime and Justice. May 2008. No 115.
[131] Petrosino, Turpin Petrosino, & Buehler 2003 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.

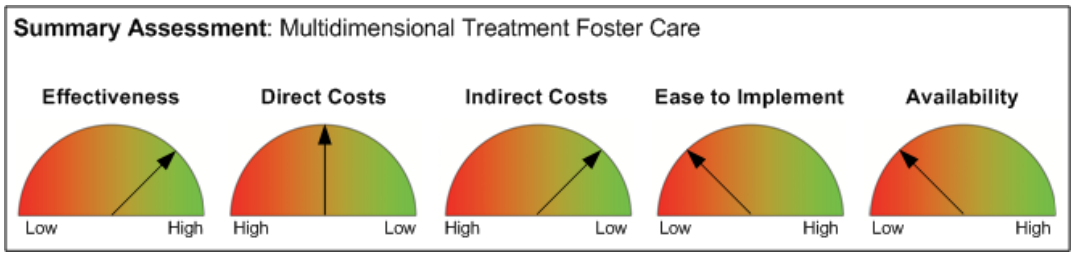
Institution-based Programs

Multidimensional Treatment Foster Care

This program is an alternative to residential treatment for adolescents who have problems with chronic delinquency and anti-social behaviour. Multidimensional Treatment Foster Care (MTFC) is modelled after the foster care system but differs in that MTFC foster parents are paid higher rates and expected to do more, including being at home when the teen is at home, completing training that teaches behaviour management, attending weekly group meetings, and engaging in daily supportive telephone calls with MTFC staff.

Evaluations show that while MTFC costs more than traditional group homes, it is more effective in reducing arrest rates, and therefore produces savings to the criminal justice system and to potential victims[132]. One study which randomly assigned a small sample of boys to either MTFC or group care found that after one year of treatment, the number of MTFC participants who were arrested was less than half than the number of non-participants arrested[133]. MTFC participants also spent fewer days incarcerated than those in the comparison group. A follow-up analysis found that participants in MTFC committed fewer violent offences and showed less self-reported criminal activity than a comparison group two years after completion of the program[134].

The 2009 WSIPP cost-benefit analysis reviewed three evaluations of MTFC and found that it reduced crime outcomes by 17.9%. Net benefits to taxpayers were calculated at $19,434 per participant or $3.81 for every dollar spent on expanding the program.



Cognitive Behavioural Therapy

Cognitive Behaviour Therapy (CBT) focuses on identification and rectification of dysfunctional beliefs, thoughts and behaviour patterns that contribute to life problems. CBT combines the two very effective treatments of cognitive therapy, which focuses on thought processes and beliefs such as self-justificatory thinking or deficient moral reasoning, and behavioural therapy, which focuses on conditioning behaviour directly through appropriate environmental reinforcement structures.

While CBT is often applied in institutional settings, the therapy has been successfully used in various settings including schools, support groups, prisons, treatment agencies, community-based organisations

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[132] The Future of Children, Princeton-Brookings. 2008, Juvenile *Justice*.
[133] Chamberlain, P., Fisher, P. A., & Moore, K. J. 2002. *Multidimensional Treatment Foster Care: Applications of the OSLC intervention model to high-risk youth and their families*.
[134] Eddy et al. 2004 in Przybylski, R (RKC Group). 2008. *What Works: Effective Recidivism Reduction and Risk-Focused Prevention Programs: A Compendium of Evidence-Based Options for Preventing New and Persistent Criminal Behaviour*. Prepared for the Colorado Division of Criminal Justice.

and churches. Studies have found CBT to be effective with participants of various ages and roles, such as students, parents, teachers, and with people of differing abilities and ethnic backgrounds.

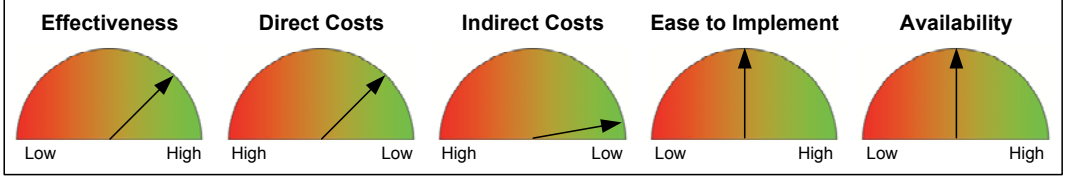
Problem behaviours that have been particularly amenable to change using CBT have been:

+ violence and criminality;
+ substance use and abuse
+ teen pregnancy and risky sexual behaviours; and
+ school failure.

Many model programs, including FFT, MST and Aggression Replacement Therapy (ART) amongst others, have successfully incorporated the strategies of CBT. Examples of institutional programs which incorporate CBT are Moral Reconation Therapy and Dialectical Behaviour Therapy Program for Incarcerated Female Juvenile Offenders.

The 2009 WSIPP cost-benefit analysis reviewed eight evaluations of CBT and found that it reduced crime outcomes by 2.6%. Total benefits to taxpayers per program participant were calculated at $2356, however program cost and net benefit to taxpayers were not calculated.

Summary Assessment: Cognitive Behavioural Therapy



Aggression Replacement Training

ART aims to reduce anti-social behaviour by targeting cognitive, behavioural and emotional aspects of juvenile aggression. ART focuses on addressing both the 'external' factors, such as parental and peer influence, as well as 'internal' factors, namely cognitive problems, which are believed to underlie aggressive behaviour. Specific interventions of ART consist of 'skill-streaming', which teaches pro-social skills, as well as 'anger-control training' and 'training in moral reasoning[135].

ART typically consists of three one-hour sessions per week for a period of ten weeks. The program is delivered in a group setting of eight to twelve participants and makes use of group activities such as guided group discussion to correct antisocial thinking. ART can be implemented in school, delinquency and mental health settings.

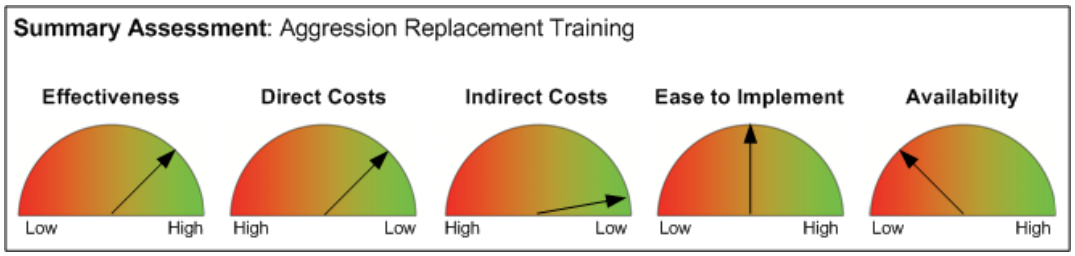
Numerous studies have found ART to be an effective intervention for incarcerated juvenile youth, including serious offenders. These studies have found ART to enhance pro-social behaviour and moral reasoning

[135] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.

and reduce the intensity and frequency of impulsive and 'acting-out' behaviours[136]. These studies found ART participants to have better 'in-community functioning' than non participants after release.

Additional studies have found ART to be an effective post-release treatment. For example, one such study found a significantly lower number of re-arrests (within a period of three months) among participants of post-release ART compared with non-participants.

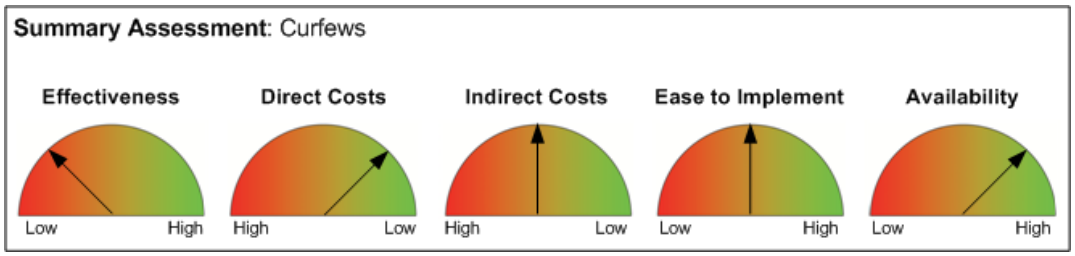
The 2009 WSIPP cost-benefit analysis reviewed four evaluations of ART and found that it reduced crime outcomes by 8.3%. ART was found to deliver $6,739 in net benefits to taxpayers per program participant or $8.34 for every dollar spent on extending the program.



Policing Programs

Curfews

Evidence in support of the effectiveness of curfews in reducing juvenile crime is weak. A review by Adams of 10 quasi-experimental studies on juvenile curfews found that the majority showed no effect in reducing juvenile crime[137]. Of those that did show an effect, these were equally split in terms of increase or decrease in crime. Adams concludes that costs of curfews outweigh their benefits and finds they are often implemented in a discriminatory manner. Young people caught up in curfews tend to be socially excluded and vulnerable. Adams found that as many as one third of curfew violators had to be sheltered overnight due to lack of an available parent or guardian to pick them up. Curfew violations needlessly add to criminal record and labelling of young people. Other experts have expressed concerns on the human rights implications of curfews[138].

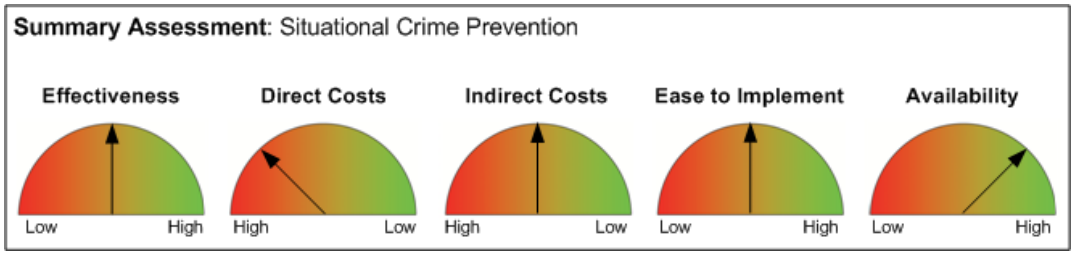


[136] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.
[137] Adams 2003 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[138] Fried 2001 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.

Situational Crime Prevention

Situational Crime Prevention (SCP) is based on criminological theories such as routine activity theory which argues that crime occurs when motivated offenders coincide with suitable targets in the absence of capable guardians[139]. The focus of SCP is on reducing the suitability of targets and increasing the level of surveillance in the areas concerned. Specific SCP measures include CCTV and crime prevention through product and environmental design. The nature of SCP is such that it does not focus on any particular age group of offenders.

Meta-analysis of British and American studies found that SCP did have a significant impact on reducing crime. However, reductions were more likely in car parks than residential settings and greater impact was found to be had on property crimes than violent crimes. The study found SCP to be more effective when combined with better street lighting, and showed better results in Britain than America[140]. More recent research demonstrates that CCTV does not always reduce crime[141]. Other countries have been slower to adopt CCTV than Britain, perhaps as a result of being less risk averse and more concerned with the civil liberties issue[142].



Zero-Tolerance Policing

Zero-Tolerance Policing (ZTP) is an approach based on Wilson and Kelling's "broken windows thesis" which advocates the use of policing crackdowns on even minor crimes with the assumption that tolerance of minor crimes leads to an increase in the number of emboldened offenders in the community as well as increased frequency and seriousness of crimes[143].

ZTP is often credited for the substantial reduction in crime during the nineties in New York. However, the limited nature of police resources means that ZTP is impossible to implement in practice since there will always be a significant number of crimes for which the offender is unknown or unable to be charged. William Bratton, New York's former Police Commissioner, has himself acknowledged that the NYPD's approach during the nineties was not "zero-tolerance".

Evidence in support of the effectiveness of ZTP is weak. For example, other non-ZTP cities in the USA also experienced a drop in violence at the same time as NYC and the fall in violence in NYC has since

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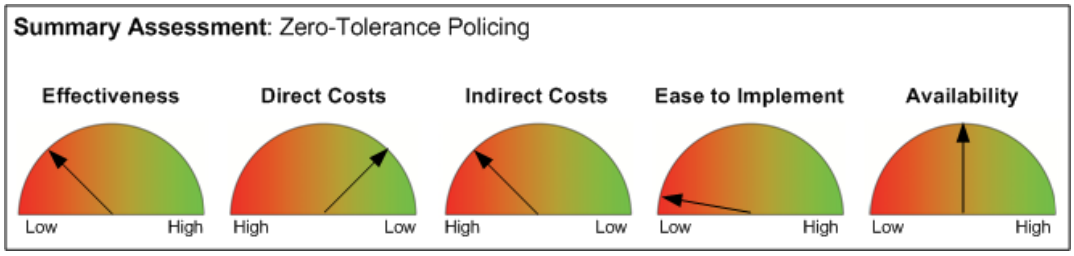
[139] Cohen and Felson 1979 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[140] Welsh and Farrington 2004 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[141] Rutter, Giller & Hagell 1998 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[142] Tonry 2004 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[143] Wilson and Kelling 1982 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.

been shown to have preceded the ZTP initiative suggesting the significance of factors other than ZTP[144]. Further, complaints against police and compensation to victims of police brutality increased during Batton's time as Commissioner. Young and Wacquant have also noted the problematic evidence-base behind ZTP and highlighted its negative effect on community-police relations[145].

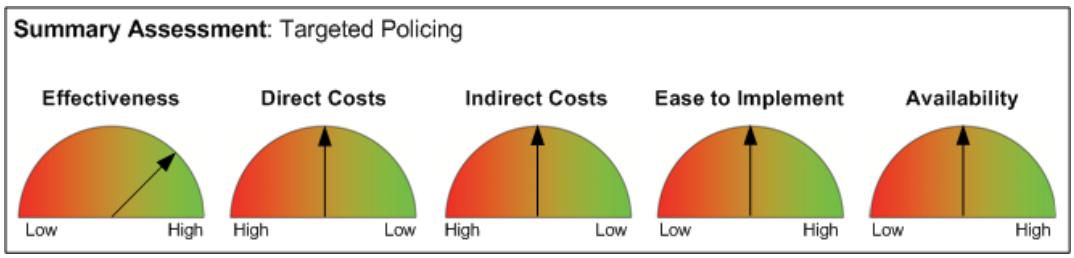


Targeted Policing

Targeted policing is based on the notion of problem-oriented policing which argues that policing should aim to address specific problems as opposed to being determined by existing organisational structures[146]. Targeted policing may involve the targeting of specific areas (hotspot policing) or specific individuals (focused deterrence) considered to be at "high risk" of exhibiting criminal activity.

Hot-spot policing makes use of computerised information systems and other sources of information to target particular areas at particular times where the probability of criminal activity is estimated to be high. Evidence suggests that hot-spot policing can be effective. For example, a meta-analysis of 5 randomised controlled trials found mean positive reduction in calls to police in targeted areas and no evidence of displacement to other areas[147]. However, continued concerns exist over potential of targeted policing to negatively effect community-police relations in target areas.

A practical example of focused deterrence (targeting of individuals) was Operation Ceasefire which was undertaken in Boston to target youth gangs. Operation Ceasefire succeeded in producing a temporary reduction in shootings but failed to deliver a sustained reduction in murders[148].



[144] Bowling 1999 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[145] Young and Wacquant 1999 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[146] Goldstein, 1979 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[147] Braga 2005 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[148] Braga, Kennedy, Waring, & Piehl 2001 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.

Non-therapeutic Tertiary Programs

Bail & Remand

Bail is the granting of temporary liberty to a person charged with a criminal offence. It may be granted by the police or by a court. The individual must undertake to return to court on a specified day and to fulfil certain conditions.

Remand inmates are people who are detained in a correctional centre by police or a court, either having not been granted bail or not being able to meet their bail conditions. Remand and bail are closely related in that young people who violate their conditions of bail or who are unable to meet their conditions of bail due to lack of appropriate accommodation, supervision or other reasons, are often placed in remand before attending court.

Whilst the intent of remand differs slightly from jurisdiction to jurisdiction, it is generally intended to fulfil three basic goals[149]:

+ Ensuring the integrity and credibility of the justice system so that alleged offenders will attend court, and witnesses and victims are protected.

+ Protecting the community from the possibility of reoffending.

+ Assisting the care and protection of the rights of the defendant.

The potential for remand systems to actually achieve these goals is limited. Evidence indicates that the remanding of youth is often associated with a range of negative consequences including increased recidivism, poor conditions in remand facilities as a result of overcrowding and far greater costs in comparison with alternatives such as bail and community supervision[150].

Research by Zeidenberg found that time in a remand facility is the "most significant factor in increasing the odds of recidivism"[151]. The most significant reasons for this include:

+ stigmatisation of young people;

+ formation of criminal associations and networks as a result of contact with other offenders;

+ placing vulnerable young people at risk; and

+ reduction in opportunities for positive rehabilitation[152].

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[149] Sarre et al (2006) in Mazerolle, P & Sanderson, J. 2008. *Understanding Remand in the Juvenile Justice System in Queensland*. Queensland Department of Communities.
[150] Holman and Zeidenberg 2006, p.4, in Blakemore, C. 2009. *Locked in Remand: Children and Young People on Remand in New South Wales*. Background Paper. UnitingCare Burnside. and,
UnitingCare Burnside. 2009. *Releasing the Pressure on Remand: Bail Support Solutions for Children and Youth People in New South Wales*.
[151] Ziedenberg, J. 2006. *Building Momentum for Juvenile Justice Reform'. Models for Change: Systems Reform in Juvenile Justice*. Washington.
[152] Victorian Department of Human Services. 2007. *Youth Justice Group Conferencing: Information for the young person*.

According to the NSW Law Reform Commission, remand detainees often feel isolated and frustrated, or as if they have already been found guilty. They also lack access to the same programs as detainees on a custodial sentence. The remanding of youth also puts added stress on family relationships and disrupts education for young people at a critical period in their lives[153].

Remand is extremely costly, as demonstrated by the NSW Auditor-General, where the cost of detention in a juvenile justice centre was estimated at $556 per person per day compared to $23 per person per day for community supervision[154].

Further, excessive use of remand can result in overcrowding of detention centres and unsatisfactory conditions for detainees. Greater numbers of youth held in detention centres on remand relative to the number held on custodial orders tends to shift the focus "away from programs and development towards security warehousing"[155].

Finally, recent research suggests that overly strict bail laws and conditions, while effective in increasing remand populations, are generally ineffective in reducing crime rates. For example, a recent study produced by the NSW Bureau of Crime Statistics and Research found no evidence that changes to the Bail Act 1978 and stricter police enforcement of bail laws, which contributed to a 32 percent increase in the juvenile remand population, produced no decrease in juvenile property crime[156].

In light of this evidence, custodial remand should be used as a last resort and bail should be granted to youth wherever possible. Juvenile justice systems need to ensure that bail conditions are not overly strict and that young people receive the support they need to avoid violating their conditions of bail and being placed back in remand. Specific support requirements will depend on the unique circumstances of the individual and may involve the provision of accommodation and supervision as well as the provision of therapies, alcohol and drug abuse programs, guidance counselling, and educational and vocational opportunities. The provision of alternative accommodation options for youth who lack an appropriately supervised home or family environment is particularly important given that this is often a basic requirement for bail eligibility[157].

BAIL HOSTELS

Bail hostels aim to provide a collective accommodation option for youths who would otherwise be denied bail. However, the effectiveness of bail hostels is questionable as conditions are often not substantially different from remand facilities themselves. Further, the educational and rehabilitation needs of young people may not be met due to limited access to programs and opportunities to reintegrate into the community[158].

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[153] NSW Law Reform Commission 2005, p.231, in Blakemore, C. 2009. *Locked in Remand: Children and Young People on Remand in New South Wales*. Background Paper. UnitingCare Burnside
[154] New South Wales Auditor-General 2007, in Blakemore, C. 2009. *Locked in Remand: Children and Young People on Remand in New South Wales*. Background Paper. UnitingCare Burnside
[155] Dambach 2007, p. 170, in Blakemore, C. 2009. *Locked in Remand: Children and Young People on Remand in New South Wales*. Background Paper. UnitingCare Burnside
[156] Vignaendra, S., Moffatt, S., Weatherburn, D., Heller, E. 2009. *Recent trends in legal proceedings for breach of bail, juvenile remand and crime*. NSW Bureau of Crime Statistics and Research. Contemporary Issues in Crime and Justice. No. 128
[157] Blakemore, C. 2009. *Locked in Remand: Children and Young People on Remand in New South Wales*. Background Paper. UnitingCare Burnside
[158] *ibid.*

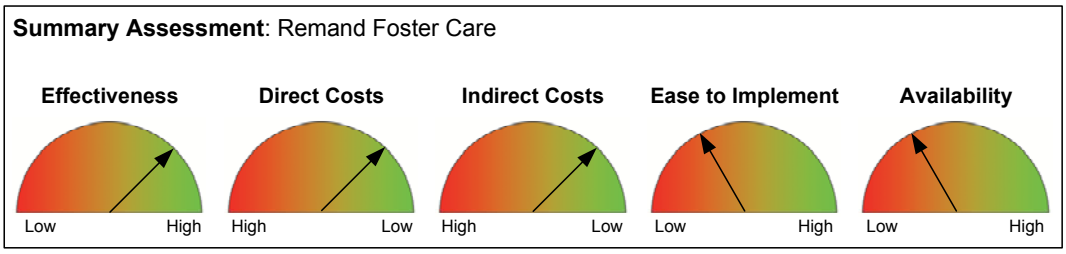
REMAND FOSTER CARE

Remand foster care has been successfully implemented in jurisdictions in England and Wales. The program places youth who are on remand as a result of not having access to appropriate bail accommodation under the supervision of remand foster-carers who are required to meet certain criteria and to have completed relevant training. Remand foster-carers receive regular cash payments to supervise the young people in their own homes. In Kent County, payments are linked to the training and performance of carers[159].

In a recent study on the experiences of youth placed under remand foster care[160], the author concluded remand foster care to be a more humane alternative than custodial remand, offering security, stability and a chance for young people to become re-involved in education or employment whilst under placement. Remand foster care was found to be effective in reducing offending while under placement and helped to ensure that young people returned to court when required. However, the author also concluded that remand foster care is not successful with all young people and in some cases foster placements can break down. Further, as remand foster care is a relatively new practice, it was noted that more research is needed to determine the longer term effects on recidivism, why some placements break down and what can be done to prevent placements from failing.

In the UK, a study by the Youth Justice Board was undertaken to examine the effectiveness of a range of accommodation options available to children and young people. This involved measuring the impact that various types of accommodation had on re-offending, compliance with bail conditions, attendance at court hearings, as well as on protecting public safety, victims and defendants[161]. The study concluded that remand foster care was the most effective type of accommodation, followed by supported lodging. Bail hostels were also found to be quite effective but also associated with lower accessibility and not all specifically designed for young people. The key finding of the study was that "support is the key element of accommodation provision. Whatever accommodation is provided […], the young people require support in order to prevent absconding, reoffending and breaching of bail conditions"[162].

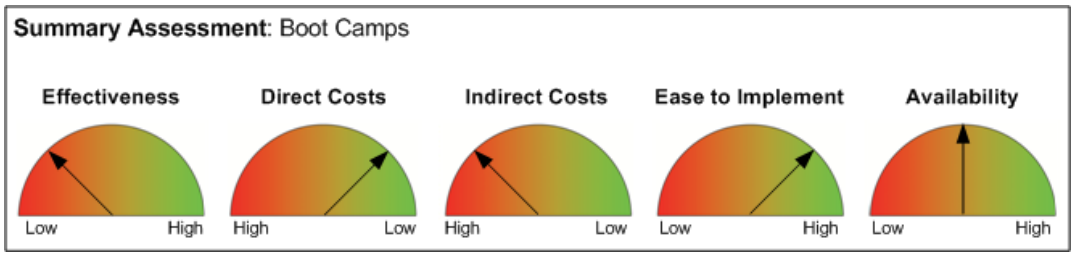
Summary Assessment: Remand Foster Care



[159] Kent County Council. *Fostering Payments.* http://www.kent.gov.uk/childrens_social_services/fostering_a_child/fostering_payments.aspx accessed 23 December 2009.
[160] Lipscombe, Jo. 2003. *Another Side of Life: Foster Care for Young People on Remand*. Youth Justice Vol. 3, No. 1
[161] Hucklesby 2004 in Blakemore, C. 2009. *Locked in Remand: Children and Young People on Remand in New South Wales*. Background Paper. UnitingCare Burnside.
[162] Hucklesby 2004, p.54 in Blakemore, C. 2009. *Locked in Remand: Children and Young People on Remand in New South Wales*. Background Paper. UnitingCare Burnside.

Boot Camps

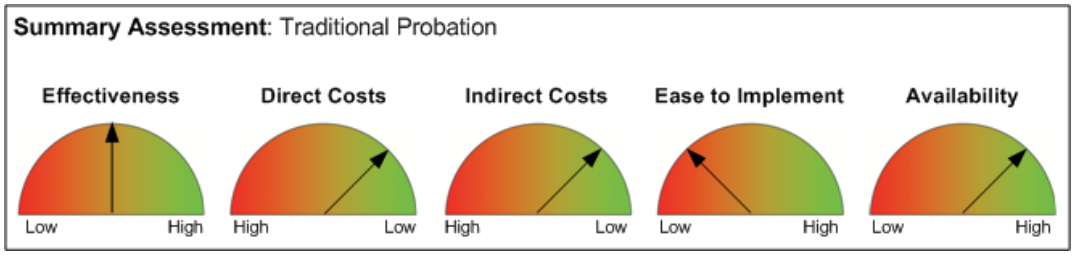
Boot Camps are specially structured residential institutions which function along military lines. The track record of boot camps in reducing recidivism is poor. In a recent evaluation, "scared straight" programs, boot camps were the only programs to have a mean negative impact[163].



Probation

TRADITIONAL PROBATION

Traditional probation places juvenile offenders under informal or voluntary or court-ordered supervision as an alternative to incarceration and other sanction options. In practice however, the probation system is used in many jurisdictions as a "cache" for the juvenile court system as a result of its perceived limitless capacity and relative inexpensiveness, rather than for its effectiveness in reducing crime[164]. Empirical evidence suggests that traditional probation is not effective in itself in reducing crime. For example, Lipsey found that probation supervision is no more effective than no intervention in reducing recidivism[165]. One of the most commonly cited reasons for the relative ineffectiveness of traditional probation programs is the heavy caseloads of probation officers. As Greenwood notes, "an overworked probation officer who sees a client only once a month has little ability either to monitor the client's behaviour or to exert much of an influence over his life"[166].



INTENSIVE SUPERVISION PROGRAMS

Intensive Supervision Programs (ISPs) attempt to address the problem of overloaded probation officers by laying particular emphasis on the monitoring of youth under probation. ISPs enforce more frequent contact with probation officers, smaller caseloads together with strict conditions of compliance. Also, these programs often encompass a range of risk control strategies such as day and evening 'in-person'

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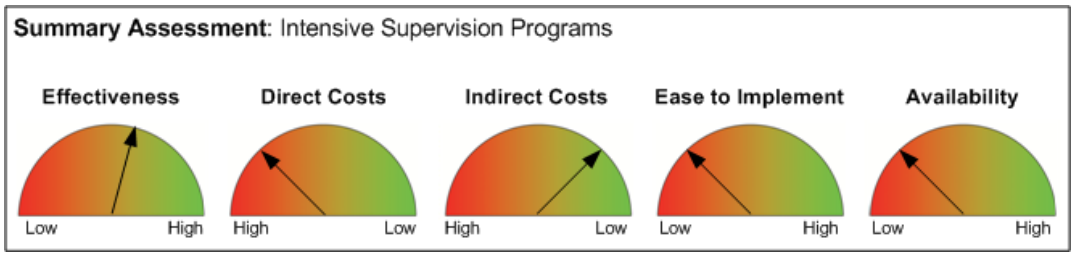
[163] Aos S., Lieb R., Mayfield J., Miller M. & Pennucci A. 2004. *Benefits and costs of prevention and Early intervention programs for youth*. http://www.wsipp.wa.gov/rptfiles/04-07-3901.pdf accessed 23 December 2009.
[164] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.
[165] Lipsey, M. 1992. *Juvenile delinquency treatment: A meta-analytic inquiry into the variability of effects.* New York, NY: Russell Sage Foundation.
[166] Greenwood 1996 in U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.

meetings, drug testing and electronic monitoring. Many ISPs are also combined with therapy (e.g. MST or FFT) or additional services to address the particular needs of offenders[167].

Some research has found that ISPs are more effective than incarceration in reducing recidivism[168]. However, other research has found that ISPs resulted in no reduction in recidivism and produced greater costs associated with staff numbers, drug testing, and increased demand on imprisonment services for technical violations[169].

However, there is some evidence that probation can be successful if combined with other therapeutic measures such as MST or FFT (ECPN 2006, OJJDP 2009). For example, one study found that adolescents on probation who received nine to twelve months of residential treatment and professional counselling showed better substance use outcomes at one-year follow-up than did those on probation who did not receive residential treatment (Morral, McCaffrey, Ridegway 2004 in Greenwood 2008). Some evidence also suggests that ISPs when combined with therapeutic measures can be effective in reducing recidivism, however, it is not clear whether the treatment, the supervision, or a combination of the two produced the positive outcomes (OJJDP 2009).



Incarceration

Lipsey's 1992 meta-analysis suggests that community-based programs are more effective in reducing recidivism amongst juvenile offenders than imprisonment[170]. While in some circumstances secure incarceration of young people may be necessary to ensure the safety of the community, policies that incarcerate more youth do not necessarily improve public safety. According to the Justice Policy Institute, data collected over a ten year period on incarceration and crime trends in the USA indicates that states that increased the number of incarcerated youth did not necessarily achieve a decrease in crime during the same time period[171].

In cases where the risk to the community is so great that custody is necessary, therapeutic treatment including CBT, social skills training and the use of smaller residential units rather than large institutions

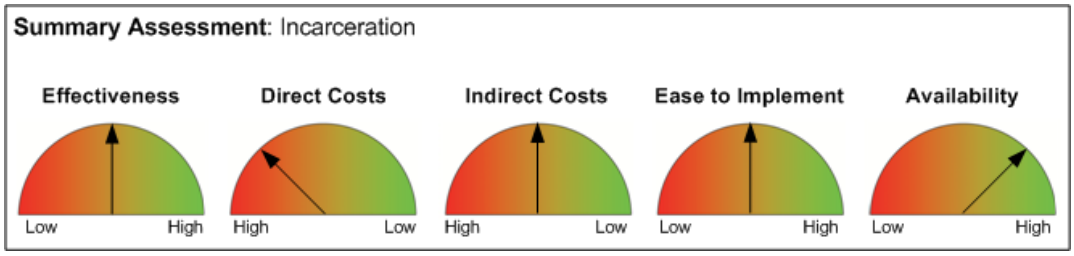
[167] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.
[168] Wiebush, 1993; Krisberg, Austin, and Steele, 1989; Barton and Butts, 1990 in U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.
[169] Petersilia and Turner 1993 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[170] Lipsey, M. 1992. *Juvenile delinquency treatment: A meta-analytic inquiry into the variability of effects.* New York, NY: Russell Sage Foundation.
[171] Justice Policy Institute. 2009. *The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense*. Justice Policy Institute, Washington DC.

containing hundreds of juvenile offenders are more likely to reduce the likelihood reoffending[172]. For example in Missouri, USA, "exceptional" reductions in juvenile recidivism were achieved by replacing its State reform school with small group homes that provided personal attention and therapy[173]. The relative ineffectiveness of imprisonment is explained by the fact that it concentrates delinquent youth rather than placing them in a pro-social environment.

Despite significant evidence against youth incarceration, a large number of young offenders in the USA are still sentenced to incarceration in 'training schools' or other large correctional units housing between 100 and 500 individuals. Many of these large facilities are overcrowded, unsafe and associated with high rates of injury and suicidal acts[174]. Further, the majority of incarcerated youth in the USA were sentenced for nonviolent crimes and could be managed safely in the community – an alternative which would produce annual taxpayer savings in the billions of dollars[175].

It is also possible for poor conditions in congregate correctional facilities to result in expensive litigation outcomes for state governments. For example, in the USA court-ordered reforms have been imposed on State governments which have costed in the millions of dollars[176]. In addition, incarcerating young people can have undesirable effects on their long-term economic productivity as well as the economic wellbeing of communities as a result of limiting opportunities for education and disrupting the development process through which youth can grow out of criminal behaviour if they are allowed to live in a normal environment[177].

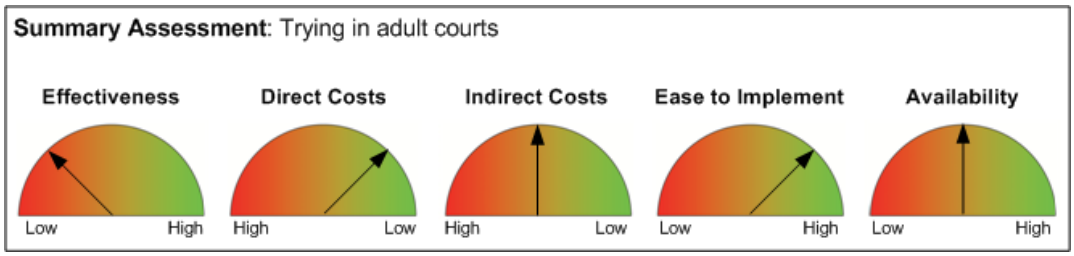
In recent years, growing evidence and awareness of the ineffectiveness and high costs associated with youth incarceration has prompted several of the biggest states in the USA, including California, Illinois, Ohio, New York and Pennsylvania, to reallocate funding away from state institutions towards more effective community based services[178].



[172] Aos 2003, Lipsey 1992 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[173] Mendel 2003 in U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.
[174] Parent 1994 in U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.
[175] Justice Policy Institute. 2009. *The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense*. Justice Policy Institute, Washington DC.
[176] *ibid.*
[177] *ibid.*
[178] *ibid.*

Trying in adult courts

Evidence suggests that trying juveniles in adult courts does not lead to the intended deterrent effects and may actually increase juvenile recidivism[179]. Trying juveniles in adult courts denies juvenile offenders the opportunity to participate in therapeutic programs appropriate for their age[180].



Post-Release Programs

Post-release, or aftercare programs, are a vital component of effective juvenile justice systems as they assist juvenile offenders who have been placed in custody to reintegrate into the community after being released. The terms 'post-release' and 'aftercare' can span the entire re-entry process from just after sentencing, through the incarceration period, to well after release into the community.

The two basic criminological principles of post-release programs are 'community restraint' and 'intervention'. Community restraint programs are those which exercise surveillance and control over offenders once they are released into the community. Examples include employment verification, intensive supervision, electronic monitoring, house arrest, residential halfway houses, urine testing for use of illegal substances, and contact with parole officers or other correctional personnel. Intervention programs are aimed at changing the delinquent behaviours of young offenders, and typically provide therapeutic treatments, substance abuse services as well as other community supports such as employment and education assistance amongst other services.

Post-release programming may involve either application of general diversionary interventions, such as MST, ART and CBT, as well as the use of specifically designed post-release programs such as Family Integrated Transitions (FIT) or Operation New Hope (ONH) amongst others.

Family Integrated Transitions

FIT is a post-release program designed for youth with mental health or substance abuse problems in Washington State. The program provides behavioural and other therapies to juveniles and their families to help the institutionalised youth reintegrate in the community[181]. FIT aims to lower the risk of recidivism, connect the family with appropriate community support, achieve youth abstinence from alcohol and other drugs, improve youth mental health and increase pro-social behaviour.

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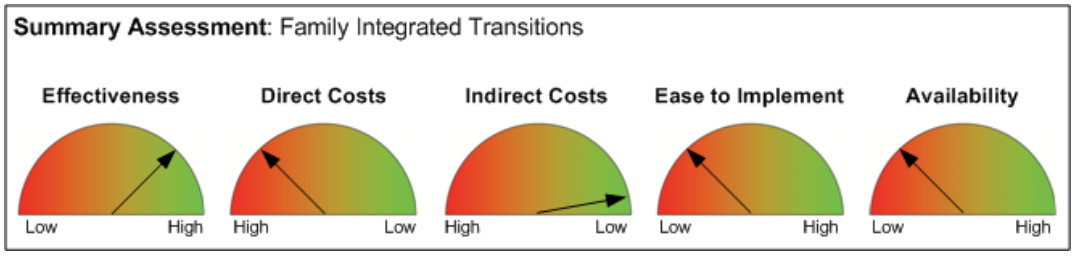
[179] Bishop 2000, Myers 2003 in Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[180] Gladstone, B, Kessler, I, Stevens, A. 2006. *Review of Good Practices in Preventing Juvenile Crime in the European Union*. European Crime Prevention Network.
[181] The Future of Children, Princeton-Brookings. 2008, Juvenile *Justice*.

FIT incorporates elements of MST, dialectical behaviour therapy (DBT) and motivational enhancement therapy (MET). The MST component provides the environmental framework of the therapy by using therapists to train caregivers in establishing partnerships with schools, community agents, parole and other systems and act as effective advocates for youth participants. The DBT component is designed to replace individual-level dysfunctional emotions and behaviours with more effective and appropriate responses. Finally, the MET component is intended to increase commitment to change on the part of the youth and all parties involved in the treatment.

FIT begins two months before the youth is released from a Juvenile Rehabilitation Administration facility (JRA) and continues for four to six months after release. Treatment is delivered by FIT teams which may serve between four to six families at any one time and consist of therapists as well as mental health and substance dependency professionals. Eligible participants are identified by the JRA which also works closely with therapists and participant families. To be eligible a youth must be no older than 17 years and 6 months, be in a JRA and be scheduled to be released with four of more months of parole, have a substance abuse problem as well as any one of the following conditions:

+ any Axis 1 disorder;
+ currently prescribed psychotropic medication; or
+ demonstrated suicidal behaviour within the last 3 months.

A 2004 evaluation of the program found a significantly lower recidivism rate 18 months after release amongst FIT participants compared with non-participants. The program's effect was weaker for longer periods after release although results still indicated lower recidivism rates[182]. The 2009 WSIPP cost-benefit analysis reviewed one evaluation of FIT and found that it reduced crime outcomes by 10.2%. FIT was found to deliver $5,075 in net benefits to taxpayers per program participant or $1.51 for every dollar spent on extending the program.



Operation New Hope

ONH (previously called Lifeskills '95) is a Californian developed curriculum-based parole program designed to assist high-risk chronic offenders to cope with the problems of everyday life and reintegrate into the community. The program uses cognitive-behavioural techniques of reinforcing personal successes while addressing participants' fears and misperceptions of life.

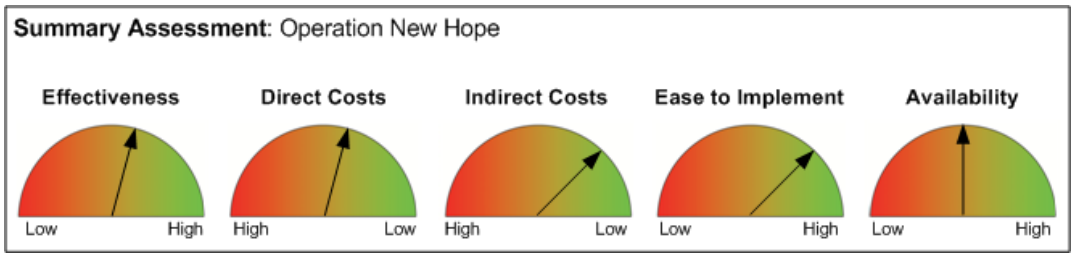
The program aims to achieve the following 6 goals to assist reintegration:

[182] Aos 2004 in U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.

1. Improve basic socialisation skills.
2. Reduce the frequency and seriousness of criminal activity.
3. Alleviate dependence on alcohol or illicit drugs.
4. Improve lifestyle choices (social, education, job training, and employment).
5. Reduce the need for gang participation and affiliation as a support mechanism.
6. Reduce the rate of short-term parole violations.

ONH consists of 13 3-hour weekly meetings, each week focusing on different coping skills. Topics include 'Dealing With Your Emotions', 'Denial', 'The Problem of Thinking You Can Do It Alone', 'Love', 'Family Dynamics' and 'Living With Addiction' amongst others. Each meeting is split equally between lectures and group discussion and participants are able to begin the program at any stage in the curriculum.

Evaluations of ONH have found the program to effectively reduce recidivism and increase pro-social behaviour for White, Hispanic, African American and Asian juveniles. One study found program participants to be half as likely to be re-arrested, associated with negative peer groups and be unemployed and without financial support after one year follow up[183].



What Works? What Doesn't?

Programs which can work:	Programs which don't work:
Developmental crime prevention	Juvenile curfews
School safety initiatives	Scared straight programs
After-school activities	Probation
Situational crime prevention	Incarceration
Therapeutic interventions, including Multi-systemic	Boot camps

[183] Josi, Don A., and Dale K. Sechrest. 1999 in U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.

Therapy, Family Functional Therapy and Aggression Replacement Training (among others)	
Mentoring	Trying juveniles in adult courts
Targeted policing of high risk youths and of areas where they are known to commit crimes	
Restorative justice	

Evidence produced over more than thirty years through empirical studies conducted in Australia, the USA, New Zealand and Europe clearly shows that traditional penal or 'get tough' methods of reducing juvenile crime, such as juvenile incarceration, overly strict bail legislation, trying juveniles in adult courts, 'scared straight' programs, boot camps and so on, are ineffective. Not only do these methods tend to be ineffective in reducing recidivism among young people, but they are also amongst the most costly means of dealing with juvenile crime due to:

+ high immediate costs associated with incarceration or remand of young offenders as a response to juvenile offending; and

+ ongoing long-term costs associated with continued contact with the criminal justice system by offenders (which results from the ineffectiveness of these measures in changing the offending behaviour of young people).

The literature describes the main reasons behind the ineffectiveness of traditional penal or 'get tough' approaches in changing the criminal behaviour of young offenders as including:

+ the stigmatising effect resulting from the labelling of young offenders by courts, police, inmates or institutions within the juvenile justice system as well by the community at large;

+ reinforcement of offenders' criminal behaviour resulting from the collective detention, incarceration or remand of young offenders and the failure to provide a healthy family and peer environment or positive role model; and

+ failure to address the underlying factors behind the offending behaviour of young people – which may include having a dysfunctional family, substance abuse problems, mental health issues and so on.

In contrast, there is ample evidence in support of certain other methods of dealing with juvenile crime. These effective methods tend to focus on addressing the underlying factors behind the offending behaviour of juveniles. This may involve the removal or reduction of 'risk factors', such as family dysfunction, a delinquent peer group, truancy or alcohol abuse, as well as the adding or strengthening of 'protective factors' such as good parenting, having a positive role model or part-time employment.

In addressing these many factors, such methods emphasise the need to divert young offenders from entering the juvenile justice system altogether so that the offender can receive the necessary services or

treatment and remain in an environment which is conducive to behavioural reform. Given that many of the factors that predict youth offending are environmental in nature, effective responses to youth crime often include programs which deliver family, school or community-based therapies and services.

Further, as many studies have demonstrated, previous occurrences of anti-social, delinquent or other problem behaviours by a young person can in itself be a significant risk factor behind subsequent offending. This is consistent with other studies which have found prevention programs – those which address the factors behind criminal behaviour before it occurs – to be among the most effective methods in reducing juvenile crime.

Prevention programs are also extremely cost-effective in terms of their ability to generate long-term savings to taxpayers – mainly as a result of reducing the future demand on the juvenile justice system, including the demand for construction of youth detention centres and adult prisons. Prevention programs can deliver further significant benefits to the community by avoiding the incurrence of costs by victims of crime.

Early intervention programs (for children of preschool age) which provide parenting training and support (from teachers, nurses or other agents) for low-income, single- or teen-mother, or otherwise disadvantaged households have been found to be among the most effective of prevention programs in terms of their ability to reduce the number of juvenile crime outcomes and deliver substantial long-term savings to taxpayers. Thus, early intervention programs are likely to have a significant role to play in the reform of juvenile justice systems.

In addition to family, community and school-based prevention programs, institutional programs and post-release programs and services are equally crucial for an effective juvenile justice system, especially where the safety of the community or the young offender is at risk. In these circumstances, research has shown that the most effective secure corrections programs are those which serve only a small number of participants and provide individually tailored services[184].

[184] Howel 1998 in U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 2009. *OJJDP Model Programs Guide*. http://www2.dsgonline.com/mpg/Default.aspx accessed 23 December 2009.

INDIGENOUS ISSUES

Indigenous Youth Justice in Australia

As in New Zealand, Canada and the USA, Indigenous people are seriously overrepresented in the Australian juvenile justice system. While the national Indigenous juvenile imprisonment rate has declined by 33 per cent since 1997, over half of people aged 10–17 years in juvenile corrective institutions in 2006 were Indigenous[185]. In NSW, 52 percent of people aged 10–17 years in juvenile corrective institutions in 2005 were Indigenous – a figure more or less in line with the national average[186].

The overrepresentation of Indigenous Australians exists at every stage of the juvenile justice system. However, even despite evidence which suggests that diversionary alternatives, including conferencing and cautioning, are effective in reducing reoffending, Indigenous young offenders are much less likely to be diverted than non-Indigenous offenders[187]. This is partly due to the fact that young Indigenous offenders, on average, have a longer history of offending than young non-Indigenous offenders, which can make them ineligible for diversion or less likely to be diverted. However, according to one 1995 study[188], even amongst young people who had no prior court appearance or caution, Indigenous young people were still less likely to be diverted by police than non-Indigenous young people. In NSW, Indigenous young people are more likely than non-Indigenous young people to be taken to court (64% compared with 48%) and less likely to be cautioned (14% compared with 28%) by police[189].

As a consequence of historical and contemporary circumstance, Indigenous youth face higher risk exposure than non-Indigenous Indigenous youth[190]. These sources of risk, which are crucial to understanding Indigenous overrepresentation in the juvenile justice system, consist of risk factors which increase the likelihood of offending by an individual as well as system factors which affect the whole Indigenous youth population. Risk factors commonly cited in the literature include:

+ a history of socioeconomic disadvantage, racial prejudice and cultural alienation;
+ poor health and living standards;
+ cognitive disability and mental health issues;
+ high rates of unemployment;
+ issues of family dysfunction;

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[185] Australian Institute of Criminology 2008a in National Indigenous Drug and Alcohol Committee. 2009. *Bridges and barriers: Addressing Indigenous Incarceration and Health*. Australian National Council on Drugs.
[186] SCRGSP 2007 in Snowball, L. 2008. *Diversion of Indigenous juvenile offenders*. Trends & Issues in Crime and Criminal Justice. No. 355. Australian Institute of Criminology.
[187] Luke, G. & Lind, B. 2002. *Reducing Juvenile Crime: Conferencing versus Court*. *Crime and Justice Bulletin*, No. 69, New South Wales Bureau of Crime Statistics and Research.
[188] Luke and Cuneen. 1995 in Cuneen, C. and Schwartz, M. 2008. *Funding Aboriginal and Torres Strait Islander Legal Services: Issues of Equity and Access*. Criminal Law Journal. Vol 32. Issue 1.
[189] Chan et al. 2004 in Snowball, L. 2008. *Diversion of Indigenous juvenile offenders*. Trends & Issues in Crime and Criminal Justice. No. 355. Australian Institute of Criminology.
[190] Zubrik, S.R., Robson, A. 2003. *Resilience to Offending in High Risk Groups – Focus on Aboriginal Youth*. Criminology Research Council

+ vulnerability to drug and alcohol abuse;

+ lack of culturally relevant education and high rates of truancy;

+ lack of culturally appropriate prevention and intervention programs administered by Indigenous peoples;

+ limited access to alternative sentencing and community-based programs; and

+ the potential for bias in the exercise of police discretion and elsewhere in the criminal justice system.

Of these factors, drugs, alcohol, failure to complete Year 12, unemployment as well as financial stress and overcrowded households were identified in the 2002 National Aboriginal and Torres Strait Islander Social Survey (NATSISS) as underpinning the disproportionately high rate of Indigenous contact in Australian juvenile justice systems[191]. Although this study did not focus specifically on Indigenous youth, Snowball notes that it would be surprising if many of these factors were not also predictors of Indigenous youth offending[192]. Further, these risk factors are compounded by the fact that early intervention programs in Australia to assist Indigenous families with children below school age with respect to family problems are inadequate[193].

Over the last two decades, several Australian studies have reported evidence which suggests a higher instance of cognitive disability amongst Indigenous children and young people in comparison with non-Indigenous children and young people[194]. This is of crucial significance in explaining Indigenous overrepresentation in the juvenile justice system given evidence associating mental illness with higher rates of arrest, parole failure and recidivism as well as lower rates of community diversion[195]. Research has identified a number of factors which are significant in explaining this trend. Poor socio-economic conditions and degraded physical environments have been argued to be associated with increased risk of infection which can result in conditions related to cognitive disability such as meningitis[196]. Non-genetic prenatal and peri-natal risk factors such as maternal substance abuse, physical trauma, low birth weight and infections have also been identified as significant factors[197]. Recently, Foetal Alcohol Syndrome (FAS) has received the attention of researchers particularly in the USA and Canada with some Canadian studies estimating that FAS may affect up to 20% of all Canadian Indigenous births[198]. FAS has also been identified as a potential contributor behind the disproportionately high rate of cognitive disability amongst

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[191] Weatherburn, D, Snowball, L and Hunter, B. 2006. *The Economic and Social Factors Underpinning Indigenous Contact with the Justice System: Results from the 2002 NATSISS Survey*. Crime and Justice Bulletin. No. 104. NSW Bureau of Crime Statistics and Research.
[192] Snowball, L. 2008. *Diversion of Indigenous juvenile offenders*. Trends & Issues in Crime and Criminal Justice. No. 355. Australian Institute of Criminology.
[193] The Australian. 25 June 2009.
[194] Telethon Institute for Child Health Research, 2005 and Leonard, H., Petterson, B., Bower, C. and Sanders, R. 2003 in Calma, T. 2008. *Preventing Crime and Promoting Rights for Indigenous Young People with Cognitive Disabilities and Mental Health Issues*. Australian Human Rights Commission. Report No. 3
[195] Przybylski, R (RKC Group). 2008. *What Works: Effective Recidivism Reduction and Risk-Focused Prevention Programs: A Compendium of Evidence-Based Options for Preventing New and Persistent Criminal Behaviour*. Prepared for the Colorado Division of Criminal Justice.
[196] Glasson, E., Sullivan, S., Hussain, R. and Bittles, A. 2005 in Calma, T. 2008. *Preventing Crime and Promoting Rights for Indigenous Young People with Cognitive Disabilities and Mental Health Issues*. Australian Human Rights Commission. Report No. 3
[197] *Ibid.*
[198] Williams, N. 1999 in Calma, T. 2008. *Preventing Crime and Promoting Rights for Indigenous Young People with Cognitive Disabilities and Mental Health Issues*. Australian Human Rights Commission. Report No. 3

Indigenous children and young people in Australia, although research on FAS in the Australian context is still lacking[199].

The significance of alcohol in explaining Indigenous offending was highlighted in a recent report from the National Indigenous Drug and Alcohol Committee (NIDAC). The report notes that alcohol "could be a factor in up to 90 per cent of all Indigenous contacts with the justice system" but that existing government drug diversion programs do not pay enough attention to alcohol given its significance as a factor behind Indigenous offending[200].

There is a potential for racial bias in the exercise of police discretion on whether to divert a young person[201]. It is argued that because Indigenous youth are more likely to be arrested rather than diverted, they tend to have more extensive criminal records at a young age. This then increases their risk of being given a detention or imprisonment order for subsequent offending[202]. The potential for racial bias may be more significant in states such as NSW where there is no comprehensive list of factors that police and courts should consider in making these decisions. Thus, measures such as placing more onus on police to use the mechanisms available as well as the provision of more comprehensive guidelines and procedures for police in exercising discretion on whether or not to divert young offenders may help to minimise the potential for decisions to be affected by racial prejudice and other biases. There is no evidence to indicate that racial bias by police is a significant factor behind the disproportionately high rate of arrest of Indigenous youth and therefore the affect of racial bias by police on Indigenous overrepresentation remains unknown.

While the significance of racial bias on the part of police is unknown, strict eligibility requirements for diversion programs do limit the extent of participation by Indigenous youth. This is because Indigenous offenders are more likely to have multiple charges and previous criminal convictions. Indigenous offenders are also more likely to have been convicted of a serious violent offence[203]. Any one of these factors can make an offender ineligible for participation in a diversion program. The requirement of an admission of guilt for eligibility to participate in a diversion program also limits the extent of Indigenous participation in these programs.

With respect to the provision of culturally relevant programs, jurisdictions in Australia have tended to address this need by modifying existing mainstream programs to include Indigenous cultural components rather than by emphasising the promotion of programs which are organically developed by Indigenous communities[204].

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[199] Calma, T. 2008. *Preventing Crime and Promoting Rights for Indigenous Young People with Cognitive Disabilities and Mental Health Issues*. Australian Human Rights Commission. Report No. 3
[200] National Indigenous Drug and Alcohol Committee. 2009. *Bridges and barriers: Addressing Indigenous Incarceration and Health*. Australian National Council on Drugs.
[201] Luke, G. and Cuneen, C. 1995. *Aboriginal Over-Representation and Discretionary Decisions in the NSW Juvenile Justice System*. Juvenile Justice Advisory Council of NSW, Sydney.
[202] Snowball, L. 2008. *Diversion of Indigenous juvenile offenders*. Trends & Issues in Crime and Criminal Justice. No. 355. Australian Institute of Criminology., and
Cuneen, C. and Schwartz, M. 2008. *Funding Aboriginal and Torres Strait Islander Legal Services: Issues of Equity and Access*. Criminal Law Journal. Vol 32. Issue 1.
[203] Snowball and Weatherburn 2007 in National Indigenous Drug and Alcohol Committee. 2009. *Bridges and barriers: Addressing Indigenous Incarceration and Health*. Australian National Council on Drugs.
[204] Cuneen, C. 2009. *Are governments bound to fail Indigenous children and their families and communities?* Paper presented to the Indigenous Young People, Crime and Justice Conference, Australian Institute of Criminology, 31/8/09 – 1/9/09, Crowne Plaza, Parramatta.

Despite shortcomings in many of Australia's Indigenous juvenile justice programs, there are also a number of outstanding exceptions. One example, often cited in the literature, is Victoria's Koori Justice Program, which is operated by local Indigenous workers and agencies. The Koori Justice Program aims to prevent Koori youth offending or re-offending using positive role models, also known as Koori Justice Workers, as well as providing culturally sensitive support, advocacy and casework. A key goal of the program is to keep young Indigenous people within their communities by providing communities with resources and support to develop and implement suitable diversion programs and community-based sentencing alternatives[205]. The effectiveness of Victoria's response to Indigenous juvenile justice is demonstrated by the state's relatively low rate of Indigenous representation in the juvenile corrections system – 12% compared with the national average of 39% in the year 2006-2007[206]. It is important to note, however, that Victoria also has the smallest Indigenous population relative to total population of all the Australian states and territories. The text box below highlights some of the key elements of the Koori Justice Program.

The Koori Justice Program

Koori Justice Workers work with young people who have been cautioned or diverted for a minor offence, young people who have received a sentencing order from the Children's Court, young adults in the dual-track system, and as case loads permit, young people who are considered to be 'at risk' of offending[207].

Koori Justice Workers develop Aboriginal cultural support plans (ACSPs) in consultation with case managers to ensure that young Koori people in the youth justice system have access to Koori Justice Workers and other cultural supports. The ACSP is fundamental to the assessment and planning process. In addition, Koori Justice Workers provide practical support to young people and their families as well as assist other youth justice workers in assessing, planning and goal setting for clients. Many Koori Justice Workers are also involved in developing and delivering prevention programs such as recreational sporting events[208].

The Koori Intensive Bail Support Program is for young people from the adult system or young people who have received a sentence or deferral from the Children's Court who are considered likely to be remanded in custody due to a high risk of reoffending or breach of bail conditions. Youth justice staff provide intensive support for these young people including supervision and case management, which involves assessment of individual and family needs and accessing appropriate services, as well as providing reports and advice to courts[209].

The Koori Early School Leavers and Employment Program is specifically designed to prevent young Indigenous people from entering the juvenile justice system by addressing their lack of engagement with school and other learning activities – a key risk factor of offending behaviour. The program also assists young people who have already come into contact with the juvenile justice system to reintegrate into the community by supporting them to reengage in positive learning at school or a training, vocational or

[205] State Government of Victoria, Australia, Department of Human Services. *Children, Youth and Families. Koori Justice Programs*. http://www.cyf.vic.gov.au/youth-justice/library/publications/koori accessed 23 December 2009.
[206] Richards, K. 2007. *Juveniles' contact with the criminal justice system in Australia*. Monitoring Reports 07. Australian Institute of Criminology.
[207] Australian Institute of Health and Welfare. 2009. *Juvenile Justice in Australia 2007–08*. Juvenile Justice Series No. 5. Cat No. JUV 5. Canberra: AIHW.
[208] *ibid.*
[209] *ibid.*

alternative learning environment. Young Kooris between the ages of 10 and 20 may be referred to specific programs by youth justice units, families, schools and other community organisations[210].

The Koori Pre and Post Release Program consists of the Koori State-wide Coordinator, Koori Intensive Support Practitioners (Post Release) and cultural programs delivered from the Malmsbury, Melbourne and Parkville custodial centres[211].

The Koori State-wide coordinator is responsible for ensuring that satisfactory pre and post release services are in place across the state for young Indigenous people. This includes appropriate reporting to the Youth Parole Board and proper conduction of Youth Parole Board hearings as part of pre-release planning, as well as adequate post-release programs and support[212].

Koori Intensive Support Practitioners operate in the North and West, Hume and Gippsland regions. Practitioners provide intensive culturally-specific case management for Koori young people being released from custodial centres. This includes providing outreach casework and reports to the Youth Justice Parole Board, as well as short-term intensive supervision and case management for a small case load of young people. Practitioners focus on developing family support, community development and linkages to specialist services to support Koori communities[213].

Koori cultural programs are provided at all three youth justice custodial centres and are designed to match the specific demographics at each location. These programs include educational, cultural identity and wellbeing components and are available to all Koori detainees as well as non-Koori detainees who wish to improve their understanding of Koori culture[214].

The Yannabil (Visitor) Program provides additional cultural and personal support for young Koori detainees. The program aims to ensure the safety and wellbeing of young Koori people by providing feedback to the centre's management[215].

In recent years, Queensland has also implemented a number of youth justice programs and initiatives for Aboriginal and Torres Strait Islander young people. This has included the introduction of Indigenous Service Support Officers (ISSOs) in several locations around the state with a high proportion of Aboriginal and Torres Strait Islander young people under supervision. The role of ISSOs is to provide more culturally appropriate support and intervention for Indigenous young people in need of such services as well as improved support to families and carers. ISSOs serve as an important link for communication between Indigenous communities and youth justice staff and help to ensure that services and programs are culturally appropriate. ISSO duties involve case planning and consultation with families and community stakeholders including elders, other individuals, NGOs and government agencies to ensure that Indigenous young people are properly supported.

Indigenous Conference Support Officers (ICSOs), first introduced in 2005, are another notable feature of the Queensland youth justice system. ICSOs provide culturally based youth justice conferencing services

[210] *ibid.*
[211] *ibid.*
[212] *ibid.*
[213] *ibid.*
[214] *ibid.*
[215] *ibid.*

for Indigenous young people, including victims and offenders, as well as families and communities. ICSO positions facilitate the retention of Indigenous staff in the youth justice system and are particularly important for increasing participation by Indigenous people in the conferencing process, thereby helping to improve youth justice conferencing outcomes.

Indigenous overrepresentation in the ACT youth justice system, as in most Australian jurisdictions, is quite high. The rate of Indigenous young people aged 10-17 years under youth justice supervision in the ACT was the third highest in the country in the year 2005-06 at 44.2 per 1,000 – just below the national rate of 44.4 per 1,000[216] . According to the ACT Department of Justice and Community Safety, this is partly due to courts placing young Indigenous people under supervision to address welfare concerns rather than to prevent future offending[217]. This may suggest then that the ACT lacks adequate post-release and community support services for its Indigenous young people. Limited access to diversionary programs in the ACT was also identified by the ACT Department of Justice and Community Safety as a likely contributor to the high rate of Indigenous overrepresentation in the Territory's youth justice system[218].

A recent advancement in ACT Indigenous justice was the introduction of ACT Policing Indigenous Community Liaison Officers (ICLO) which are responsible for implementing prevention and intervention programs designed for Indigenous young people and families. ICLOs are also responsible for maintaining a network of Indigenous contacts in order to strengthen communication and cooperation between Police and Indigenous communities. These networks also facilitate Police access to information during criminal investigations and therefore help to improve the level of policing service as well as perceptions of police in Indigenous communities[219]. Prevention programs and initiatives run by ICLOs include exercising diversionary options involving a wide range of cultural and recreational activities as well as encouraging positive role models to improve relationships between Indigenous youth and police. In addition, ICLOs also assist the Australian Federal Police Recruitment Unit with recruitment, retainment and career management of Indigenous staff[220]. In addition, the ACT is currently pursuing a number of promising initiatives focused on preventing Indigenous youth offending.

International Indigenous Youth Justice

New Zealand, Canada and USA Indigenous youth face many of the same life difficulties and risk factors as Australian Indigenous youth, including a shared history of European colonisation, socioeconomic disadvantage, drug and alcohol abuse, violence, victimisation, single-parent households and child maltreatment. Moreover, the policies, programs and practices in place in these jurisdictions contain numerous elements of effective practice relevant to Indigenous juvenile justice in Australia. The following section provides a discussion of these elements of international effective practice in Indigenous juvenile justice drawing on examples from these three countries.

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[216] ACT Department of Justice and Community Safety, Justice Planning and Programs. 2008. *Aboriginal and Torres Strait Islander Justice Initiatives in the ACT. Towards the Development of an Aboriginal Justice Agreement in the ACT*.
[217] i*bid.*
[218] *ibid.*
[219] *ibid.*
[220] *ibid.*

Canada

The Canadian justice system deals with young Aboriginal offenders using principles of restorative justice including Youth Justice Conferences similar to those used in Australia. Youth Justice Committees are also established in a number of Aboriginal communities which enables the involvement of Aboriginal Elders in advising courts on appropriate sentencing options for young Aboriginal offenders. Circle sentencing is used for adult Aboriginal offenders which is based on traditional Aboriginal practices and administered by Aboriginal Elders, although this is not available for juvenile Aboriginal offenders.

The implementation of the Youth Criminal Justice Act (YCJA) in 2003 attempted to address a range of issues relating to Indigenous juvenile justice. An important component of this was the Youth Justice Renewal Initiative (YJRI) which enabled greater participation by Indigenous communities in dealing with Indigenous youth offending as well as emphasised culturally relevant and traditional approaches to Indigenous juvenile justice[221]. In addition, the Canadian government provides funding to help Indigenous communities participate in and deliver community-based youth justice options available under the *YCJA*. Specific examples of projects which have received funding include:

+ the development of training material - Québec and the Mnjikaning First Nation (Ontario);

+ the creation or expansion of Community Justice Committees to more appropriately respond to youth crime and increase the capacity of the community in delivering alternative justice processes - Cowesses First Nation (Saskatchewan), Barrie Area Native Advisory Circle (Ontario), Ojibways of Onigaming First Nations (Ontario), and Shawanaga (Ontario), Moosomin First Nation (Saskatchewan); and

+ the development and adaptation of restorative approaches to provide short-term intensive and highly individualised services prior to and immediately following an offender's release from custody - Yorkton Tribal Council (Saskatchewan), and the Winnipeg Native Alliance)[222].

The YCJA framework and the YJRI represent effective practice as they promote community approaches to tackling youth crime and rehabilitating young offenders. This involvement by Indigenous stakeholders, including Elders and NGOs, is crucial for delivering culturally relevant programs and services and fostering a sense of belongingness amongst Indigenous youth who come into contact with the justice system as well as Indigenous communities in general.

At the local and provincial level, government responses to Indigenous youth justice are varied. In Alberta, the provincial government contracts a number of Indigenous agencies to provide programs and services tailored specifically to the needs of Indigenous young offenders. These programs represent specific bands, including First Nations, Métis and other individual bands, and include community corrections programs, crime prevention programs and court work services.

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[221] Department of Justice (Canada). *Aboriginal Communities*. http://www.justice.gc.ca/eng/pi/yj-jj/prt/abo-aut.html accessed 23 December 2009.
[222] *ibid.*

As part of the Alberta provincial government's Aboriginal Custody Program, Elders visit young offender correctional facilities to provide spiritual guidance, counselling and teaching on cultural traditions such as sweet grass ceremonies and sweat lodging[223]. Young offender centres also staffed with Native program coordinators to provide cultural awareness and guidance.

In British Columbia, the government has undertaken research, consulted with Indigenous communities and provided training and other services to improve Indigenous cultural awareness and re-integration of young Indigenous offenders into the community. Within British Columbia, the Vancouver Coastal and Vancouver Island regions employ specialist Indigenous liaison youth probation officers with capped caseloads to ensure service quality[224].

The introduction of the YCJA has been successful in promoting diversionary alternatives for Indigenous youth, enhancing Indigenous involvement at the community level and improving the cultural appropriateness of juvenile justice responses. However, the effectiveness of the YCJA in reducing Indigenous youth contact with the justice system has been limited. Official statistics show that the rate of incarcerated youth who are Indigenous actually increased from 22% in 2001/2002 to 31% in 2005/2006. These figures clearly reflect a worsening in the overrepresentation of Indigenous youth in the criminal justice system. However, it is also possible that this increase is due to improved reporting of Indigenous identity[225].

New Zealand

Responses to Maori youth offending in New Zealand focus heavily on the Family Group Conferencing (FCG) process as a means of involving Indigenous community representatives to deliver more effective outcomes. FGCs also enable a more culturally appropriate means to address Indigenous offending by incorporating the Indigenous practice of consensual decision making to resolve disputes. However, the success of FGCs in linking Indigenous communities with the youth justice system has been mixed and more resources need to be allocated to ensure greater involvement by Maori *whanau* (families), *iwi* (tribes) and *hapu* (sub-tribes) in collective decision-making in regard to young Maori offenders[226].

In addition to FGCs, a number of programs and initiatives which specifically addressing young Maori offending have been implemented across New Zealand. For example, 'Police Youth at Risk of Offending Programs' (PYROP) was introduced as part of the 1997 Budget Crime Prevention package. This involved implementation of a number of risk factor-based programs, primarily delivered by Police, which were multi-agency and community-based in their approach. Of the 339 participants in the programs, 53 percent were Indigenous. While many of the programs contained components specifically targeted at Maori, including *tikanga* (culture, customs and traditions) and Te Reo (Maori language), they were not consistent features

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[223] Government of Alberta. Solicitor General and Public Security. *Young Offender Programs*. https://www.solgps.alberta.ca/PROGRAMS_AND_SERVICES/CORRECTIONAL_SERVICES/YOUNG_OFFENDERS/Pages/young_offender_programs.aspx#aboriginal accessed 23 December 2009.
[224] Office of the Provincial Health Officer and Representative for Children and Youth Kids. 2009. *Crime and Care Health and Well-Being of Children in Care: Youth Justice Experiences and Outcomes*.
[225] Milligan, S. 2006. *Youth custody and community services in Canada, 2005/2006*. Statistics Canada – Catalogue no. 85-002-X, Vol. 28, no. 8
[226] Becroft, AJ. 2005. *Ngakia Kia Puawai Conference: Maori youth offending*. http://www.police.govt.nz/events/2005/ngakia-kia-puawai/becroft-on-maori-youth-offending.html accessed 23 December 2009.

of all the Maori programs. Instead, program staff responded on the basis of individual participant needs and only provided a Maori specific component, either via the program or the wider community, if it was considered that there was a need to do so. PYROP programs were intended to be holistic by involving families, schools and communities as well as mentors for some programs[227].

Preliminary screening of each PYROP participant and their personal circumstances was performed to identify the particular risk factors affecting each youth. Based on these screenings, PYROP programs aimed to reduce or remove these risk factors, such as family problems, using a range of services for both the individual and their family. These included anti-truancy, remedial education, anger management, drug and alcohol rehabilitation, employment, one-on-one counselling as well as cultural, sport and other recreation programs.

An evaluation of PYROP revealed a 78 percent decrease, on average, in the number of offences committed by participants across all programs. The most common types of offences by participants were burglary and theft which decreased by 70 percent and 57 percent respectively after program completion[228]. In addition to decreasing offending behaviour, significant positive benefits were also realised for participants' families, including reduced violence within families, increased employment, decreased truancy and increased school achievement. Given that over half of the participants were Maori, these results suggest that PYROP programs are somewhat effective in reducing Maori youth offending. However, this evaluation did not consider the degree to which offending would have reduced without the programs and whether the reduction in offending behaviour was sustained beyond the evaluation period[229].

Maori Community Initiatives for Youth-at-Risk of Offending (MCIYRO) was introduced as part of the 1997 Budget Crime Prevention package. Through MCIYRO a number of culturally specific programs were implemented in a number of jurisdictions aimed at providing *rangatahi* (teenagers) with a sense of *whanaungatanga* (community belonging and participation) and *Māoritanga* (Maori culture). The MCIYRO programs are similar to those of the generic 'Police Crime Prevention Projects' but specifically focus on delivering programs tailored to Maori culture and tradition. The programs involve a range of therapeutic activities such as outdoor experiences, mentoring, building self self-esteem, education, life skills and *tikanga* (culture, customs and traditions), personal development and *whānau* (family) support. In addition, *rangatahi* (teenagers) are removed from opportunities for using alcohol, cigarettes and other drugs as well as from other risk situations and opportunities to commit offences.

An evaluation of MCIYRO conducted in 2000 found that the initiative delivered significant achievements related to Indigenous teenagers[230]. These included:

+ high rates of participant retention during and beyond program duration;

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[227] Doone, P. 2009. *Report on Combating & Preventing Maori Crime - HEI WHAKARURUTANGA MO TE AO*. Crime Prevention Unit. Department of the Prime Minister and Cabinet.
[228] *ibid.*
[229] *ibid.*
[230] Doone, P. 2009. *Report on Combating & Preventing Maori Crime - HEI WHAKARURUTANGA MO TE AO*. Crime Prevention Unit. Department of the Prime Minister and Cabinet.

+ 90-95% of participants ceased offending (or at least did not come to the attention of Police) for the duration of the project;

+ increased school attendance and enhanced school performance and appreciation of education for 90% of participants;

+ significant, positive changes in behaviour sustained beyond program participation for 75%-90% of participants;

+ happier participants with a new sense of direction in their lives; and

+ an increase in cultural knowledge and pride as Maori and as *tangata whenua* (people of the land) amongst the large majority of participants[231].

Although not all MCIYRO programs produced reductions in offending, two of the programs were highly successful in reducing offending by more than 90% throughout the duration of the program. While these results are promising, additional follow-up analysis is required to confirm the long-term sustainability of this reduction. Nevertheless, the evaluation found that there were sufficient indications of positive results from the MCIYRO programs to conclude that expansion of the approach would yield similar success, especially with some additional guidance from the experience of other successful programs[232].

Aside from the PYROP and MCIYRO initiatives, a number of Maori specific programs have been implemented at the local level across numerous New Zealand jurisdictions. These programs are generally similar to those available for non-Indigenous youth and incorporate elements intended to increase cultural appropriateness, increase involvement by Maori people in program delivery, improve program reach and target specific risk-factors faced by Maori youth.

While many of these programs are considered by practitioners as being successful in reducing Maori offending, there little concrete evidence available on the effectiveness of specific programs. In general, what works for reducing offending among young Maori appears to be similar to international effective practice in reducing youth offending in general. However, a crucial factor for reducing young Maori offending appears to be whānau involvement and addressing issues of culture and identity[233]. Prevention programs are particularly important given that Maori are more likely than other ethnic groups to experience the risk factors that contribute to criminal offending. For intensive prevention programs in -depth understanding of Maori culture, including *tikanga* (culture, customs and traditions)*, whakapapa* (genealogy) and *te reo* (Maori language) by practitioners becomes particularly important[234].

New Zealand's approach to Indigenous youth justice contains a number of positive elements, however, there is still room for improvement in a number of areas. A comprehensive review of Maori youth justice conducted by Owen in 2001 identified the following five areas for improvement:

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[231] *ibid.*
[232] *ibid.*
[233] Singh and White 2000, Oliver and Spee 2000 in Owen,V and Koiri, T.P. 2001. *Whanake Rangatahi: Programmes and Services to Address Maori Youth Offending*. Ministry of Maori Development. Social Policy Journal of New Zealand. Issue 16.
[234] Office of the Ministry of Justice. 2009. *Paper 11 – Maori and Pacific Peoples*. http://justice.org.nz/effective_interventions/cabinet_papers/maori-pacific.asp accessed 23 December 2009.

+ Government agencies must adopt an integrated and holistic approach;
+ Government agencies need to provide Maori youth and *whanau* with better information on programs and services;
+ Maori must be involved in program and service design and delivery;
+ Government agencies must collect robust information on participation and outcomes; and
+ Government agencies need to provide Maori youth and *whanau* with better information on programs and services.

USA

Recognising the large number and significance of risk factors affecting Native American Indians and Alaska Natives, government and Indigenous community efforts to address Indigenous youth offending in the USA tend to focus on enhancing protective factors. Some of these protection factors include:

+ life ways and culture;
+ family integration and stability;
+ identification of youth in need of services; and
+ resiliency – the ability to remain unaffected by adverse environmental factors such as peer pressure or negative family and community influences.

In the USA, the Tribal Youth Program (TYP) administered by the OJJDP provides support to prevent tribal delinquency and improve juvenile justice systems for American Indian and Alaska Native Youth. The program awards grants to federally recognised tribes and Alaska villages to support the development and implementation of culturally sensitive programs in the five following categories:

+ prevention services to impact risk factors for delinquency;
+ interventions for court-involved tribal youth;
+ improvements to the tribal juvenile justice system;
+ alcohol and drug abuse prevention programs; and
+ mental health program services.

In addition to grants, TYP funding is used for research, program evaluation as well as well as extensive training and technical assistance provided through the Tribal Youth Training and Technical Assistance (T/TA) Centre. Training and technical assistance includes access to professional staff with expertise in developing cultural based approaches to prevention and intervention, capacity building, strategic planning, program implementation, program evaluation, and program sustainability.

The Alaska Native Justice Centre (ANJC) is an example of an Indigenous youth justice NGO which has received funding from the Department of Justice under the TYP. The Alaska Native Justice Centre provides a range of programs and services in Indigenous youth justice. Basic activities of the organisation include providing advocacy and technical assistance to Indigenous communities and local governments as well as the development and implementation of restorative justice and culturally competent practices. In addition to this, ANJC work aims to increase Indigenous employment in the justice and child welfare systems and promote Indigenous education and employment through scholarships and internships. The organisation also provides alternatives to the state juvenile justice system through the Justice Centre's Rural Youth Court, a restorative justice program for first time offenders, as well as the United Youth Courts of Alaska Project which aims to promote the development of innovative youth justice courts throughout Alaska. ANJC also cooperates with state agencies on youth justice research projects and provides advice and assistance on Native youth justice matters. For example, in collaboration with the State of Alaska, Division of Juvenile Justice, ANJC conducted a Foetal Alcohol Syndrome and Alcohol Related Birth Defects (FAS/ARBD) research project to assess and provide recommendations for improving treatment options for youth involved with the juvenile justice system.

The Suquamish Tribe in Washington provides another example of a TYP funded initiative. The Suquamish Tribe received funding to address substance abuse related delinquency among Indian youth through a prevention program for youth aged 10 to 21. The program delivers after school activities for teaching leadership, communication and traditional survival skills to youth. Cultural specific elements are incorporated and participants are encouraged to engage in community activities. Program activities focus on developing skills to avoid becoming involved with drugs, alcohol and delinquency, and to foster positive interaction between youth, family, and community as a whole[235].

Effective Practice in Indigenous Youth Justice

It is clear that a number of good practice measures are available to governments to address Indigenous overrepresentation in the juvenile justice system. An effective Indigenous juvenile justice system should ensure:

+ maximum access to and utilisation of alcohol and substance abuse programs;
+ avoidance of incarceration wherever possible;
+ emphasis on prevention and early intervention;
+ the provision of culturally relevant programs; and
+ a high level of participation by the Indigenous community in formulating and implementing responses to Indigenous youth crime.

[235] Catalogue of Federal Domestic Assistance. 2009. *Tribal Youth Program*. https://www.cfda.gov/index?s=program&mode=form&tab=step1&id=5d74b8ec78d4d8c833b4c0a69facfa3f&cck=1&au=&ck= accessed 23 December 2009.

Access to alcohol and substance abuse programs

Alcohol and substance abuse has been identified as a significant factor contributing to high rates of Indigenous youth offending in Australia and internationally. It is therefore critical to ensure that young Indigenous offenders, and young Indigenous people 'at risk', have access to the programs and support required to overcome this risk factor. This includes the provision of adequate funding mechanisms to maximise availability and reach of such programs as well as ensuring that legislation does not restrict access through lack of diversionary sentencing alternatives or program eligibility requirements.

Emphasis on community-based tertiary responses

The high rates of recidivism and multiple prison sentences amongst Australian Indigenous offenders provide strong evidence of the ineffectiveness of incarceration in dealing with Indigenous youth offending. In contrast, diversion programs and community-based sentencing are much more successful in reducing recidivism. As such, legislation needs to ensure that young Indigenous offenders are not kept in custodial remand or sentenced to detention unless there is a clear risk to the wellbeing of the individual or the public which cannot be otherwise managed. This includes ensuring that diversion programs are not inaccessible to young Indigenous offenders due to inappropriate eligibility requirements such as those which exclude repeat offenders, offenders who do not admit to committing the offence or offenders with drug or alcohol problems. Further, where detention is unavoidable, emphasis should be placed on having strong re-entry programs to assist young Indigenous people to re-integrate into the community after release by helping to increase resiliency and protect against risk factors in offenders' family, peer and community environments.

Emphasis on prevention and early intervention

Prevention and early intervention is a critical aspect of effective juvenile justice systems and is of particular relevance in the context of Indigenous juvenile justice given the greater number and intensity of risk factors affecting Indigenous youth. This includes programs which focus on family dynamics and parenting skills to assist Indigenous families with children below school age as well as support for pregnant women and single women with children. Indeed this is consistent with evidence which shows that Indigenous offenders are more likely to offend frequently at younger ages than other offenders, more likely to be younger when they commit a property or violent offence and, as result, more likely to have a history of juvenile detention and incarceration as an adult[236]. In addition, prevention efforts should include measures to help ensure that Indigenous youth have access to education and do not drop out of school early. Indeed this is the rationale behind one of the key recommendations of the NIDAC report which proposes the provision of an individual education fund for every Indigenous young person to promote retention within the education system[237]. Lastly, prevention efforts need to include broad family-oriented services to help ensure that values learnt in the education system are reinforced at home[238].

Provision of culturally relevant programs

The provision of culturally relevant programs is of utmost importance in effectively addressing Indigenous youth offending. The inclusion of culturally specific elements in youth justice programs helps to reduce the sense of alienation commonly experienced by young Indigenous offenders and conveys a message of

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[236] Joudo 2008 in National Indigenous Drug and Alcohol Committee. 2009. *Bridges and barriers: Addressing Indigenous Incarceration and Health*. Australian National Council on Drugs.
[237] National Indigenous Drug and Alcohol Committee. 2009. *Bridges and barriers: Addressing Indigenous Incarceration and Health*. Australian National Council on Drugs.
[238] The Australian, 25 June 2009.

respect and community acceptance which in turn tends to improve the responsiveness of young Indigenous offenders in reforming their offending behaviour. Culturally relevant programs can also benefit young offenders by providing them with a value system and sense of group identity which they are more likely to embrace and which is more likely to influence their behaviour. Effective Indigenous juvenile justice programs, therefore, are those which provide appropriate public funding and technical support to promote the development and delivery of such programs on a local-level.

Participation by the Indigenous community in formulating and delivering Indigenous youth justice programs

In addition to providing culturally relevant programs, it is also necessary to promote involvement by local Indigenous agencies and persons in developing and delivering Indigenous youth justice programs and prevention initiatives. This is important for empowering Indigenous stakeholders and improving the responsiveness of youth justice programs to the unique situations and needs of local Indigenous communities. Further, participation by Indigenous people in administering and delivering programs is an important aspect for improving participants' sense of community acceptance and increasing the level of responsiveness on the part of participants in reforming their offending behaviour. Thus effective Indigenous juvenile justice systems provide appropriate public funding to support training and staffing of Indigenous juvenile justice workers, such as conference convenors, judges, lawyers, psychologists, doctors, social workers, police and facility wardens. This is consistent with the recommendation put forward in the NIDAC report to develop a national employment strategy to train and establish a specialist workforce of doctors, psychologists and nurses to provide substance misuse, mental health and general health services[239].

Justice Reinvestment in Indigenous Communities

In Australia, the Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma, has advocated the use of justice reinvestment as a policy framework for implementing a more effective Indigenous juvenile justice system[240]. Justice Reinvestment acts as a policy mechanism to promote the redirection of funds currently spent on incarceration toward more effective uses, such as increased prevention and community support initiatives in targeted high-risk communities and neighbourhoods. Justice Reinvestment is discussed in more detail in the Implementing Effective Practice section below.

[239] National Indigenous Drug and Alcohol Committee. 2009. *Bridges and barriers: Addressing Indigenous Incarceration and Health*. Australian National Council on Drugs.
[240] Calma T. 2009. *Investing in Indigenous youth and communities to prevent crime*. Australian Institute of Criminology Juvenile Justice Conference Speech.

IMPLEMENTING EFFECTIVE PRACTICE

The Need for Whole-of-Community Collaboration

Juvenile crime is a difficult social problem which is correlated with a large number of hereditary and environmental risk factors. The evidence suggests that juvenile justice systems require a combination of primary, secondary and tertiary programs in order to effectively manage juvenile crime, reduce exposure to risk factors by young people, and improve community safety while minimising costs to taxpayers. These programs need to cover the full spectrum of required services including early intervention parent training, family and school-based therapies, drug and alcohol rehabilitation services, mental health services, foster care services, specialist Indigenous services, housing and employment services and detention services etc. It is clear then that the sheer complexity and scope of an effective response to juvenile crime would necessitate a whole-of-community approach involving coordination between state and local agencies responsible for administering juvenile justice, the police, government welfare agencies, education authorities, schools, health authorities, the public etc.

Many experts in the field have advocated better integration of juvenile justice systems into the network of public institutions and agencies that deal with children, youth, and families. For example, Steinberg argues the need for improved coordination particularly with those agencies which provide education, child protection services and mental health treatment[241]. Multiagency coordination is necessary because youth offending is often related with other problems which the juvenile justice system is unable to effectively address – for example mental illness, substance abuse, child maltreatment and difficulties in school. The failure of governments to address these problems due to poor multiagency coordination is one reason many young people enter and re-enter the justice system"[242].

In the USA, there is growing recognition among practitioners and policymakers of the overlap and need for integration and coordination of child welfare and juvenile justice systems[243]. In recognition of this overlap, the federal government in 2002 enacted amendments to the Juvenile Justice and Delinquency Prevention Act (JJDPA) imposing new requirements and broader funding incentives in both the child protection and juvenile justice systems to encourage states to implement policies, programs, and practices to better address the connection between the two systems.

According to findings from a twelve-state study conducted in the USA, critical factors for an integrated service system include[244]:

+ Leadership by one or a small number of leaders who are able to enlist the support of the human services community.

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[241] Steinberg, L. 2008. *Juvenile justice: Introducing the issue. The Future of Children*, 18:2, Fall.
[242] *ibid.*
243 Wiig JK & Tuell JA. 2008. *Guidebook for Juvenile Justice & Child Welfare System Coordination and Integration - A Framework for Improved Outcomes.* CWLA Press: Arlington, VA.
244 Research Forum on Children, Families, and the New Federalism in Wiig JK & Tuell JA. 2008. *Guidebook for Juvenile Justice & Child Welfare System Coordination and Integration - A Framework for Improved Outcomes*. CWLA Press: Arlington, VA.

+ Experienced managers as both program administrators and members of the local human service community who facilitate efforts to develop connections between programs.

+ Staff training and development, with cross-program training at regular intervals.

+ Willingness to take chances, experiment, and change, as well as independence from higher-level bureaucracy to implement innovative and untried strategies.

+ A clear, shared mission statement developed by representatives of agency management, staff, and community partners.

+ Community involvement beyond those available through government programs to ensure buy-in for service delivery improvements.

Realising and Coordinating Whole-of-Community Collaboration

A major challenge faced by many international jurisdictions in realising effective whole-of-community responses to juvenile justice is the conflicting institutional attitudes and perceptions which exist between the child welfare and justice systems.

In reforming juvenile justice systems, measures must be taken to ensure maximum buy-in from stakeholders and effective multi-agency engagement in formulating and implementing new programs, services and initiatives. An example of such a measure was that taken by San Diego County when it became the third site nationally to implement the federal OJJDP strategy, “Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders”. Since many stakeholders, the education community and numerous government agencies were quick to point out that they did not deal with ‘serious’, ‘violent’ or ‘chronic’ offenders, San Diego County changed the name of the strategy to “Comprehensive Strategy for Youth, Family and Community” (CSYFC). This enabled a much broader stakeholder population to become involved and ensured that all government agencies were active in implementing the strategy.

San Diego’s CSYFC is a good example of a strategy that recognises the importance of whole-of-community participation in order to create an effective juvenile justice system. This can be seen in the final two prongs of the five-pronged strategy, ‘shared responsibility’ and ‘collaboration’. ‘Shared responsibility’ refers to “coming together as a collective team to develop cross system communication, multi-agency partnerships, joint responses, services and policies that support youth no matter what door they enter”. ‘Collaboration’ refers to “working in partnership with government entities and community organisations to maximise resources, eliminate duplication of services, and develop strength-based services to support youth in their communities.”

Under the CSYFC, San Diego has established partnerships with multiple levels of government, schools, local law enforcement, community organisations as well as groups, parents and youth. This whole-of-community approach has allowed San Diego to address all aspects of the juvenile justice system through a coordinated plan involving specific strategies and goals at each level of the system. San Diego’s whole-of-community focus has also improved monitoring and community responsiveness of the juvenile justice system. For example, under the CSYFC both the Juvenile Justice Coordinating Council (JJCC) and the

Task Force review data throughout the year, solicit community and provider feedback and input, review system and program evaluations and identify service gaps and needs. The JJCC and the Task Force use this information to respond and make recommendations on an ongoing basis for policy, program, and system improvements.

Justice Reinvestment

Justice Reinvestment is a relatively new approach to justice system change developed in the United States. Justice Reinvestment has successfully facilitated the transformation of numerous incarceration-focussed justice systems across key US states and local jurisdictions toward prevention and community-oriented justice systems whilst simultaneously creating significant cost efficiencies for state and local governments.

Justice Reinvestment involves geographic analysis of justice system data to determine which community and neighbourhood 'hotspots' contribute most to prison admissions and identify those communities and neighbourhoods to which people in prison often return after their release. Once these hotspots have been identified, further data analysis is undertaken to identify any particular service gaps or systemic or legislative factors which may be contributing to the high rate of prison admissions or offending in those areas.

A range of reinvestment options are then generated which are designed to redirect funding that would otherwise be spent on incarceration of people from hotspot areas and reallocate it towards more effective initiatives as determined on the basis of the empirical data.

In the US, reinvestment has often involved funding of 'frontend' initiatives such as early-intervention, post-release and other preventative community programs. In addition, reinvestment may involve specific policy and legislative changes such as financial incentives to encourage courts to use alternative sentencing options or changes to bail and remand laws.

What is Effective Practice?

The following figure provides six key principles to support the implementation of effective practice in juvenile justice.

What is Effective Practice?		
1) Evidence-based policy formulation	**2) Avoidance of youth incarceration wherever possible**	**3) Comprehensive and complementary programming**
Policy makers need to take into account the empirical evidence concerning 'what works' and what doesn't work. While 'get tough' approaches may be politically attractive, evidence indicates they are not effective. Hence, effective juvenile justice systems are those which ensure policy is guided by scientific research and cost-benefit analyses rather than by political convenience.	Evidence suggests that the majority of incarcerated juvenile offenders could be treated safely and more effectively outside of custody. Therefore, tertiary responses to youth offending should emphasise community-based programs rather than incarceration. Effective juvenile justice systems should set guidelines to reduce the population of juveniles in custody.	This requires a suite of primary, secondary and tertiary risk-based programs to address delinquency across the entire developmental lifecycle. Emphasis should be placed on delinquency prevention through early-age intervention, school, family and community-based prevention programs. Where custody is required, appropriate institutional and post-release therapy must also be provided in order to effectively reduce recidivism.
4) Tailored strategies for Indigenous and other culturally diverse groups	**5) Whole-of-government collaboration**	**6) Whole-of-community collaboration**
Disproportionate minority contact with the juvenile justice system can only be reduced through tailored strategies which address the unique risk-factors associated with each minority group. For Indigenous Australians, this may involve increasing access to alcohol and substance abuse programs and ensuring culturally relevant programming through encouragement of Indigenous participation in juvenile justice and human service initiatives.	Integration of the juvenile justice and welfare/ human services systems with police, courts, education and health authorities is critical. Measures should be taken to maximise stakeholder buy-in and strengthen multi-agency collaboration in all areas, including policy formulation, information sharing, and personnel training.	Effective juvenile justice systems address risk-factors in all facets of the environments of young people through collaboration with a range of community agents including schools, Indigenous and other minority communities and NGOs. Government effort is required to encourage community participation in program design and delivery.

Ko te rongoa, ko te aro, ko te whai kia tika ai mo nga rangatahi

Solution focused justice for young people

Judge A J FitzGerald
Melbourne
17 August 2016

1. INTRODUCTION

When the Children, Young Persons and Their Families Act 1989 ("the Act") came into force in November that year, it introduced fundamental changes to the Youth Justice system in New Zealand. Two features, in particular, stood out:

- One was not charging young people and bringing them to Court, if at all possible, and instead using police led, community based, alternative action.
- The other was using the Family Group Conference ("FGC") both as a diversionary mechanism to avoid charging young people, and also as the prime decision making mechanism for all cases where a young person was brought to Court and the charges were not denied, or subsequently proved. The FGC provided the opportunity for a restorative justice approach to be taken, although restorative justice theory was not contemplated at the time the legislation was passed.

Other features of the Act have taken time to be realised and implemented. Some provisions that were lying dormant have now been utilised and a fresh look has been taken at others in response to challenges the Court has been facing. As a result there have been some significant changes to the approaches the Court is taking which are summarised in this paper.

In particular there has been increasing awareness of the range and complexity of issues underlying the offending of young people who come before the Court, which calls for new strategies and a more co-ordinated inter-agency approach. As a result, some specialised courts have been established in recent years. Evolution of the approaches those courts have been taking now sees some mainstream Courts starting to operate, essentially, as solution-focused courts, involving a team of professionals from various agencies working together.

What we in New Zealand refer to as "solution-focused" Courts, and in the United States of America they call "problem-solving" Courts, have developed

out of the Drug Courts that started in the United States in the late 1980s. The key components that characterise such Courts,[1] are set out in Appendix 1 to this paper. Most of those key components are present now in all of the large, mainstream, Auckland Youth Courts, and some other Youth Courts around the country. Arguably, only drug testing (component 5), and evaluation (component 8) are absent.

The very first Drug Courts in the United States were only just starting at the time the Act came into force in New Zealand and so the concept of a solution-focused approach is unlikely to have been known to the legislature at the time. However, from the time the Act came into force, its provisions have pointed toward the Court taking what we now call a solution-focused approach. For example, the following statutory requirements all point in that direction;

- For Judges (and counsel) to engage directly with young people, and encourage and assist them to participate in the proceedings;[2]
- To ensure that a young person's needs are acknowledged and the underlying causes of his/her offending are addressed,[3] as well as him/her being held accountable and victim's interests considered.
- To work together co-operatively with other agencies engaged in providing services for young people and their families.[4]

Therefore, both the restorative justice and solution-focused themes in the Act were innovative and insightful at the time it came into force. Both of those features have become important parts of the process, not only in the Youth Court but, more recently, in the District Court in New Zealand. So too has the use of diversionary options, instead of charging, wherever possible.

Principal Youth Court Judge Andrew Becroft and his Advisory Group are clear that the proper direction for the Youth Court to take is to continue developing

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[1] Douglas B Marlowe (eds) and Judge William G Meyer *The Drug Court Judicial Benchbook* (National Drug Court Institute, Alexandria, Virginia, United States of America, 2011) at 217.
[2] Sections 10 and 11.
[3] Sections 4 and 208(fa).
[4] Section 4(g).

the solution-focused approach, so that it becomes the standard model in every Youth Court.

2. The Youth Court's place in the Youth Justice System

2.1 Introduction

The Act governs the New Zealand Youth Justice system, including the Youth Court which is a specialist division of the District Court.

In keeping with the specialised nature of the Court, the Act requires that Judges designated to work in it must be suitable, "…by virtue of their training, experience, personality and understanding of the significance and importance of different cultural perspectives and values."[5]

Similar provisions apply to the appointment of youth advocates (ie; lawyers) to represent young people,[6] and also to lay advocates.[7] The establishment of Rangatahi and Pasifika Courts[8] was the catalyst for finally utilising the important role lay advocates have, but they are now key members of the team in the mainstream Court as well as those Courts. The principal functions of a lay advocate are;[9]

- To ensure the Court is made aware of all cultural matters that are relevant to the proceedings; and
- To represent the interests of the child or young person's whanau, hapu and iwi to the extent that those interests are not otherwise represented.

Other agencies involved in the Youth Justice system also provide specially trained and qualified personnel. For example, the police have a specialised Youth Aid Section which is focused entirely on youth offending. Similarly, Child Youth and Family ("CYF") have dedicated youth justice social workers.

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[5] Section 435.
[6] Section 323.
[7] Section 326.
[8] Below at 2.4 (b).
[9] Section 327.

In the past four years the Ministry of Health has more than doubled the number of staff at the Regional Youth Forensic Services ("RYFS") across the country, so there is now a forensic representative provided to every Youth Court in the country. This is a result of the Government allocating $NZ 33,000,000 for the development of youth forensic mental health and AOD services in the 2011 budget. There are now 74 staff nationally, up from 34 in 2011.

The Ministry of Education now provides education officers to eight of the country's largest Youth Courts, and five Rangatahi Courts, with the clear indications being that this number will increase to cover all the main Youth Courts in the near future. In the meantime, seven other Courts receive written education reports about all of the young people appearing.

Beyond that, there are various non-governmental organisations, such as Odyssey House, Youth Horizon's Trust and Youth Link, which provide evidence-based therapeutic programmes specifically for young people and their families.

Any analysis of the Court itself requires putting into context the place it occupies in the Youth Justice system.

About 80% of young people[10] who offend are not charged or brought to Court. Instead they are dealt with in the community by the Police Youth Aid officers taking alternative action. In ball-park terms, that group of 80% commit about 20% of all offences. Most of them are often described as "desisters"[11] and are unlikely to progress to adult offending.

Of the remaining 20% who are charged and brought to Court, a portion are also "desisters". The remainder (about 5 to 15%), are often referred to as "persisters". They tend to come from multi-problem backgrounds, with a large

[10] References made here to "young people" and "youth offenders" includes those children who, since 1 October 2010, can be charged and brought before the Youth Court. A "young person" is aged fourteen to sixteen years inclusive. A child offender, so far as an appearance in the Youth Court is concerned, is a twelve or thirteen year old who is charged with an offence carrying a maximum penalty of at least fourteen years imprisonment, or ten years if he/she has previously offended (in a serious way). See section 272.

[11] Alison Cleland and Khylee Quince, *Youth Justice in Aoteroa New Zealand; Law, Policy and Critique* (Lexis Nexis, Wellington, 2014) at 48.

number of offending-related risk factors emerging at an early age.[12] To be before the Court, these young people are generally facing serious charges, and/or are repeat offenders, and present with a complex range of issues underlying their offending which the Court is required to ensure are addressed. It is this group that occupies much of the Court's time and the resources of all the agencies involved.

This emphasis on not charging young offenders, and using police organised alternative responses if at all possible, is one of two central pillars in the Act. The other is relying on the FGC, both as a diversionary mechanism to avoid charging, and as the prime decision making mechanism for all charges laid in Court that are not denied or subsequently proved.

Clear principles also emphasise the importance of involving and strengthening the family and family group in all decision-making and interventions.

2.2 The legal framework

The Act contains objects, plus general and youth specific principles, which must guide the approach taken to the exercise of powers under it.

Two particular themes are important in the context of how the Court operates and how the work should be scheduled.

The first is the requirement to ensure that a young person's needs are acknowledged,[13] and the underlying causes of his/her offending, are addressed.[14]

The second is the emphasis on ensuring the timeliness of making decisions affecting a young person. A key principle of the Act is that such decisions should, wherever practicable, be made and implemented within a timeframe

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[12] Cleland and Quince, above n 11, at 49.

[13] Section 4 lists the objects of the Act which includes at 4(f): 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 will give them the opportunity to develop in responsible, beneficial, and socially acceptable ways.

[14] Section 208 sets out the Youth Justice Principles. Section 208(fa) provides that [the Court] be guided by the principle that;
Any measures for dealing with offending by a child or young person should so far as it is practicable to do so address the causes underlying the…offending.

appropriate to the young person's sense of time.[15] Not only is this included as a general principle, it is an important theme throughout all of the youth justice provisions.

- For example, young people arrested or in custody must be brought before the *Youth* Court as soon as possible (emphasis added).[16]
- There are strict time limits set for the convening and holding of FGCs;[17] Failure to comply with mandatory time frames for convening an intention to charge FGC[18] removes the Court's jurisdiction to deal with the case.[19] Failure to comply in the context of a Court directed FGC[20] might result in the charge being dismissed.[21]
- If the time between the commission of an alleged offence and the hearing is delayed unnecessarily or unduly, a charge may be dismissed;[22]
- There are also strict time limits on a young person's detention in "secure care" in a youth justice residence.[23] This is, in effect, placing a young person in solitary confinement for a limited period of time when the risks of him or her absconding or causing physical, mental or emotional harm to themselves or others justify that.

Other important duties on the Court (and counsel) in the context of how proceedings are conducted are;

- To explain the nature of the proceedings to the young person in a manner and in language that can be understood, and be satisfied he/she understands,[24] and,

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[15] Section 5(f).
[16] Section 237. This section predates, but echoes, the requirement in s 23(3) NZ Bill of Rights Act 1990, for a person arrested to be brought, as soon as possible, before a Court or competent tribunal.
[17] Section 249.
[18] Section 247(b).
[19] *H v Police* [1999] NZFLR 966.
[20] Section 247(d).
[21] *Police v V* [2006] NZFLR 1057.
[22] Section 322.
[23] Section 370.
[24] Section 10.

- Where necessary and appropriate, encourage and assist the young person to participate in the proceedings to the degree appropriate to his/her age and level of maturity.[25]

The extent of the challenge these particular obligations pose for the Court has only started to become apparent in recent times with growing awareness about the prevalence of neuro-disabilities in youth offenders and the impact this has on their comprehension and communication skills.

The general and specific youth justice principles also emphasise the need to involve and strengthen family in the process, decision making and outcomes. This is another feature of the Act which sets the Youth Justice process apart from the adult system where those who offend are assumed to be autonomous and individually responsible for their actions.

By contrast, young people are to be seen and dealt with, wherever possible, in the context of their family and family group which should be involved in the decision-making about the young person. In accordance with these principles, discussions in the courtroom routinely include both immediate and wider family members.

These statutory requirements are reinforced by obligations we have under the UNCROC,[26] which New Zealand ratified in March 1993, and the Beijing Rules,[27] which both emphasise a young person's right to due process, to not be detained pending trial except as a matter of last resort, and then only for the shortest possible period of time,[28] and to having their cases determined without delay.[29]

[25] Section 11.
[26] United Nations Convention on the Rights of the Child 1577 UNTS 3 (opened for signature 20 November 1989, entered into force 2 September 1990).
[27] United Nations Standard Minimum Rules for the Administration of Juvenile Justice A/RES/40/33 (1985).
[28] UNCROC, art 37(b).
[29] UNCROC art 40.2(b)(3).

Given what we know about the overrepresentation of Maori in the Court,[30] and the large number of young people appearing in the Court who have neurodisabilities,[31] the UN Declaration on the Rights of Indigenous People,[32] ("the Indigenous People's Declaration"), ratified by New Zealand in April 2010, and the UN Convention on the Rights of Persons with Disabilities,[33] ("the Convention for People with Disabilities"), ratified by New Zealand on 30 March 2007, are relevant and need to be considered too.

For example, Article 2 of the Indigenous People's Declaration, provides for freedom from any kind of discrimination, and Article 7 includes the right to liberty. The disproportionate over-representation of Maori in all of the negative statistics, from arrest rates though to imprisonment rates, raises concerns in this regard.

Failure by any member nation to give practical effect to the obligations under such conventions may attract criticism which could extend to the Courts.[34] In that respect it is important to note the recent criticism of New Zealand's disproportionately high rate of imprisoning Maori, by the UN Committee against Torture, in its sixth periodic report.[35]

> **"[New Zealand] should increase its efforts to address the overrepresentation of indigenous people in prisons and to reduce recidivism, in particular its underlying causes, by fully implementing the Turning of the Tide Prevention Strategy through the overall judicial system and by intensifying and strengthening community-based approaches with the involvement of all relevant stakeholders and increased participation of Māori civil society organisations."** (Note: emphasis not added)

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[30] Below at 2.3.
[31] Below at 2.3.
[32] United Nations Declaration on the Rights of Indigenous Peoples GA Res 61/295, LXI A/RES/61/295 (2007).
[33] United Nations Convention on the Rights of Persons with Disabilities 2515 UNTS 3 (opened for signature 30 March 2007, entered into force 3 May 2008.
[34] *Tavita v Minister of Immigration* [1994] 2 NZLR 257 at 267.
[35] Committee against torture *Concluding observations on the sixth periodic report of New Zealand* CAT/C/NZL/6 (6 May 2015).

Article 7 of the Convention for People with Disabilities requires state parties to ensure that all children with disabilities have the right to express their views freely on all matters affecting them on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realise that right. Article 12 requires that those with disabilities have legal capacity on an equal basis with others and that they receive the support required to exercise their legal capacity. Article 13 requires effective access to justice by providing procedural and age appropriate accommodations in legal matters. Given the prevalence of neurodisabilities and what we now know about the associated communication disorders,[36] effective, practical steps must be taken to comply with these obligations.

2.3 Characteristics common to most youth offenders before the Court

The following is what we now know generally about the serious persistent offenders who present the Court with its major challenges;

- About 81% are male. However, the number of young women who offend is increasing, especially for violent offending. They present with a range of issues that differ from young men, making engagement and containment more difficult and time consuming to address. Studies overseas[37] of young women offenders in custody have shown that;
    - 92% have been subjected to some form of emotional, physical and/or sexual abuse (compared to 7% in the general population);
    - They come from families with histories of poverty, death and an intergenerational pattern of arrest and incarceration;
    - 85% have been suspended or expelled from school;
    - 81% experienced serious physical health problems, 53% psychological services and 21% hospitalised in psychiatric facilities;

[36] Below at 2.3.

[37] Youth Justice Board *Girls and offending – patterns, perceptions and interventions* (Youth Justice Board for England and Wales Bwrdd Cyfiawnder Ieuenctid, London, 2009) at pages 25 and 26.

- 29% have been pregnant, 16% of whom while in custody.

- A number of these young people, both male and female, are already parents of children themselves, and in many of those cases, are subject to intervention by CYF regarding the care and protection of their children.

- Up to 70-80% of young offenders have alcohol or other drug issues. The drugs of choice, at present, are mostly alcohol (mostly beer and pre-mixed drinks) and cannabis. Synthetic drugs had been of particular concern, but not so much now that they are not legally available. Methamphetamine does not feature much in the Youth Court at the moment. Many young people before the Court started their alcohol or other drug use early; some before 10 years of age.

- Up to 70% are estimated to not be engaged with school or even enrolled at a secondary school. Non enrolment, rather than truancy, is the problem.

- Most experience family dysfunction and disadvantage, and lack positive role models.

- Many have some form of psychological disorder, especially conduct disorder, and display little remorse or victim empathy.

- Many have a neuro-disability. No prevalence study of this issue has been undertaken in New Zealand but the opinion of some who are qualified to comment,[38] is that rates here would not differ significantly from those found in a study carried out by the office of the Children's Commissioner for England.[39] The following table sets out the results of that research:

[38] I am grateful to Dr Russell Wills, the New Zealand Commissioner for Children, Dr John Crawshaw, the Director of Mental health Services and Dr Ian Lambie, Associate Professor of Psychology, Auckland University for their advice on this paper.

[39] Nathan Hughes and others *Nobody made the connection*; *the prevalence of neurodisability in young people who offend* (Office of the Children's Commissioner for England, October 2012).

"Nobody made the connection: The prevalence neuro-disability in young people who offend"

Report of Children's Commissioner, England, October 2012

• Neurodevelopmental disorder	Young people in general population	Young people in custody
• Learning disabilities	2 – 4%	23 – 32%
• Dyslexia	10%	43 – 57%
• Communication disorders	5 – 7%	60 – 90%
• Attention deficit hyperactive disorder	1.7 - 9%	12%
• Autistic spectrum disorder	0.6 - 1.2%	15%
• Traumatic brain injury	24 - 31.6%	65.1 - 72.1%
• Epilepsy	0.45 – 1%	0.7 - 0.8%
• Foetal alcohol syndrome	0.1 – 5%	10.9 - 11.7%

- At the higher end of the range of such disabilities, a young person's fitness to stand trial will be an issue. Growing awareness of this issue has seen an increase in the volume of cases where the question of fitness is raised. Such proceedings are typically complex and time consuming. Young people who are fit to stand trial, but still have significant disabilities, are one of the most challenging groups for the Court. They make up a large portion of the recidivist offenders, and the communication disorders and learning disabilities many have, require that time and care be taken with their cases given the Courts' obligation to communicate effectively with them.

- Of the 10 to 16 year old population, 24% is Maori. Maori however, make up 58% of all the apprehensions of 14 to 16 year olds, and 61% of Court appearances. Maori made up 100% of all appearances in four particular Youth Courts in 2014. In a further 20 Youth Courts, young Maori constitute over 70% of all appearances. Maori are given up to

65% of the Supervision with Residence orders; the highest Youth Court order before conviction and transfer to the District Court for sentencing. The disproportion of Maori representation in the Youth Court is getting worse rather than better (an increase from 44% in 2005 to 61% in 2014).[40]

- CYF records show that 73% of youth justice clients are also known for care and protection concerns.[41] These young people are generally referred to, here and overseas, as "crossover kids". "Dual status" is the label given to those who are before the Youth Court and are also the subject of care and protection proceedings in the Family Court (and therefore a subset of the crossover kids). This group also have the worst prognosis of any appearing in the Court, with about 9 out of 10 progressing to adult offending.[42] 83% of those imprisoned in New Zealand who are aged 17, 18 and 19, had a previous care and protection record with CYF.[43] Despite those concerning statistics, and provisions in the Act that clearly pointed toward an interface between the Care and Protection[44] and the Youth Justice provisions[45], both the Ministry of Justice and CYF organised their systems and processes historically in such a way that there was no interface in practice and no room for information sharing. However, in 2007 an information sharing protocol was established between the Youth Court and Family Court which enables the Youth Court to obtain relevant information from the Family Court in relation to care and protection proceedings concerning young people who have dual status. This can be used by the Youth Court to identify a young person's needs and the underlying causes of

[40] Principal Youth Court Judge Andrew Becroft, *Child and Youth Offending Introductory Notes, March 2015.*
[41] Centre for Social Research and Evaluation; *Crossover between child Protection and youth justice, and transition to the adult system*, (Ministry of Social Development, July 2010) at 8.
[42] See Mark Lynch and others "Youth Justice: Criminal Trajectories" (2003) 265 Trends and Issues in Criminal Justice (Australian Institute of Criminology, Canberra, 2003). This refers to research carried out in Australia which involved following 1503 young offenders for 7 years to track their trajectories. 91% of those who had been subject to a care and protection order, as well as a supervised justice order, had progressed to the adult corrections system and 67% had served at least one term of imprisonment.
[43] Above n 40.
[44] Part 2
[45] Part 4

offending. It also enables some co-ordination of the proceedings so that plans or orders made in the Youth Court are in harmony with those made in the Family Court.

- Many high risk youth offenders are involved in youth gangs, some of which are unaffiliated and tend to commit gratuitous criminal acts for the benefit of their members only. Others are affiliated to adult gangs on whose behalf they commit offences, sometimes in isolation and at other times together with adult gang members.

Aside from these specific characteristics, it is now well established that there are significant age related neurological differences between young people and adults, including that young people are more vulnerable or susceptible to negative influences and outside pressures (including peer pressure) and may be more impulsive than adults.[46] Equally the research clearly shows that young people are not simply "mini adults" for whom the same responses to offending should be applied. It has even been suggested that immaturity might be regarded as a mental impairment for the purpose of fitness proceedings in some young people, although that possibility is yet to be tested in Court.[47]

2.4 The Youth Court in 2016

Over the past thirteen years the Youth Court, particularly in Auckland, has been attempting to respond to these challenges in various ways. The Christchurch Youth Drug Court commenced in 2002; the Intensive Monitoring Group ("IMG") in Auckland in 2007, the first Kooti Rangatahi in Gisborne in 2008, the first Pasifika Court in Auckland in 2010, crossover lists in all of the large Courts in metropolitan Auckland since 2012, and developments to the mainstream Youth Court which have seen it evolve in recent years into, essentially, a solution-focussed Court.

The following is a summary of those Courts currently operating in metropolitan Auckland.

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[46] *Churchward v R* [2011] NZCA 531 at [77].
[47] Sophie Klinger, *Youth Competence On Trial,* [2007] N.Z.L Review. 235 2007

(a) *The IMG*

The IMG operated in Auckland from 2007 to 2014 to accommodate young people at moderate to high risk of re-offending, who had moderate to severe mental health concerns and/or alcohol or other drug dependency.

The approach adopted, which was a significant departure from the conventional, mainstream process, was firstly to have a pre-court meeting of the team of professionals, followed by the young people coming to court for appointments later in the day.

An initial evaluation was carried out in 2007 and 2008.[48] Of the 85 young people assessed for the study, 43 (50.5%) met the above-mentioned criteria, 39 (90.5%) of whom received a formal mental health diagnosis.[49] Results of the evaluation included that the percentage drop in the risk of reoffending for young people in the IMG was 38%, compared to a 14% decrease in the overall risk in the control group.[50]

The IMG no longer operates as a separate, stand alone court because, in effect, the IMG process has increasingly been adopted by the mainstream Youth Court with the aim being that all Youth Courts will operate in that way in future. A separate pre-court professionals meeting is no longer required in Auckland (and many of the country's larger Youth Courts) because representatives from the key Government agencies are all now present in the courtroom on normal, mainstream court days.

(b) *Rangatahi and Pasifika Courts*

There are now fourteen Rangatahi Courts in the country, five of which are in the metropolitan Auckland area held on marae at Manurewa, Waitakere, Auckland, Papakura and Pukekohe.

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[48] Nicholas Mooney "Predicting offending within the New Zealand Youth Justice system: evaluating measures of risk, need and psychopathy" (PHD Thesis, Massey University, 2010).

[49] These included conduct disorder, oppositional defiant disorder, attention deficit hyperactivity disorder, pervasive developmental disorder, mood disorders, substance abuse and substance dependant disorders.

[50] Young people with the same profile, from other Courts, dealt with by other disposition options.

- Rangatahi Courts: Overview and goals

Rangatahi Courts operate within the jurisdiction of the Youth Court of New Zealand. All Rangatahi Court Judges are District Court Judges who have also been designated as Youth Court Judges.

Rangatahi Courts are not a separate system of youth justice. Nor does the Rangatahi Court process remove the Youth Court's business to the marae on a wholesale basis. Rangatahi Courts operate after a young person has appeared in the mainstream Youth Court, admitted the charge (or has denied a charge which has subsequently been proved), after a FGC has taken place and after an FGC plan has been formulated. The FGC plan will record any agreement that the plan be monitored at the Rangatahi Court. In essence, Rangatahi Courts monitor the performance of FGC plans and, when appropriate, will apply sentencing options available to the Youth Court.

Rangatahi Courts apply the objects and principles in the Act. Rangatahi Courts are primarily designed to target and deal with young Māori offenders. However, all young offenders, regardless of race, ethnicity or gender are eligible for entry.

Rangatahi Courts are a judicially-led initiative primarily established to provide a more culturally responsive and appropriate process. The overall vision was to promote better engagement with, confidence in, and respect for the youth justice process. These Courts provide an opportunity to draw upon the resources of local marae communities and, in this way, operate consistently with the objects and principles of the Act.

The focus of the Rangatahi Courts is to develop a more culturally appropriate process and to increase respect for the Rule of Law. This is properly within the Court's mandate to deliver on. The paramount goal is not to soley aimed at reduce reoffending, which will largely depend on the quality of the FGC plan and the resources enlisted. While reducing reoffending remains of paramount importance to the wider criminal justice system, it is beyond the function and responsibility of the court process alone.

The Rangatahi Courts goals are designed so that young offenders, whānau (extended family), hapū (subtribe), iwi (tribe), victims, stakeholders and local communities who engage with the Rangatahi Court:

- Have confidence in and respect for the Rangatahi Court and the Rule of Law;
- Understand Court processes, what is expected of them and what they can expect;
- Are respected as individuals while engaged with the Rangatahi Court;
- Have access to a more culturally appropriate process of dealing with young offenders.

The specific goals of the Rangatahi Court are to:

- Honour and apply the objects and principles in the Act;
- Hold the young person accountable and ensure victim interests are addressed;
- Address the underlying causes of the offending behaviour;
- Use te reo Māori, tikanga and kawa (Māori language, culture and protocols) as part of the Court process;
- Increase the involvement of whānau, hapū and iwi in the Court process;
- Assist young Māori offenders to learn about their Māoritanga (cultural identity), and to develop a sense of identity and belonging as a member of a whānau, hapū and iwi, through the provision of tikanga wānanga (lessons to learn culture, customs and practice).

The literal meaning of the word “Rangatahi” is “youth”. The word “Rangatahi” also means “new net” in the sense that it is used in the famous Māori proverb;

> “Ka pū te rūhā, ka hao te rangatahi”, (“The old worn out net is cast aside and the new net goes fishing”).

The name “Rangatahi Court” reflects the expectation that young people will “cast aside the old, worn out” behaviors that have led them to appear in the Rangatahi Court, and that they will adopt a “new net” of positive, pro-social attitudes and behaviours to put them on the right track for the future.

Rangatahi Courts sit at marae (traditional Māori venues). The Rangatahi Court process incorporates the use of Māori language, rituals and protocols. The Rangatahi Court process encourages the involvement of respected elders who sit alongside the presiding judge and provide valuable insights and

advice from a traditional Māori perspective to the young person and his or her whānau (extended family). Rangatahi Courts encourage young Māori offenders to learn and deliver a pepehā (a traditional Māori greeting and introduction of oneself). This requires them to explore three central issues related to self-identity from a Māori tribal perspective:

- Ko wai koe? (Who are you?);
- No hea koe? (Where are you from?); and
- Nā te aha koe? (What is your purpose?).

- Rangatahi Court: Process Summary

All youth offenders must make their first appearance in the mainstream Youth Court. If the young person does not deny the charge, or if the charge is denied and subsequently proved, the court must order an FGC in every case. If the offending is too serious to be dealt with by an FGC plan, a formal Youth Court order will be imposed at the Youth Court.

At an FGC, if the charge is admitted, a comprehensive plan is formulated. Part of the plan may include provision for regular and consistent monitoring of the plan's progress at a Rangatahi Court. Successive hearings may be held at the marae as directed by the Rangatahi Court Judge. After a FGC has been held, a Youth Court Judge is able to direct that the monitoring of an FGC plan be conducted at a Rangatahi Court. The Rangatahi Court then monitors the completion of the FGC plan and sentences the young person at the conclusion of the plan. If the FGC plan breaks down, or new charges are laid as a result of fresh offending, the matter may be referred back to the mainstream Youth Court.

- Rangatahi Court: Evaluation

Given that the goals of the Rangatahi Courts stem from a commitment to providing more culturally appropriate Court-based processes, the primary scope of any Rangatahi Court evaluation must be qualitative. Evaluation should focus on whether the Court process has delivered qualitatively better engagement and involvement of young people, their families and wider Māori community. While quantitative outcomes might form a part of subsequent

research, reoffending rates must not be the primary or sole focus of any evaluation.

In 2012, the Ministry of Justice commissioned a qualitative evaluation of the Rangatahi Courts, independently undertaken by Kaipuke Consultants. The evaluation report, entitled "Evaluation of the Early Outcomes of Ngā Kooti Rangatahi" was published on 19 December 2012. The report found that:

- Operational processes guiding the implementation of Ngā Kooti Rangatahi are being delivered consistently across the five sites (with some courts implementing additional strategies considered by the evaluators to be good practice);
- Rangatahi have experienced positive early outcomes, both expected and unexpected. These include, for example, high levels of attendance, feeling welcome and respected, understanding the court process, forming positive relationships with youth justice officials and the marae community, showing improved positive attitudes, establishing connections with the marae and taking on leadership and mentoring roles; and
- Whānau, agencies and marae communities have experienced positive early outcomes including whānau feeling respected and welcomed at Court, understanding the Court process, being supported in their parenting role, developing networks between agencies and families, and feeling that the Court process validates the mana (authority; influence; power; prestige) of the young people and their whānau, while still holding them accountable and responsible.

Although the report primarily has that qualitative focus, the quantitative data show the Courts are having a positive effect in terms of reducing rates of recidivism; For example it estimated that young people who appeared in the Rangatahi Court were 11% less likely to reoffend. The initial analysis of re-offending rates in both the Rangatahi and Pasifika Courts also indicated that participants committed 14% fewer offences than comparable youth.[51]

[51] *Report to Hon Amy Adams, Minister of Justice, Initial analysis of reoffending rates in the Rangatahi and Pacifika Courts* (15 December 2014) at [20.1].

The same underlying philosophy, purpose and process applies in the two Pasifika Courts, both of which are in Auckland. They operate on very similar lines to the Rangatahi Courts, providing a place for the traditions, culture and values of all Pacific Island people in the approach taken by the Youth Court when monitoring a young person's FGC plan.

(c) *Crossover lists*

Within the mainstream sittings of all the Youth Courts in the greater Auckland area, "crossover lists" provide for the co-ordination of proceedings for young people before the Court who have care and protection status. Appendix 2 includes a flowchart and explanation describing how the process works.

These lists are not a separate Court, but rather part of the Court's core business, with the cases scheduled together at a given time to enable the co-ordination, rather than randomly amongst other cases. Time is also providedin these lists for child offenders, whether they are facing charges

before the Youth Court,[52] or are before the Family Court on account of offending.[53] Youth Court Judges who are also Family Court Judges preside over these lists so that appropriate orders and directions can be made in relation to both the youth justice and the care and protection proceedings.

(d) *The mainstream Youth Court*

As mentioned above, the mainstream Court itself has evolved into essentially a solution-focused court, with all of the five main Government agencies represented in the Courtroom, in most of the countries larger courts.[54] This is the standard model that is expected to soon be operating in all Youth Courts throughout the country.

Furniture is now arranged to form a "horse-shoe" shape in all courts where it is physically possible to do so. Seated there are family and/or others supporting a young person who is either standing or seated, as the Judge directs. Representatives from the government agencies, the various professionals and sometimes representatives from service providers are present too.

[52] Section 272.
[53] Section 14(1)(e).
[54] Ministry of Justice New Zealand, Police, Ministry of Social Development (Child Youth and Family), Ministry of Health, and Ministry of Education.

This co-ordinated inter-agency approach is consistent with the object of the Act which provides for "encouraging and promoting co-operation between organisations engaged in providing services for the benefit of children, young persons and their families and family groups".[55]

FUTURE DIRECTIONS

Having regard to the issues set out in this paper, careful thought is now being given to such things as the way the work is scheduled in Court and the amount of time allocated for cases. This is important so that:

- Young people can be brought before a Youth Court Judge as soon as possible following arrest;
- It takes into account the serious, complex and specialised nature of the work the Youth Court does;
- The Court can meet all its statutory and other obligations regarding;
    - Adherence to appropriate time frames;
    - Dealing with young people in custody, in all respects, including the regular reviews in Court of young people who are in custody and attending at the residences to hear the secure care applications;
    - Communicating appropriately with all young people who come before the Court, keeping in mind what we now know about the high percentage of those young people who have communication disorders and other neuro-disabilities.
- There is the ability;
    - To consult with all members of the solution-focussed court teams who are present now in the larger, mainstream Youth courts.
    - To cope with the volatility in workflows including the arrests and transfers in from other Courts.

[55] Section 4(g).

- To find adequate time, within appropriate time frames, to hear and determine the complex substantive work.
- To case manage some of the more complex cases to ensure more timely determination of proceedings that often concern the most vulnerable of the young people who come before the Court.
- To deal with the work in the Court closest to where the young person and his or her family are based.

The Rangatahi and Pasifika Courts, as well as the IMG and crossover lists, all aim for 30 minute appointments and that is the result of finding out from experience what time is needed to deal with the work properly. The evaluations obtained in relation to those Courts also indicate the positive benefits of taking the time needed to do the work properly.

As well as that, in the courts that have the full professional team present, 30 minutes is required for most initial appearances by young people, and also the appearance following a FGC when there is a FGC plan to consider. At those appearances, adequate time is needed in order to;

- Engage properly with the young person, and his or her immediate and wider family; and,
- Hear from the youth advocate, lay advocate, prosecutor, education officer and forensic representative,
- Attend to writing up the file and completing the basic administrative requirements, then,

Sufficient time is also needed for reading, preparation and reserve time for complex cases, and the flexibility required in hearings to accommodate the needs of vulnerable young people for whom extra time, explanations and breaks are required.

Importantly, work is underway to establish best practice standards and processes for the delivery of forensic services across all of the courts in the

country. This includes work on the screening tools and processes used, and the scope and timeliness of reports.

Work is now underway on introducing ways to better identify young people with communication impairments and learning disabilities and to accommodate their needs. That includes a review of the way information is communicated to young people by modifying the forms and language used, and modifying Court processes. Arrangements are also being made for the appointment if suitable qualified professionals to act as communication assistants for those young people who need such help so as to participate properly in youth justice processes, including police interviews, FGCs and Court appearances.

Appendix 1

The ten key components of solution-focussed Courts

Key Component 1 [Solution-focussed] courts integrate treatment services with justice system case processing.

Key Component 2 Using a non-adversarial approach, prosecution and defence counsel promote public safety while protecting participants' due process rights.

Key Component 3 Eligible participants are identified early and promptly placed in the Court programme.

Key Component 4 [Solution-focussed] courts provide access to a continuum of treatment and rehabilitation services.

Key Component 5 Abstinence is monitored by frequent alcohol and other drug testing.

Key Component 6 A coordinated strategy governs the court's responses to participants' compliance.

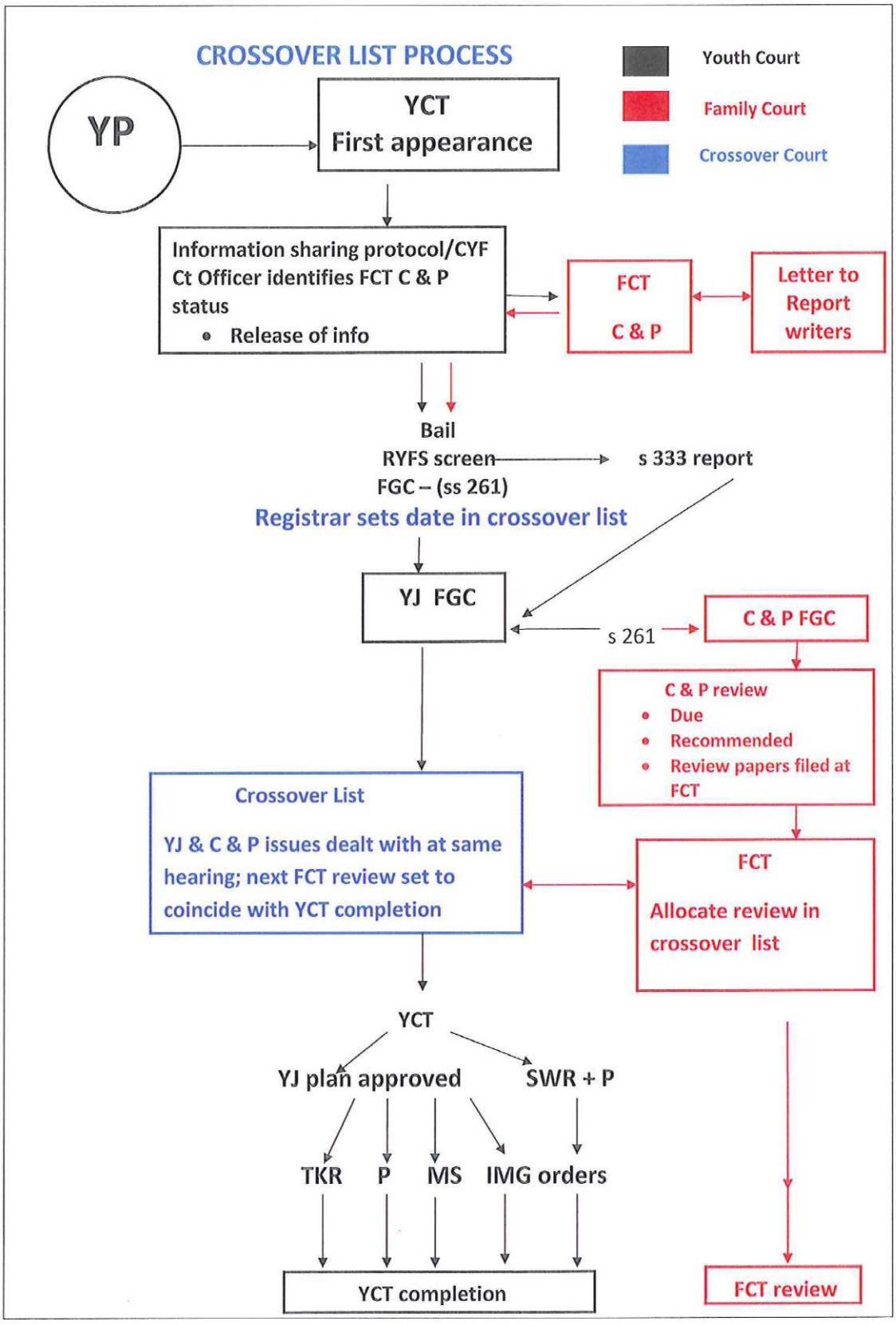
Key Component 7 Ongoing judicial interaction with each participant is essential.

Key Component 8 Monitoring and evaluation measure the achievement of programme goals and gauge effectiveness.

Key Component 9 Continuing interdisciplinary education promotes effective court planning, implementation, and operations.

Key Component 10 Forging partnerships among the courts, public agencies, and community-based organisations generates local support and enhances the courts' effectiveness.

Appendix 2



The crossover list

Introduction

This is a very brief explanation of the crossover list, and the accompanying flowchart which illustrates its process[56].

Background

Of young people[57] in the NZ Youth Justice system 73% are also known to Child Youth and Family ("CYF") for Care and Protection ("C & P") concerns. Nine out of 10 such "crossover" kids are likely to progress to adult offending.[58]

The personal history and current circumstances of such young people will be very relevant in the Youth Court which is required to ensure that a young person's needs are acknowledged and underlying causes of their offending addressed.

Despite that, many crossover kids pass through the Youth Court without their C & P status being known or taken into account. Often that means decisions and plans made affecting them will be inadequate and possibly at odds with what is happening for them in the Family Court.

The crossover list process aims to ensure that, for all such young people, appropriate information regarding them is obtained from the Family Court to help inform decisions and plans made in the Youth Court and, that there is co-ordination of what is happening for them in both courts.

The process in brief[59]

A young person with C & P status in the Family Court can be identified when they enter the Youth Court via the Youth Court/Family Court Information-Sharing Protocol or via the CYF Youth Court officer.

A request for the permitted information is then made to the Family Court. The views of authors of professional reports (about release of such reports to parties in Youth Court proceedings) are obtained to help inform any restrictions on release that might apply.

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[56] There are variations on the theme summarised here, & in the flowchart, but it applies in a majority of cases.

[57] References to "young people" also apply to most children who can be brought before the Y CT; the crossover lists include time for child offenders, whether before the F Ct under s14(1)(e) or the Y CT under s272.

[58] Figures taken from NZ and Australian research – available on request.

[59] To be read together with the accompanying flowchart

The C & P information is very relevant to issues the Youth Court must consider such as bail, ordering forensic assessments[60] and making FGC directions/recommendations[61].

The Registrar will schedule the young person's next Court appearance to be in the crossover list. The FGC will happen in the meantime.

When the case comes before the Judge in the crossover list, both the Youth Court and Family Court issues can be addressed;

Recommendations made at the FGC regarding the Youth Court matters are considered. Knowledge of the position in the Family Court is often relevant to deciding if the recommendations are appropriate. Once the Youth Court plan is approved the remand will be to either the Rangatahi, Pacifika, mainstream or IMG Court or else a social work report and plan are ordered so that disposition orders can be made.

If the s 261 approach was adopted by the FGC, there will be C & P recommendations and plans to consider. If the agreement was for the Family Court C & P plan to be reviewed, the social worker files the review papers at the Family Court. Otherwise the plan may be due (often overdue) for review; in either case the date set by the Family Court for the hearing of the review will be in a crossover list. Alternatively the Family Court plan may have been recently reviewed and require no change at all, but at least the Court has the opportunity to see that what is happening for the young person in both Courts is consistent.

When the C & P plan is approved, the next review date is set to coincide with the conclusion of the Youth Court plan or orders. In that way, there is the opportunity to ensure that any ongoing, underlying, therapeutic needs are adequately addressed in the C & P plan, instead of the Youth Court remaining involved to monitor such things happen after accountability and victim related issues have been addressed.

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[60] There may have been such reports done previously for the F CT; If not, the C & P history of neglect, abuse trauma etc will help inform the assessment carried out for the Y CT.

[61] Eg; to recommend the FGC adopt the approach in s261 and consider both YJ and C & P issues

TE KŌTI RANGATAHI
THE RANGATAHI COURT

Visitors welcomed onto Te Poho o Rawiri Marae in Gisborne for the first ever Rangatahi Court sitting – 30 May 2008

He kōrero whakamārama i te kaupapa me ngā tikanga

Background and Operating Protocols

As at 1 July 2015

Visitors welcomed onto Manurewa Marae at the launch of the Manurewa Rangatahi Court – 23 September 2009

Contents

Te Kōti Rangatahi – He Kōrero Whakamārama i te Kaupapa: The Rangatahi Court – Background Paper

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

Visitors welcomed onto Wairaka Marae in Whakatane at the launch of the Mātaatua Rangatahi Court – 11 June 2011

Rangatahi Court: Overview and Goals

1. Rangatahi Courts operate within the jurisdiction of the Youth Court of New Zealand. The Youth Court is itself a division of the District Courts of New Zealand. All Rangatahi Court Judges are District Court Judges who have also been designated as Youth Court Judges.

2. Rangatahi Courts are not a separate system of youth justice. Neither does the Rangatahi Court process remove the Youth Court's business to the marae on a wholesale basis. Rangatahi Courts operate after a young person has appeared in the Youth Court, admitted the charge (or has denied a charge which has subsequently been proved), after a Family Group Conference ("FGC") has taken place (as is required by statute in every case) and after an FGC plan has been formulated. The FGC plan will record any agreement that the plan be monitored at the Rangatahi Court. In essence, Rangatahi Courts monitor the performance of FGC plans and, when appropriate, will apply sentencing options available to the Youth Court.

3. Rangatahi Courts apply the objects and principles in the Children, Young Persons and Their Families Act 1989 ("CYPF Act"). Rangatahi Courts are primarily designed to target and deal

with young Māori offenders. However, all young offenders, regardless of race, ethnicity or gender are eligible for entry.

4. Rangatahi Courts are a judicially-led initiative primarily established to provide a more culturally responsive and appropriate process. The overall vision was to promote better engagement with, confidence in, and respect for the youth justice process. Rangatahi Courts provide an opportunity to draw upon the resources of local marae communities and, in this way, operate consistently with the objects and principles of the CYPF Act.

5. The focus of the Rangatahi Courts is to develop a more culturally appropriate process and to increase respect for the rule of law. This is properly within the Court's mandate to deliver on. The primary goal is not to reduce reoffending, which will largely depend on the quality of the FGC plan and the resources enlisted. While reducing reoffending remains of paramount importance to the wider criminal justice system, it is beyond the function and responsibility of the court process alone.

6. The goals of the Rangatahi Court are designed so that young offenders, whānau, hapū, iwi, victims, stakeholders and local communities who engage with the Rangatahi Court:

    a. Have confidence in and respect for the Rangatahi Court and the rule of law;

    b. Understand Court processes, what is expected of them and what they can expect;

    c. Are respected as individuals while engaged with the Rangatahi Court;

    d. Have access to a more culturally appropriate process of dealing with young offenders.

7. The specific goals of the Rangatahi Court are to:

    a. Honour and apply the objects and principles in the Children, Young Persons and Their Families Act 1989;

    b. Hold the young person accountable and ensure victim interests are addressed;

    c. Address the underlying causes of the offending behaviour;

    d. Use te reo Māori, tikanga and kawa (Māori language, culture and protocols) as part of the Court process;

    e. Increase the involvement of whānau, hapū and iwi in the Court process;

    f. To assist young Māori offenders to learn about their Māoritanga (cultural identity), and to develop a sense of identity and belonging as a member of a whānau, hapū and iwi, through the provision of tikanga wānanga

8. Rangatahi Courts sit at marae (traditional Māori venues). The Rangatahi Court process incorporates the use of Māori language, rituals and protocols. The Rangatahi Court process

encourages the involvement of respected elders who sit alongside the presiding judge and provide valuable insights and advice from a traditional Māori perspective to the young person and his or her whānau (extended family). Rangatahi Courts encourage young Māori offenders to learn and deliver a pepehā (a traditional Māori greeting). This requires them to explore three central issues related to self-identity from a Māori tribal perspective:

a. Ko wai koe? (Who are you?);

b. No hea koe? (Where are you from?); and

c. Nā te aha koe? (What is your purpose?).

9. Those responsible for the establishment of Rangatahi Courts consider that offending by many Māori youth is related, in part, to a lack of self-esteem, a confused sense of self-identity, a strong sense of resentment and cultural dislocation. Addressing these issues is a key aim of Rangatahi Courts – through the reconnection and engagement of young Māori offenders with their self-identity as Māori. Indeed, these are some of the factors which must be addressed when the Youth Court is discharging its statutory duty to "… address the causes underlying the child's or young person's offending" (s 208(f) CYPF Act). In a broader context, when addressing these issues, the Rangatahi Courts acknowledge that the structural, political and cultural marginalisation experienced by many modern Māori communities is firmly linked to an inherited history of colonial trauma, alienation and dislocation from land, culture, customs and language.

10. Rangatahi Courts were designed to provide, and foster the development of, a comprehensive suite of culturally appropriate programmes to be accessed by the FGC forum and run in conjunction with the court. Such a suite of programmes will need to perform a combination of tasks: provide accountability and responsibility components; deal with alcohol and drug issues, anger management issues, anti-social attitudes, personal therapy issues; provide educational or training opportunities; provide support to the young person, whānau and community to deal with the underlying causes of the offending; and provide successful transitions for the young person when the programme is completed.

11. From the outset, it was always the vision that tikanga wānanga (cultural programmes) must be available at every Rangatahi Court, to provide specialist kaupapa Māori interventions and opportunities for young offenders, including te reo Māori, tikanga, kapa haka, waka ama, taiaha wānanga, noho marae and the like. Programme providers could work with the whānau and community of the young person at the same time as working with the young person individually. This is because the underlying causes of the offending will often involve dynamics within the whānau and community. The underlying causes are rarely confined to the young person individually. These tikanga programmes could be accessed by all young offenders in the area where appropriate, not just those who were monitored by the Rangatahi Court. Without those attending a Rangatahi Court being able to access a tikanga wānanga the Rangatahi Court model is incomplete.

The launch of the Huntly Rangatahi Court at Wāhi Pā - 26 March 2014

Rangatahi Court: Process Summary

12. All youth offenders must make their first appearance in the Youth Court. If the young person does not deny the charge, or if the charge is denied and subsequently proved, the court must order an FGC in every case. If the offending is too serious to be dealt with by an FGC plan, a formal Youth Court order will be imposed at the Youth Court.

13. At an FGC, if the charge is admitted, a comprehensive plan is formulated. Part of the plan may include provision for regular and consistent monitoring of the plan's progress at a Rangatahi Court. Successive hearings may be held at the marae as directed by the Rangatahi Court Judge. After an FGC has been held, a Youth Court Judge is able to direct that the monitoring of an FGC plan be conducted at a Rangatahi Court. The Rangatahi Court then monitors the completion of the FGC plan and sentences the young person at the conclusion of the plan. If the FGC plan breaks down, or new charges are laid as a result of fresh offending, the matter may be referred back to the Youth Court.

Visitors welcomed onto Te Ohaaki Marae in Huntly at the launch of the Kirikiriroa Rangatahi Court – 7 August 2010

Rangatahi Court: Origins of the Court

14. In the decade preceding the establishment of the Rangatahi Courts a number of Judges, at the prompting of the late Chief District Court Judge Russell Johnson, became increasingly concerned with the significant disproportion of young Māori in the Youth Court. At this time, up to half of all young people appearing in the Youth Court were Māori. It was felt

that the vision enshrined in the CYPF Act regarding Māori young offenders, their whānau and communities was not being delivered upon. The Youth Court had been launched in 1989 with this founding vision, originally contained in the *Puao te Ata Tu* report, and profound expectations for a youth justice process that would be qualitatively better for the Māori communities it had previously failed.

15. Against this background, Judge Heemi Taumaunu was commissioned by Chief Judge Johnson and Principal Youth Court Judge Andrew Becroft to visit Koori Courts in Perth and Victoria to investigate how the Australian jurisdiction adjusted its Court processes for aboriginal youth offenders. It became clear that New Zealand's specific cultural context and legislation provided an opportunity to conduct appropriate proceedings on the marae on a strict case by case, and hearing by hearing, basis. Judge Taumuanu was then approved to proceed with considerations for the use of marae for some Youth Court proceedings.

First Rangatahi Court: Gisborne

16. The first Rangatahi Court was established in 2008 at Poho-o-Rāwiri Marae in Gisborne under the leadership of Judge Heemi Taumaunu.

17. In January 2008, the Gisborne Youth Court held a stakeholders meeting. At that meeting, experienced youth justice professionals expressed concern that they had witnessed successive generations of Māori defendants make their way through the Youth Court to the District Court and then to prison. It was agreed at that meeting that the Youth Court should adopt a new approach and the idea of the Youth Court sitting at a local marae was mooted.

18. Between January 2008 and May 2008, numerous meetings were held with local iwi and local iwi leaders to discuss whether there was any support for the idea of the Youth Court sitting at a local marae. It became evident that there was strong local iwi support for the Youth Court to sit at Te Poho-o-Rāwiri marae. Subsequent meetings were held with local iwi and hapū leaders, including the late Sir Henare Ngata, the late Dr Apirana Mahuika, Mr Temepara Isaacs, Mrs Olive Isaacs, Mr Bill Aston, the late Mrs Rawinia Te Kani, and Mr Hone Taumaunu, to discuss how te reo Māori, tīkanga Māori, and marae kawa (ceremonial rituals), could be incorporated in an appropriate manner with the criminal legal processes applicable to young people appearing in the Youth Court. These discussions shaped the processes adopted by the Rangatahi Court at Te Poho-o-Rāwiri marae. During these discussions it was agreed that the underlying philosophy of the Rangatahi Courts would be informed by Sir Apirana Ngata's famous saying:

> ***"E Tipu e Rea, mō ngā rā o tōu ao. Ko ō ringa ki ngā rākau a te Pākeha, hei oranga mō tō tinana. Ko tō ngākau ki ngā taonga a ō mātua tīpuna, hei tikitiki mō tō mahunga. Ko tō wairua ki te Atua. Nāna nei ngā mea katoa."***
>
> ***"Grow up, young tender shoot, in the times of your generation. Utilise modern technology and knowledge as sustenance for your physical needs. Holdfast***

and retain the treasures handed down by your ancestors, and display them with pride. Give your soul to the Higher Being, the Creator of all things."

Judge Louis Bidois presiding over the Te Arawa Rangatahi Court

Subsequent Rangatahi Courts

19. The Rangatahi Court at Te Poho-o-Rāwiri marae in Gisborne was launched on 30 May 2008 in Gisborne with Judge Heemi Taumaunu presiding. Since that time, 12 other Rangatahi Courts have been established throughout Aotearoa:

    a. Manurewa Rangatahi Court was launched on 23 September 2009 in South Auckland with Judge Greg Hikaka presiding;

    b. Hoani Waititi Rangatahi Court was launched on 10 March 2010 in West Auckland with Judge Heemi Taumaunu presiding;

    c. Ōrakei Rangatahi Court was launched on 22 June 2010 in Central Auckland with Judge Eddie Paul presiding;

    d. Ōwae Rangatahi Court was launched on 26 June 2010 in Taranaki with Judge Hikaka presiding;

    e. Kirikiriroa Rangatahi Court was launched on 7 August 2010 at Te Ohaki Marae in Huntly with Judge Denise Clark presiding;

f. Mataatua Rangatahi Court was launched on 11 June 2011 at Wairaka Marae in Whakatāne with Judge Louis Bidois presiding;

g. Pukekohe Rangatahi Court was launched on 30 September 2011 with Judge Hikaka presiding;

h. Papakura Rangatahi Court was launched on 1 October 2011 with Judge Frances Eivers presiding;

i. Te Arawa Rangatahi Court was launched on 2 December 2011 with Judge Bidois presiding;

j. Ōtautahi Rangatahi Court at Ngā Hau e Whā Marae in Christchurch was launched on 22 March 2014 with Judge Heemi Taumaunu presiding;

k. Rāhui Pōkeka Rangatahi Court was launched on 26 March 2014 in Huntly with Judge Clark presiding; and

l. Tauranga Moana Rangatahi Court was launched on 14 March 2015 in Tauranga with Judge Louis Bidois presiding.

20. Although Rangatahi Courts are a judicially-led initiative, strong support has been given to the Judges involved in the Rangatahi Courts by the Ministry of Justice operations team within the District Court, led by Mr Tony Fisher, General Manager, District Courts of New Zealand. Each Rangatahi Court is supported by, and resourced from, the local District Court. A number of individual Court staff have made significant and innovative contributions to the evolution of the Rangatahi Courts, together with local CYF staff, Police Youth Aid officers, Youth Advocates, Ministry of health staff, Ministry of Education staff, Lay advocates and, perhaps most importantly, local marae communities.

Visitors welcomed onto Orakei Marae in Auckland City at the launch of the Orakei Rangatahi Court – 22 June 2010

Rangatahi Court: Statutory Jurisdiction

21. Section 4(4) of the District Courts Act 1947 provides that "a Judge may hold or direct the holding of a particular sitting of a court at any place he deems convenient". Under this provision, the Judge has a broad discretion to direct that a Youth Court sitting is to be held on a marae for the purposes of monitoring an FGC plan.

The launch of the Rangatahi Court at Papakura - 1 October 2011

Rangatahi Court: Evaluation

22. Given that the goals of the Rangatahi Courts stem from a commitment to providing more culturally appropriate Court-based processes, the primary scope of any Rangatahi Court evaluation must be qualitative. Evaluation should focus on whether the Court process has delivered qualitatively better engagement and involvement of young people, their families and wider Māori community. While quantitative outcomes might form a part of subsequent research, reoffending rates must not be the primary or sole focus of any evaluation.

23. In 2012, the Ministry of Justice commissioned a qualitative evaluation of the Rangatahi Courts, independently undertaken by Kaipuke Consultants. The evaluation report, entitled "Evaluation of the Early Outcomes of Ngā Kooti Rangatahi" was published on 19 December 2012. The report found that:

    a. Operational processes guiding the implementation of Ngā Kooti Rangatahi are being delivered consistently across the five sites (with some courts implementing additional strategies considered by the evaluators to be good practice);

    b. Rangatahi have experienced positive early outcomes, both expected and unexpected. These include, for example, high levels of attendance, feeling welcome and respected, understanding the court process, forming positive relationships with youth justice officials and the marae community, showed improved positive

attitudes, established connections with the marae and took on leadership and mentoring roles; and

c. Whānau, agencies and marae communities have experienced positive early outcomes including whānau feeling respected and welcomed at Court, understanding the Court process, being supported in their parenting role, developing networks between agencies and families, and feeling that the Court process validates the mana of the young people and their whānau, while still holding them accountable and responsible.

24. In 2014, the Ministry of Justice undertook a preliminary quantitative analysis of uptake and reoffending rates in the Rangatahi Courts. Rangatahi Court Judges have expressed concern with the undertaking of solely quantitative research on reoffending rates. The 2012 qualitative evaluation of the Rangatahi Courts used a number of other indicators to assess the successful implementation of the courts, in addition to the reduction in reoffending. There were also a number of limitations to the 2014 quantitative analysis regarding the availability of appropriate data sets, the absence of a control group, that Rangatahi Courts are still developing and refining new processes, and that tikanga wānanga were not firmly established at each Rangatahi Court location, which is an essential part of the Rangatahi Court model.

25. In any event, the 2014 quantitative evaluation estimated that young people that appeared in the Rangatahi Court were 11% less likely to reoffend.

Rangatahi Court: International framework

26. There are also a number of key international instruments that are particularly important, given the disproportionate number of young Māori in the youth justice system, and which provide principles that support the Rangatahi Court model.

27. The United Nations Declaration on the Rights of Indigenous Peoples was ratified by New Zealand in April 2010. The Declaration sets out the international community's recognition of the special status of indigenous peoples and their right to self-determination. The Preamble states:

    Indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, the right to development in accordance with their own needs and interests.

28. Article 5 of the Declaration provides:

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

29. On 6 May 2015, the United Nations Committee Against Torture published its *Concluding observations on the sixth periodic report of New Zealand* evaluating New Zealand's compliance with the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which New Zealand ratified in December 1989.

30. In this report, the United Nations Committee criticised New Zealand's disproportionately high rate of Māori imprisonment, stating:

    "[New Zealand] should increase its efforts to address the overrepresentation of indigenous people in prisons and to reduce recidivism, in particular its underlying causes, by fully implementing the Turning of the Tide Prevention Strategy through the overall judicial system and by intensifying and strengthening community-based approaches with the involvement of all relevant stakeholders and increased participation of Māori civil society organizations."

31. The Rangatahi Court model attempts to promote the rights set out in Article 5 of the Declaration. The Rangatahi Court process attempts to address the underlying causes of offending and encourage the participation of young Māori offenders, their whānau, kaumātua, kuia and local marae communities.

Rangatahi Court: Name

32. At its genesis, the Rangatahi Court was referred to as the Marae-Based Family Group Conference Plan Monitoring Youth Court. Judge Taumuanu was later asked by Principal Youth Court Judge Becroft to suggest an appropriate Māori name for the Court.

33. After consultation with pākeke and elders from Te Poho o Rāwiri Marae, Manurewa Marae and Hoani Waititi Marae, it was decided that the appropriate name for the marae-based courts is Ngā Kōti Rangatahi – the Rangatahi Courts.

34. The literal meaning of the word "rangatahi" is "youth". The word "rangatahi" also means "new net" in the sense that it is used in the famous Māori proverb, "Ka pū te rūhā, ka hao te rangatahi" (the old worn out net is cast aside and the new net goes fishing). The name "Rangatahi Court" reflects the expectation that young people will "cast aside the old, worn out" behaviors that have led them to appear in the Rangatahi Court, and that they will adopt a "new net" of positive, pro-social attitudes and behaviours to put them on the right track for the future.

35. The name Rangatahi Court became settled only shortly after the launch of the Hoani Waititi Rangatahi Court on 10 March 2010. Hoani Retimana Waititi, who the marae was named for, was the famous author of a series of te reo Māori books called "Te Rangatahi" (the new net). Therefore, it is fitting that a Rangatahi Court now operates at Hoani Waititi Marae.

Rangatahi Court: Waiata

36. A waiata for the Rangatahi Court was composed for the judiciary and stakeholders and is performed on ceremonial occasions.

Karakia	**Blessing**
E te Atua	Our God
E te Ariki	Our Lord
Tukua mai te kaha me te māramatanga	Give us your strength and enlightenment
Ki te hāpai	And uplift
Te Kōti Rangatahi e	Our Rangatahi Court
Whakatauki	**Proverb**
Ko te whakatauki e kōrero nei	The well known saying goes
Ka pū te ruha	The old worn out net is cast aside
Ka hao te rangatahi	The new net goes fishing
Waiata	**Song**
Tēnei mātou	Here we are
Te whakatipuranga	This generation
O tēnei ao	Living in today's world
Te nui o	(Alas) the great number
Ngā rangatahi Māori	Of our Māori youth
E raru nei	Who are in trouble (with the law)
E whai nei mātou	We are seeking
I te ara tutuki pai	The pathway to achieve success
Aratika	The right path
Mō ngā tamariki	For our children
Mokopuna e raru nei	And grandchildren who are in trouble (with the law)
Kia ora ai	To secure their well-being (for the future)
Ko te anga whakamua nei	The vision for the future
Kia whakahoki tātou e	Is for us to return
Ki te Reo me ōna Tikanga	To our Māori language, its customs and protocols
Kia mōhio mai	So that our Māori youth will know
Ko wai? Nō whea?	Who they are, and where they are from
A tātou rangatahi e	
Te Kōti Rangatahi	The Rangatahi Court
(E) whakahoki nga taiohi	Returns the young persons
Ki te marae	To the marae
Ka pū te ruha	On the basis that
Ka hao te rangatahi	The old worn out net is cast aside
Te kaupapa	And the new net goes fishing
Ko te anga whakamua nei	The vision for the future
Kia whakahoki tātou e	Is for us to return

Ki te Reo me ōna Tikanga	To our Māori language, its customs and protocols
Kia mōhio mai	So that our Māori youth will know
Ko wai? Nō whea?	Who they are, and where they are from
A tātou rangatahi e	
Kia mohio mai	So that our Māori youth will know
Ko wai? Nō whea?	Who they are, and where they are from
A tātou rangatahi e	

Whakamutunga	**Conclusion**
Tūturu whakamaua kia tina	Make it secure, make it tangible!
Tina! Hui e, Taiki e!	Join together and be united!

Composed by: Judge Heemi Taumaunu
Collaborators: Music and Lyrics: Anaru Grant, Wayne Panapa, Ngarue (Kim) Ratapu, Judge Lisa Tremewan, David Parker, Judge Philip Recordon, Riri (Liz) Motu, Jake Kake, Harley Hoani, Karaitiana Taumaunu, Wiremu (Hone) Elliott, Matutaera Ihaka

Te Kōti Rangatahi – He Kōrero Whakamārama i ngā Tikanga
The Rangatahi Court – Operating Protocols

Best practice for Rangatahi Courts is constantly evolving and it is appropriate that is some regional variation and nuance. The operating protocols below represent what has been agreed to as general best practice.

Rangatahi Court: Referral Process

37. When a young person appears in the Youth Court and does not deny the charge, or denies the charge and it is subsequently proved;

    a. the presiding Youth Court Judge must direct that an FGC be convened and held;

    b. the FGC will confirm that the young person admits the charge/s and will formulate a plan to hold the young person accountable and to address the apparent underlying causes of offending;

    c. the Registrar, as a matter of best practice, should appoint a Lay Advocate for the young person. The Registrar must endeavour to match the culture of the young person with that of the Lay Advocate. The Registrar must endeavour to assign Lay Advocates for Māori youth offenders:

        i. who are competent in the Māori language; and

        ii. who have a sound knowledge of Māori protocols, Māori history, tribal pepehā, and tribal whakapapa (genealogy).

38. The Lay Advocate is expected to:

    a. report to the Rangatahi Court about the young person's cultural background, and his or her level of knowledge of the Māori language and protocols;

    b. assist the young person reconnect with his or her sense of self-identity as Māori;

    c. assist the young person learn his or her pepehā; and

    d. represent the interests of the young person's whānau, hapū and iwi.

39. The young person will be remanded to the next sitting of the Youth Court for the FGC plan to be considered.

40. If the FGC agrees that monitoring of the FGC plan should be conducted at a Rangatahi Court, the FGC Co-ordinator may apply to the Youth Court for a judicial direction that the next hearing be held at the Rangatahi Court for FGC plan approval and monitoring.

41. If there is no agreement at the FGC that monitoring of the FGC plan should be conducted at a Rangatahi Court, the Youth Court Judge must determine whether the monitoring of the performance of the FGC plan should be conducted at a Rangatahi Court. The ultimate

decision to refer a young person to a Rangatahi Court is an exercise of judicial discretion based on relevant factors. These factors include:

a. Consideration of the recommendations of the Family Group Conference;

b. The wishes of the young person and his or her whānau;

c. The victim's views;

d. Submissions made on behalf of Police or the Crown, and Child Youth and Family; and

e. The level of support in the community that can be provided for the young person and his or her whānau by local marae and iwi providers.

f. Other factors that may be relevant on a case by case basis.

42. A conditional referral to the Rangatahi Court may be made in order to encourage a young person and his or her whānau to attend the Rangatahi Court. For many Māori rangatahi, it may seem easier to remain in the Youth Court than opt into the Rangatahi Court. The fear of the unknown is a powerful disincentive to seek referral to the Rangatahi Court for many Māori rangatahi who appear in the Youth Court, because:

a. Most of the young people who make their first appearance in a Rangatahi Court do not know how to speak Māori and do not know much about tikanga Māori. Some have never been to a marae. Many have never been to their own marae. However, all are aware that they are Māori, and when spoken to about the topic, most have a keen desire to learn about who they are and where they are from. Although it is an unfortunate reality in modern day Aotearoa, the Rangatahi Court in many cases, presents the first opportunity for a young person to learn about his or her identity as a member of a whānau, hapū and iwi.

b. Many of the young people who are eligible to be referred to the Rangatahi Court are fearful of the expectation that they will be required to recite a pepeha or mihi during their Rangatahi Court appearance. This is completely understandable but is probably misunderstood to a certain extent. The vast majority of young people who appear in Rangatahi Court on their first appearance are unable to recite a pepeha or mihi. This is accepted by the Rangatahi Court as a starting point.

43. A conditional referral will include:

a. An explanation that the young person and his or her whānau will be referred to the Rangatahi Court on the understanding that if there is a desire to return to the Youth Court at any time, then the presiding Rangatahi Court judge will direct a transfer back to the Youth Court.

b. Provided that this proviso is clearly understood by all involved, and is adhered to on a case by case basis, the fear of the unknown should be capable of being managed in a sensible and appropriate manner.

44. Ultimately, a referral to the Rangatahi Court will not be made without consent from the young person and the victim/s.

45. If the presiding Youth Court Judge makes a referral to the Rangatahi Court, the young person will be remanded on appropriate bail terms to re-appear on a Rangatahi Court day and thereafter as directed (fortnightly in most cases). The frequency of appearances is to be determined depending on the circumstances of each particular case.

46. If the FGC plan breaks down, or new charges are laid as a result of fresh offending, the matter will be referred back to the Youth Court.

A Rangatahi Court hearing at Christchurch Rangatahi Court

The launch of the Tauranga Rangatahi Court at Hairini Marae on 14 March 2015

Rangatahi Court: Hearing Process

47. Most Rangatahi Courts sit once every two weeks and commence at 9.30am with a pōwhiri (traditional welcome ceremony). All young people, their whānau, youth advocates, lay advocates, social workers and supporters who are due to attend a morning session of a Rangatahi Court are required to attend the pōwhiri at 9.30am. All young people, their whānau, youth advocates, lay advocates, social workers and supporters who are due to attend an afternoon session of a Rangatahi Court are required to attend the pōwhiri at 1.30pm.

48. The presiding Judge, Registrar, police, social workers, support workers, young people and their whānau are all welcomed onto the marae as part of the pōwhiri process. The pōwhiri commences with an exchange of karanga (traditional calls of welcome) by respected female elders. A karakia (traditional prayer) is usually recited by a respected elder, and then formal speeches of welcome and reply are exchanged between the tangata whenua (people of the marae) and the manuhiri (group of visitors). After the pōwhiri, a whakawhanaungatanga (round of introductions) is conducted, followed by a handshake, a hongi (pressing of noses) and a morning tea break.

49. Each young person is allocated 30 minutes for his or her Rangatahi Court appearance. The Rangatahi Court Registrar sets the order of hearings for the day and will notify the young person of their hearing time in advance.

50. The Rangatahi Court bench is set up in a horseshoe shape inside the wharenui (meeting house). Respected elders sit alongside the presiding Judge. Court officers representing the Police and the Child Youth and Family Service are seated adjacent to the presiding Judge. A seat is set aside for any victim who attends next to the police representative. The young

person and his or her whānau and supporters sit directly opposite the presiding Judge and respected elders.

51. The Registrar calls individual young people accompanied by their whānau (extended family), youth advocates, lay advocates, support workers and social workers. Victims are welcome to attend the Rangatahi Court and, if present, are invited by the Registrar to attend both the pōwhiri and the relevant individual hearing.

52. Each young person's hearing is commenced by a respected elder reciting a mihi whakatau (a brief speech of greeting). The young person is then expected to stand and recite his or her pepehā. Following this, the young person is then expected to sing a waiata (song of support) with his or her whānau. The young person is then asked to introduce all of the people who have come with him or her. The Police Court Officer will introduce the victim to the Rangatahi Court.

53. The Rangatahi Court will hear from the young person and those present in support of the young person who wish to speak. If present, the victim will be asked whether he or she wishes to speak. The presiding Judge will then give further directions based on what has been discussed. The respected elders are then asked whether they wish to address the young person and his or her whānau. Once the respected elders have finished speaking, the young person and his or her whānau and other supporters are invited to come forward for a farewell handshake and hongi with the officers of the Rangatahi Court, the presiding Judge and the respected elders.

54. If, while having an FGC plan monitored in the Rangatahi Court, a young person is charged with new offending, the young person must make his or her first appearance on the new charge at the Youth Court. The Youth Court Judge will then give case specific directions.

55. Once a young person has completed his or her FGC plan, the Rangatahi Court will dispose of the charges, usually in accordance with the FGC plan recommendations.

56. Interpretation will be provided for any te reo Māori that is used so that everyone present is able to understand what is being said during the hearing.

Rangatahi Court: Whakawhanaungatanga

57. It is now an integral part of the Rangatahi Court process for a whakawhanaungatanga (round of introductions) to be conducted after the pōwhiri. There is an expectation during the whakawhanaungatanga session that all participants present will stand and recite their pepeha.

58. The whakawhanaungatanga session is conducted by participants arranging their seats in a wide circle. Each participant then stands to address the gathering, including the young people and their whānau, and all of the stakeholders. The presiding Judge will also participate. The Judge will outline the rules contained in s 438 of the CYPF Act regarding

confidentiality of names of those young people who are appearing on that day and restrictions on publication of names and photographs etc.

59. The whakawhanaungatanga session presents an opportunity for those young people who are more advanced in learning and reciting their pepeha to act as role models for those in the beginning stages. The same dynamic applies with stakeholders.

Rangatahi Court: Pepeha

60. During the time that the young person's performance of the FGC plan is monitored by the Rangatahi Court, it is expected that the young person will work on his or her pepeha with the assistance of a Lay Advocate, and will further his or her cultural knowledge by attending tikanga wānanga (or a similar learning programme).

Rangatahi Court: Tikanga Wānanga

61. Every Rangatahi Court should have a tikanga wānanga available for young people to attend as part of their FGC plan. The tikanga wānanga may or may not be held at the marae.

62. Tikanga wānanga are designed for Māori young offenders generally to assist them to learn their pepehā, to learn about their culture, and to develop a sense of identity and belonging as a member of a whānau, hapū and iwi.

63. An appropriate tikanga wānanga must be in place before the operation of any Rangatahi Court is launched. Each region should strive to develop their own wānanga utilising the skills and knowledge of the local people in each area.

64. In most cases, the young person will commit his or her pepeha to memory and will develop confidence to stand and recite it at the Rangatahi Court, both during the whakawhanaungatanga and at the beginning of his or her case.

Kapahaka performance at the launch of the Pukekohe Rangatahi Court – 30 September 2011

Rangatahi Court: Victim Attendance at Rangatahi Court

65. Victims are entitled to attend Youth Court hearings pursuant to s 329(ja) of the CYPF Act.

66. Victims of offending are entitled to attend Rangatahi Courts to observe the hearing of a young person who has offended against them. Victims are welcome to attend the pōwhiri, and are welcome to observe and participate in the hearing of the individual young person.

67. It is the responsibility of Police, Victims Advisors, Victim Support, and Youth Justice Co-ordinators, to make victims aware of their right to attend Rangatahi Court sittings and to encourage and support their attendance. Proper management of a victim's attendance and participation in a Rangatahi Court is vital.

Rangatahi Court: Stakeholders

68. The Rangatahi Court Registrar sets the order of hearings for the Rangatahi Court. A list of young people whose case is to be called in the Rangatahi Court will be sent to the Rangatahi Court stakeholders by midday of the day preceding the Rangatahi Court date.

69. The Rangatahi Court stakeholders are:

    a. Youth Advocates;

    b. Lay Advocates;

    c. Kaumātua and kuia (respected elders) assisting the Rangatahi Court;

    d. Police Youth Aid Prosecutors, Police Youth Aid Officers and Crown Solicitors;

    e. Child Youth and Family Court Officer and Social Workers;

    f. Youth justice Coordinator(s);

    g. Iwi / NGO service provider representatives;

    h. Youth Forensics representative;

    i. Ministry of Education Officer;

Visitors welcomed onto Hoani Waititi Marae in West Auckland at the launch of the Hoani Waititi Rangatahi Court – 10 March 2010

Rangatahi Court: Sitting Times

70. Morning sessions for Rangatahi Courts start with a pōwhiri at 9.30am. The pōwhiri, whakawhanaungatanga and morning tea will be completed within 45 minutes. Individual hearings commence at 10.15am.

71. A maximum of six young people shall be set down for a morning session. This allows an allocation of 20-30 minutes per young person for each hearing (total 3 hours).

72. The Rangatahi Court adjourns for lunch between 1pm and 1.30pm.

73. Afternoon sessions for the Rangatahi Court start with a pōwhiri at 1.30pm. The pōwhiri, whakawhanaungatanga and afternoon tea will be completed within 45 minutes. Individual hearings commence at 2.15pm.

74. A maximum of six young people shall be set down for an afternoon session. This allows an allocation of 20-30 minutes per young person for each hearing (total 3 hours).

Judge Becroft inviting all those involved in the Owae Rangatahi Court in Taranaki to stand – 26 June2010