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Second Chances: Youth Justice Co-ordinators' Perspectives on the Youth Justice Family Group Conference Process

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ABSTRACT

In New Zealand's system of Youth Justice (YJ) the Family Group Conference (FGC) process plays a pivotal role in addressing the offending behaviour of young people under seventeen. Mandated under the Children, Young Persons, and their Families Act 1989 (the Act), the FGC is a formal meeting in which the persons most affected by a young person's offending, typically the young person, their family, their victim(s) and associated professionals, collectively decide how the young person should be held accountable. The process is managed by a YJ Co-ordinator, appointed by the Department of Child, Youth and Family (the Department). This dissertation presents the findings of an evaluation of the YJ FGC process from the perspectives of YJ Co-ordinators.

The study aimed to understand the process and the development of practice, to identify factors constituting best practice and current areas of weakness in the process. It comprised of semi-structured interviews with ($n=19$) YJ Co-ordinators with at least twelve years' practitioner experience (Project One) and four focus groups ($n=27$) of Co-ordinators with a range of practice (Project Two). Three major themes emerged from the thematic analysis of data: a) *The Act as Anchor* – philosophical underpinnings of the FGC process, b) *Working with the Act* – best practice and current issues in YJ FGC service provision, and c) *The Office* – organisational factors.

The results indicated the YJ FGC process was effective for the majority of young people, but generally inadequate for recidivist young offenders with complex additional needs. Aspects of best practice included: aligned professional approaches to FGC philosophy and practice, service delivery by trained YJ Co-ordinators and the quality of FGC preparation. Also considered best practice was the inclusion of victims in the process to assist in the development of a strengths-based personalised plan for the young person. With several areas of weakness identified, recommendations for improving the process included: addressing Co-ordinator training and Departmental leadership, reviewing the process for recidivists, improving process information quality, enhancing professional collaboration and addressing Police training in the Act and the FGC. Limitations of the study and directions for future research are discussed.

*This dissertation is dedicated to my family, especially Danielle and Thomas
and to the memory of my parents.*

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CHAPTER ONE: INTRODUCTION

Offending behaviour by young people in Aotearoa/New Zealand is acknowledged as an issue of major public concern. Addressing such behaviour is important for its significant impact on the well-being of the young people who offend, their families, their victims, and the wider community (Ministry of Justice and Ministry of Social Development, 2002). New Zealand's system of Youth Justice (YJ) falls under the jurisdiction of the Youth Court, which has responsibility for managing offending by children (aged 10-13 years) and young people or youth (aged 14-16 years). Central to this system is the Family Group Conference (FGC), a legal process mandated under the Children, Young Persons and their Families Act 1989 (the Act).

The YJ FGC is a formal meeting for stakeholders most affected by a young person's offending behaviour – typically the young person, their family/whānau¹, the victim, with representatives from the New Zealand Police (the Police), and may include selected other professionals such as legal advocates – to collectively decide how the young person can be held accountable for their offending behaviour. Another key stakeholder is the Youth Justice Co-ordinator (YJ Co-ordinator), appointed by the Department of Child, Youth and Family (the Department) with the responsibility for managing the process.

The FGC is considered to be a modification of traditional whānau decision-making, resulting in a blend of Māori and Western features of justice (Maxwell, Kingi, Robertson, Morris, & Cunningham, 2004). In bringing together those most affected by the offending, and its emphasis on participation and repairing harm, the YJ FGC is regarded as containing features consistent with a *restorative* model of justice (Maxwell & Morris, 2006). With over 8000 YJ FGCs conducted annually (Ministry of Justice, 2009), the FGC has been described as the “lynchpin of New Zealand's YJ system” (Becroft & Thompson, 2007, p. 69). Variations of New Zealand's YJ FGC process now operate in several other countries, tailored to local conditions (Campbell et al., 2005).

The New Zealand YJ FGC has been the recipient of intermittent research attention since it was introduced in 1989, reflected mostly in the work of Maxwell and colleagues (Maxwell

¹ In Māori culture, whānau refers to family and extended family groups. Other relevant cultural terms referred to within this dissertation include: iwi or tribe; hapū or the clans or descendent groups; and Pakehā or a person of non-Māori descent (New Zealand Government, 2009).

et al., 2004; Maxwell & Morris, 1993). Research emphasis has been afforded to *outcomes* or the results or consequences of the process; for example, whether participants experience the process as *restorative*. While aspects of best practice have been identified in these studies or have been otherwise documented in practitioner commentaries (MacRae & Zehr, 2004; Stewart, 1996), there has been less detailed inquiry on the *process*, or the operation, of the YJ FGC. In addition, while they are key stakeholders, the voices of YJ Co-ordinators have not featured strongly in the research. While this is not uncommon, there is increasing recognition in the international literature that failing to consider the views of practitioners such as YJ Co-ordinators in studies seeking to evaluate YJ systems and processes may be detrimental to the development of the field (Case, 2007).

This dissertation aims to make a valuable contribution to the local literature by evaluating the YJ FGC process as it operates in New Zealand from the perspectives of YJ Co-ordinators. My own interest in this area stems from my previous research under the supervision of my current supervisor, Dr Ian Lambie (Slater, 2005). I am also interested in issues related to children, young people and families in my work as a clinical psychologist in training, particularly the mechanisms that may facilitate positive change toward a more hopeful future.

The following sections of this chapter provide a review of pertinent literature offering a context for the research that follows. First, a background to adolescent offending will be provided, followed by an outline of the prevalence of young people's offending behaviour in New Zealand. Theories to explain youth crime, and factors known to increase the risk for offending, or that may protect against this behaviour, will then be discussed. Next, New Zealand's system for managing youth who offend will be described. The FGC process is pivotal to this system. This chapter will go on to give a brief overview of the features and aims of a restorative justice system. Finally, the available literature evaluating the YJ FGC *process* as it operates in New Zealand, and aspects of the process considered to be related to outcomes, will be described.

The phenomenon of the age/crime curve

The *age/crime curve*, reflecting the correlation between age and crime, is a major premise of Western criminology (Fagan & Western, 2005; Farrington, 1986; Gottfredson & Hirschi, 1990). This phenomenon describes data indicating that, while offending behaviour in children under the age of 13 is relatively rare, a sharp increase in young people's involvement in criminal activity occurs during adolescence (Moffitt, 1993; K. Morgan, 2006). After *peaking* during this period, offending behaviour then typically "ages out" by late adolescence, usually from age seventeen, declining sharply into early adulthood (Agnew, 2003; Fagan & Western, 2005, p. 60). The peak in adolescent offending is evident across both genders, all ethnicities and social groupings, and is applicable to all forms of behaviour constituted to be *criminal* (Fontaine, Carbonneau, Vitaro, Barker, & Tremblay, 2009).

For the vast majority of adolescents, offending behaviour commences during, and is confined to, this life-stage. Such behaviour is usually described as being of a minor level of seriousness and of short-duration, and will typically not persist into adulthood. The term *adolescent-limited* (AL) is used to describe this trajectory (Moffitt, 1993). While many, if not most (Muncie, 2009) young people commence offending of some kind during adolescence, for a minority, these behaviours originate during childhood. For this subset of early offenders, the rate and frequency of their offending activity has been found to increase during adolescence (Farrington, 1986; Moffitt & Harrington, 1996). Furthermore, a subset of child offenders who continue to offend during adolescence will do so into adulthood. These are described in the literature as *life-course persistent* (LCP) *offenders* (Moffitt, 1993). In general, it has been found that young people identified as LCP will persist with offending behaviour into adulthood at greater levels than those on the AL pathway (Muncie, 2009) and in some cases to a higher level of *seriousness* (Chong, 2007). In Aotearoa/New Zealand, this behavioural pattern is noted in approximately 1000-1500 young people under the age of seventeen (Statistics New Zealand, 2009b).

Official statistics are used to indicate the extent and nature of youth crime (Marsh, 2006a). In the New Zealand context, locally-generated statistics used to describe youth offending are obtained from a variety of sources. These include: the New Zealand Police, the Department, the Ministry of Justice, and the Department for Courts. Comparisons are

often made against general population trends using figures generated by Statistics New Zealand (Becroft, 2004; Chong, 2007; Ministry of Justice, 2009).

Youth crime statistics have several purposes and are particularly valuable for government decision-making. Youth crime data aids the research and analysis toward the development of appropriate policies, programmes and services. The effectiveness of interventions can also be assessed using statistical material. With youth crime of high public interest, quality statistical data can aid effective communication regarding such issues (Statistics New Zealand, 2009b). At this juncture, it is pertinent to review the official statistics for offending by children and youth in New Zealand.

Statistics of offending by children and young people in New Zealand

New Zealand's statistics distinguish between the offending of *children* (aged 10-13 years) and *youth* (aged 14-16 years). The offending of people aged 17 years and over is managed in the adult court system. In reporting youth crime figures, priority is often given to the 14-16 year age group in acknowledgement of the detrimental impact of offending on a young person's wellbeing during the key adolescent period (Ministry of Justice, 2009). Two indicators of *wellbeing* for children and young people are typically used in the area of Justice. These are: *Police apprehension rates* and *cases proved in the Youth Court*.

An *apprehension* means that the Police have dealt with a person in some manner to resolve an alleged offence. Warnings, alternative actions, referrals for a YJ FGC or prosecution are included within this definition (Chong, 2007; Ministry of Justice, 2009). Police apprehension rates measure the incidence of apprehensions for alleged offending per head of population and exclude non-imprisonable traffic offences (Ministry of Social Development, 2008).

Cases proved in the Youth Court is the other meter of youth offending levels. This indicates the extent of offending is considered to be at a high level of *seriousness*, warranting resolution in a formal Justice arena (Ministry of Social Development, 2008). What follows is a summary of the most recent official New Zealand statistics on offending by children and young people up to 2007 (Ministry of Justice, 2009) presented as Police apprehension rates and cases proved in the Youth Court.

1. Police apprehension rates

When allowing for population size, the Police apprehension rate in 2007 for youth aged 14-16 years per 10,000 people for alleged offending other than non-traffic offences was 15%. This figure reflected a decrease of 1% from 2006. Apprehension rates for children in both 2006 and 2007 were static, at 3% (Ministry of Justice, 2009).

Most apprehensions for children and young people were for crimes defined to be of *minimum seriousness*. Included in this definition are *property offences* such as theft, wilful damage, burglary and car conversion (Ministry of Social Development, 2008). The data for 2006 and 2007 indicates that property offences comprise the significant majority of child and youth apprehensions.

Figures also show a small rise in the apprehension rates for violent offences of both children and youth between 2006 and 2007, of 3% and 1% respectively. Moreover, 2007 figures reflect increases of 5% for children and 4% for youth apprehensions for violent offending when compared to 1995 data, of 7% and 9% respectively (in 2007 percentages were 9% and 13%). Adapted from figures published by the Department of Justice (Ministry of Justice, 2009), Table 1 displays Police apprehension rates for children and youth in both 2006 and 2007 by the type of offence.

Table 1.

Police apprehension rates per 10,000 population of 10-13 year olds and 14-16 year olds for non-traffic offences, by offence class 2006 and 2007.

| Type of Offence | Age 10-13 years | | | | | Age 14-16 years | | | | |
|-----------------------|-----------------|------|-------|------|---------------------|-----------------|------|-------|------|---------------------|
| | 2006 | | 2007 | | Year on Year Change | 2006 | | 2007 | | Year on Year Change |
| | Cases | % | Cases | % | | Cases | % | Cases | % | |
| Violent | 29 | 9% | 40 | 12% | +3% | 193 | 12% | 194 | 13% | +1% |
| Against other persons | 7 | 2% | 8 | 2% | NC | 44 | 3% | 50 | 3% | NC |
| Property | 233 | 73% | 232 | 70% | -3% | 971 | 62% | 927 | 60% | -2% |
| Drug | 7 | 2% | 8 | 2% | NC | 68 | 4% | 63 | 4% | NC |
| Against justice | 1 | 0% | 1 | 0% | NC | 41 | 3% | 35 | 2% | -1% |
| Good order | 38 | 12% | 36 | 11% | -1% | 209 | 13% | 220 | 14% | +1% |
| Miscellaneous | 5 | 2% | 7 | 2% | NC | 44 | 3% | 51 | 3% | NC |
| Total offences | 320 | 100% | 333 | 100% | +1% | 1571 | 100% | 1540 | 100% | -3% |

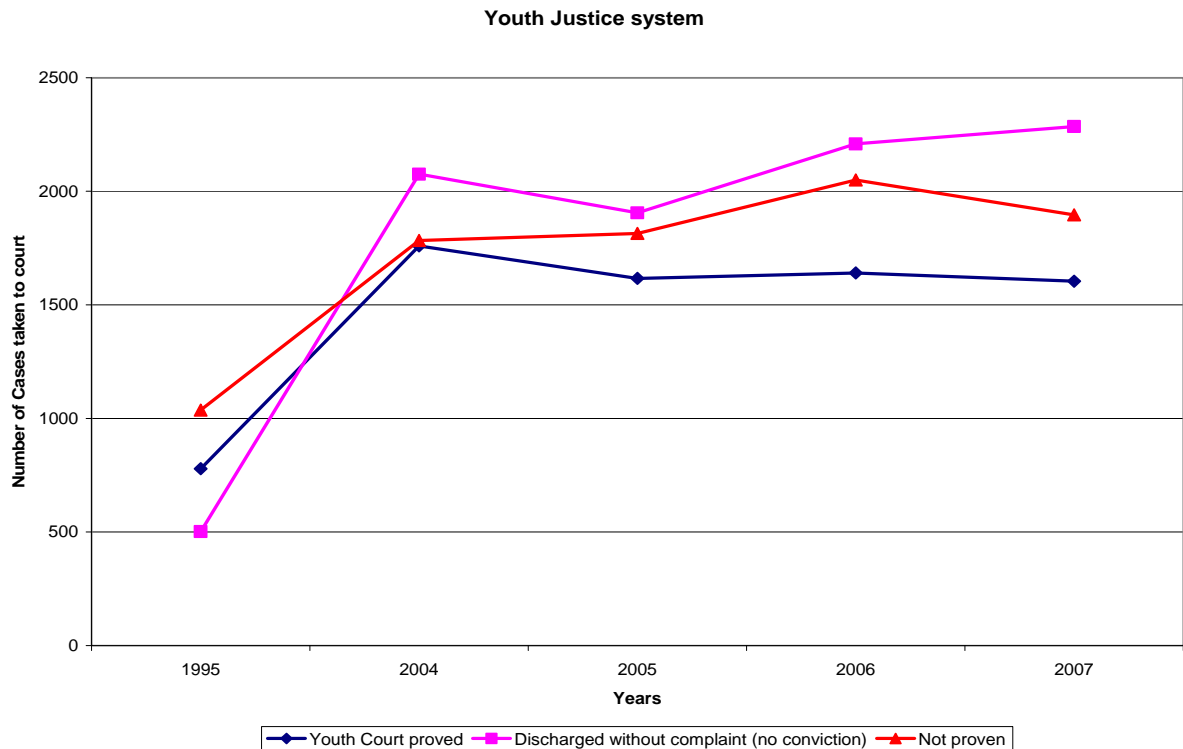
Apprehensions by ethnicity and gender

Apprehension rates suggest young Māori are the ethnic group most likely to be apprehended by Police. The apprehension rate for Māori aged 10-13 years and 14-16 years is in excess of five and three times that of children and youth from any other ethnic grouping, respectively (Statistics New Zealand, 2009a). In the past twelve years, apprehension rates for young males have reflected a slight downwards trend. In contrast, over the same period, data suggests that in both children and youth, female apprehension rates have remained stable, with a slight but statistically insignificant increase observed year-on-year since 2005. This suggests that although the absolute rate reflects little change, a greater proportion of Police apprehensions is now attributable to young females (Statistics New Zealand, 2009a).

2. Cases proved in the Youth Court

Since 1995 there has been an upward trend in cases being heard in the Youth Court (Ministry of Justice, 2009). Taking into account population changes, data also suggests the number of cases proved in the Youth Court has also increased (Ministry of Justice, 2009). Data adapted from official statistics is displayed in Figure 1 below.

Figure 1. Number of Youth Court cases for young people for all offences except non-imprisonable traffic offences in 1995 and for the years 2004-2007 by outcome.



In summary, the data suggests that New Zealand children and youth are most likely to be apprehended or have a charge proved in the Youth Court for *property offences*. Males are more likely than females to be apprehended and have a charge proved, although an upward trend for the latter gender is noted. When population size is accounted for, young Māori are significantly over-represented in the statistics when compared to other ethnicities. With *peaks* in apprehension rates for 14-16 and older adolescents aged 17-20 years compared to other age groupings (Ministry of Justice, 2009), the data also reflect the phenomenon of the *age/crime curve*.

Having reviewed the most recent local data, it is important to raise several methodological and philosophical concerns with the reliance on statistics as constituting the *truth* about youth crime (Muncie, 2009). For example, the *validity* of crime statistics has been acknowledged as problematic, with data collection procedures and measures used identified as issues. The New Zealand situation has been particularly disadvantaged by a lack of centralised statistical collection point for youth crime data. Derived from numerous agents with varying standards of data input, methodological issues have made drawing valid comparisons and conclusions an ongoing challenge (Becroft, 2004). To illustrate,

individuals who have had more than one case proved in the Youth Court in the same year will be counted in the statistics for as many times as they offend. It is hoped this issue will be resolved by the recommendation of an integrated Youth Justice Dataset comprising data from all relevant agencies for statistical and research purposes by an official review body (Statistics New Zealand, 2009b).

Commentators have raised other, more philosophically-based concerns about the reliance on statistics as constituting the “hard facts” about youth crime (Marsh, 2006a, p. 9). These include *definitional* concerns, drawing attention to issues such as which behaviours are determined to be *crimes* and who takes responsibility for making such decisions. It has also been argued that statistics might reflect bias, in that the crimes specified and the offenders included may not be truly representative of the *truth* about youth crime. Such debates aim to raise concerns over the “dark figure” of crime, a term which Marsh believes describes factors not officially known about crime which influence many mistruths (2006a, p. 10).

From Muncie’s (2009) perspective, one such mistruth is that youth crime is concentrated in particular sub-groups of young people, for example, in young males, in ethnic minorities and the working class. It is certainly arguable that local statistics may reflect aspects of these trends. Self-report studies however, suggest that youth offending behaviour is considerably more prevalent than might be perceived by the public or suggested by official statistics (Muncie, 2009).

For example, as measured by contact with either the Police or Youth Court, it is estimated that approximately 25% of New Zealand adolescents come to notice for offending behaviour(s) each year (Ministry of Social Development, 2008). However, a local study found that 93% of males and 83% of females at aged eighteen admitted to committing some form of offence within the previous year (Krueger et al., 1994). Similar effects have been found in many other countries, including Sweden (Svensson & Ring, 2007), Scotland (Jamieson, McIvor, & Murray, 1999), and Australia (Fagan & Western, 2005). Accordingly, Muncie argues that offending of *some form* is to be expected during adolescence, which may even be considered “normal” behaviour (2009, p. 100).

In summary, as young people navigate the transition from childhood to adulthood they may encounter a range of challenges. With an increase in risk behaviours during this period,

adolescence may mark the onset of engagement in offending behaviour in some, if not most young people. To explain why this might occur, a plethora of theories have been derived.

Theories of youth crime

As previously described, while a minority of young people begin offending in childhood, the adolescent period typically marks the onset in offending behaviour in many young people. While numerous theories have been posited to understand factors that might lead to offending behaviour in an individual, it has been claimed that *no one theory*, to date, has been able to conclusively explain criminal behaviour in young people. However approaches to YJ may be guided by one or more theoretical frameworks, reflected in policies, systems, practice and interventions provided for young people who offend. Theories of youth crime are therefore influential and important to understand (Muncie, 2009). While the literature in this area is abundant, the most prominent theories of youth crime will be described as a contextual background for the reader.

Biological/Genetic positivist theories

Genetically-derived theories consider a biological predisposition to criminal behaviour through scientific evidence (Blackburn, 2006). The main theories include:

The ‘criminal family’: Examining changes over time in the same person, some longitudinal studies have proposed genetic influences explain the high intergenerational transmission of offending (Farrington, Coid, & Murray, 2009). For example, the Cambridge Study in Delinquent Development found that just 10% of families were responsible for 64% of all delinquent acts, with three quarters of convicted mothers and fathers having a convicted child (Farrington, Barnes, & Lambert, 1996). Similar effects have been found in other longitudinal studies, including in the Netherlands (van de Rakt, Nieuwbeerta, & Apel, 2009) and Pittsburgh, USA (Farrington, Jolliffe, Loeber, Stouthamer-Loeber, & Kalb, 2001).

In reporting a significant relationship between biological criminal convictions and convictions in adopted children (24.5%), although not in adopted parents (14.7%), Scandinavian researchers noted a stronger effect in criminal *biological mothers* than fathers (Mednick, Gabrelli, & Hutchings, 1984). This study drew attention to the possible relationship of *pre-adoption influences* and offending behaviour in offspring (Blackburn,

2006), supporting Stott's (1982) view that the *quality of perinatal maternal care*, such as stress and drug and alcohol use during pregnancy, may have a relationship to subsequent offending behaviour in some children and young people (Blackburn, 2006).

The 'psychopath': A genetic component has also been proposed to explain the behaviour of *psychopaths*, the 1% people who demonstrate from childhood persistent and varied offending behaviours, enacted without anxiety or remorse for victims (K. Morgan, 2006). Such behaviours are theorised as resulting from a genetic makeup that predisposes them to a predatory personality (Mealey, 1995), in combination with their low moral reasoning abilities (Norris & Walkington, 2006).

A 'criminal' gene: In the Dunedin longitudinal study, Caspi and colleagues (2002) found that the pairing of a polymorphic (shorter, less active) variant of the monoamine oxidase A (*MAO-A*) gene with the *environmental* variable of childhood maltreatment significantly increased the likelihood of a conviction for violent offending (11%), or for antisocial behaviour more generally (85%) in young males. Subsequent studies of adolescent males have found evidence to support the variant of the MAO-A gene which, when found in combination with certain psychosocial variables such as childhood abuse/victimisation, and/or residing in multiple family houses, might precipitate criminal behaviour (Nilsson et al., 2006).

Biochemical influences: Genetic research has also drawn attention to a wide range of biochemical factors toward a causal explanation for crime. Investigation has included studies of hormones, neurotransmitters, brainwave activity, epilepsy, the autonomic nervous system, lead poisoning and allergies (Muncie, 2009). A developing genetically-underpinned theory relates to *biological hypoarousal*, particularly the impact of *low autonomic arousal*. Low resting heart-rate has been linked to offending and other anti-social acts in some children and adolescents (Raine, 2002). It has been suggested this might cause some young people to seek out stimulation through criminal activities such as joy-riding and aggression (K. Morgan, 2006).

Psycho-social theories

These theories have been derived from studies of the individual in the context of their environment (Norris & Walkington, 2006). The major theories highlight features of personality and family, differing developmental pathways, and aspects of social learning.

Low intelligence: In proposing a negative correlation between intelligence and crime, *low intellectual ability* is considered to contribute to criminal behaviour in young people. This influential theory is underpinned by the premise that persons with low intelligence are less equipped to learn socially acceptable behaviours. Their inability to adhere to social rules makes them particularly vulnerable to offending behaviour (Norris & Walkington, 2006).

As measured by Intelligence Quotient (IQ) scores, longitudinal studies have found low intelligence to be a reliable predictor in children of later adolescent and adult offending (Farrington, 1995). However, many commentators argue these variables are difficult to separate from environmental or hereditary factors. Data from the Christchurch longitudinal study, for example, found the relationship between early IQ and later crime to be mediated by the presence of childhood conduct problems and adverse family social circumstances, such as family instability and socio-economic disadvantage (Fergusson, Horwood, & Ridder, 2005).

Impulsivity: Glueck and Glueck (1950) argued that *impulsivity* is a facet of personality that might contribute to crime. This theory posits that an individual's *poor mechanisms of self-control* results in impulsiveness, leading to a higher tendency for criminal behaviour. It has been proposed that differences in self-control are observable in children, with effects relatively enduring across the lifespan (Hirschi & Gottfredson, 1994). Some longitudinal studies have provided evidence to support this position (Farrington, 1992), although commentators note much criminal behaviour is painstakingly premeditated (Norris & Walkington, 2006).

The link between impulsivity and youth crime has brought research attention to Attention Deficit Hyperactivity Disorder (ADHD), of which impulsivity is a diagnostic component. While ADHD symptoms have been associated with an increased risk for youth crime (Farrington, 1992), the Dunedin longitudinal study (Moffitt, 1990) raised awareness of the high rate of co-morbid drug and alcohol issues in young people with this diagnosis, implicating the role of *situational variables* that, when combined with impulsivity, may increase the risk for criminal behaviour in some young people (Norris & Walkington, 2006).

Moral Development: One of the prominent theories related to the acquisition of thinking styles is Kohlberg's (1978) *Stages of Moral Development*, considered by some to extend

the earlier work of Jean Piaget (1959). Building on a view of the criminal as possessing flawed social cognitive abilities, Kohlberg argued that the moral development of criminals had not progressed from the *pre-conventional morality stage* to a higher level of reasoning. Typically seen in children aged 9 and younger, this initial stage is represented by avoiding punishment, seeking fulfilment of personal needs and lack of concern for others (Kohlberg, 1978; Norris & Walkington, 2006). These features are considered to be particularly apparent in people with a *psychopathic personality* (Wilson & Herrnstein, 1985).

While it has been argued that some young offenders tend to conceptualise crime in a simplistic manner (Farrington, 1992), this has been considered a one-dimensional position (Norris & Walkington, 2006). For example Bandura (1990) in his *Theory of Moral Disengagement* argued that people became disengaged from their moral principles in *certain situations*. To illustrate, in dehumanising their victim, young people in a cohort of offenders were considered to have adopted the moral code of their associates to justify their behaviour. Furthermore, it has been proposed that young people might join gangs to prevent their own victimisation (Norris & Walkington, 2006).

Family factors: Many of the above theories have been criticised for putting the individual at the centre of responsibility for committing crime (Muncie, 2009; Norris & Walkington, 2006). In addition to individual factors, Glueck and Glueck (1950) raised the issue of family influences, in theorising that *deficient parenting practices*, notably poor or lax discipline, an inconsistent or threatening manner of punishment, and poor supervision, to be predictive of delinquency in some young people. These theorists also supported Bowlby's (1944) earlier theory that *a lack of affection* and *maternal deprivation* were fundamental causes of criminality, in finding that poor emotional bonds between child-parent resulted in a higher rate of delinquency. The poor socialising influence of the family was considered to be particularly correlated with serious, persistent offending in young people (Glueck & Glueck, 1950).

Moffitt's Developmental Taxonomy: Moffitt's (1993) developmentally-focused theory has been influential in explaining offender types (D. J. Smith, 2007). Drawing largely on data from the Dunedin longitudinal study, Moffitt proposed a distinction between Life-Course Persistent (LCP) and Adolescent Limited (AL) young offenders, as mentioned earlier. Moffitt and colleagues noted that for the minority of LCP children, offending behaviour emerged in childhood, often observable at pre-school. For this prototype, such

behaviour typically worsens and persists throughout the life-course. In contrast, for the majority the onset of offending commences in adolescence, is typically of minor seriousness and does not persist into adulthood (or AL). This theory has also drawn attention to a range of risk factors considered linked to this trajectory (D. J. Smith, 2007). While Moffitt's theory has been lauded for its originality, recent findings, including from the Christchurch longitudinal study (Fergusson, Horwood, & Nagin, 2000), indicate there may be up to six different trajectories, each with a potentially different explanation for offending behaviour for males and females (D. J. Smith, 2007).

Differential Association: Sutherland (Sutherland, 1949; Sutherland & Cressey, 1970) proposed that crime is a product of *social learning* through interactions with *deviant others*. Indeed, Rutter and Giller (1983) found that in children and young people, most crimes are committed in the company of similar-age peers.

Labelling: The labelling perspective proposes that what counts as 'deviance' and 'crime' arises from social judgements imposed on a minority of young people by more powerful others (Marsh, 2006b; Muncie, 2009). Lemert (1951) argued that while most youth commit some form of delinquent activity, only a subset will be designated the stigmatising label, 'a delinquent'. Once identified as 'delinquent', deviant behaviour in the young person may be magnified or 'amplified' by formal responses, for example, by law enforcement, that inadvertently encourages delinquent conduct.

In summary, numerous theories have been generated to explain the offending behaviour of young people to aid understanding of the causal mechanisms of this phenomenon. These theories focus on the identification of problems related to psychosocial disorders, or the relationship between poverty and delinquency. Such frameworks have been particularly influential in influencing a *welfare-approach to justice*, inspiring therapeutically-orientated interventions serving to address the *needs* of young offenders. To date, there is currently no universally-accepted theory. The quest to explain youth offending has nevertheless raised awareness of important risk and protective factors (Muncie, 2009).

Risk and protective factors related to youth offending

In the production of theories to explain youth crime, the study of the relationship between biological, psychological and social influences has determined a number of childhood and adolescent *risk factors* (Farrington, 2007) or variables considered to increase the

probability of subsequent offending behaviour (Kazdin, Kraemer, Kessler, Kupfer, & Offord, 1997). Aspects that might shield a young person from engagement in offending despite the presence of risk factors are also of research interest. Such *protective factors* either predict a reduced likelihood of future offending behaviour, or interact to cancel out the effect of potential risk factors (Farrington & Welsh, 2007).

With policy makers, enforcement agencies and the general public highly interested in youth crime, research findings on both risk and protective factors are employed to inform youth crime theory and policy (Lynam et al., 2000; Muncie, 2009). Awareness of these factors has enabled New Zealand governmental agencies to locate ‘at risk’ individuals and families who might benefit from engagement with services, with an emphasis on early intervention. Data is also used to determine and fund the provision of the most appropriate programmes and services, delivered according to perceived need and potential benefit (Ministry of Justice, 2008b).

Not to be overlooked, this area is also important for the safety and wellness of young people themselves (Boswell, 2007). The level of risk for re-offending is considered to increase as a young person becomes formally engaged in, and progresses through, the YJ system (Youth Justice Board, 2005). This risk is associated with a range of adverse longer-term life outcomes, such as poor mental and social health, with effects seen in both males (Moffitt, Caspi, Harrington, & Milne, 2002) and females (Fontaine et al., 2009).

As the risk literature is abundant, a brief summary of factors related to youth offending will now be outlined to orientate the reader, with the emphasis on the New Zealand context. This will be followed by a review of protective factors.

Risk factors

Research into youth offending has identified a range of factors considered to be correlated to an increased likelihood of criminal activity in young people. These span individual, family, school and peer, community and social/situational domains, in recognition that a young person’s offending behaviour is *interrelated* with their environmental context (Farrington & Welsh, 2007; Lynam et al., 2000; Rutter, Giller, & Hagell, 1998). It is therefore appropriate to evaluate risk from a local perspective. Before doing so, it is noteworthy that literature reviews have consistently indicated the existence of particular risk factors as identified in Western research endeavours. These are summarised in the

following table, grouped by *individual*, *family* and *environmental* risk categories (Farrington, 2007).

Table 2.

Individual, family and environmental factors contributing to an increased risk for youth offending.

| Category | Risk factor |
|--------------------|--|
| Individual risk | Impulsivity Attention problems Low intelligence Poor school attainment |
| Family risk | Criminal and antisocial parents Young mother Large family size Poor parental supervision and harsh discipline Parental coldness and rejection Low parental involvement Disrupted families Abuse (physical and/or sexual) and neglect Low family income |
| Environmental risk | Association with delinquent peers Community disorganisation Schools with a high level of delinquency |

More numerous and severe risk factors increase the risk for offending

The local and international literature has also highlighted an increased potential for engagement in offending behaviour in the presence of *multiple* risk factors (Farrington & Welsh, 2007). The identified variables might *interact*, or work *independently* from each other. This may result in a *cumulative* effect on offending behaviour, as exemplified by harsh parenting practices or child abuse (Burnett, 2007).

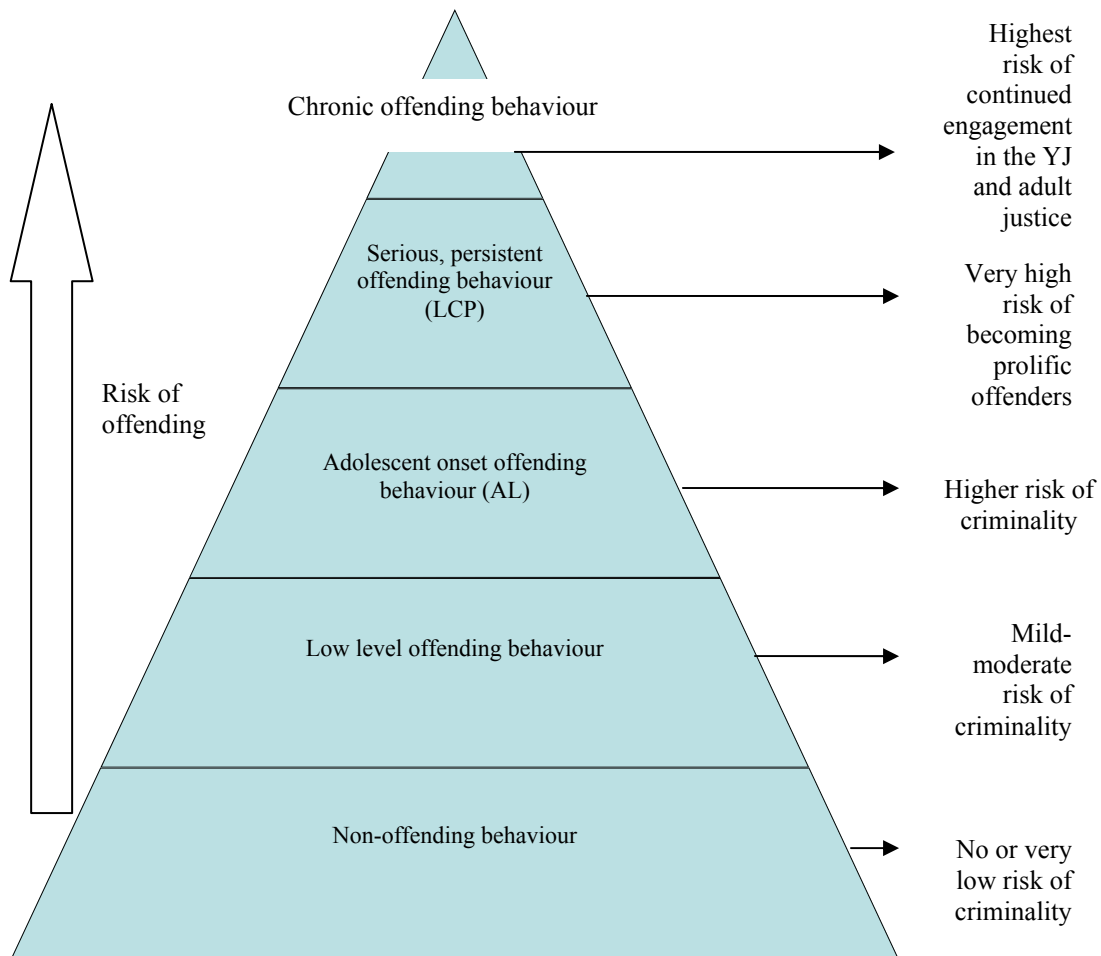
Such claims are powerful when illustrated using statistical data from New Zealand-generated research. For example, Christchurch children originating from families assessed as having a high number (in excess of fifteen) risk factors compared to those from lower risk families (with under six factors) were 100 times more likely to present with multiple issues as adolescents, including offending behaviour (Fergusson & Lynskey, 1996). In addition to cumulative effects, the *severity* of a given risk factor in childhood may also escalate the potential for the risk of subsequent offending (Fergusson, Lynskey, & Horwood, 1998).

Risk from a New Zealand perspective

The primary focus for agents of the New Zealand justice-sector is toward preventing offending throughout the life-course (Ministry of Justice, 2008b). To this end, the identification of risks factors for child and adolescent offending and their association with longer-term outcomes has been substantially advanced by findings generated by the longitudinal studies of Christchurch and Dunedin (Rutter et al., 1998). These and other similar studies have examined the relationship between early childhood risk factors and subsequent criminal statistics and self-reports of offending activity during middle childhood, adolescence and into adulthood (Burnett, 2007). The studies use a developmental criminology framework. Knowledge of risk has been advanced by comparing childhood risk factors for both males and females displaying childhood-onset offending behaviour with those with adolescent-onset offending behaviour (Farrington & Welsh, 2007). Research inquiry into these different developmental trajectories² has helped to illuminate differing risk profiles (Fergusson, Horwood et al., 2000; Moffitt & Caspi, 2001). As identified in the New Zealand literature, these may be conceptualised as in the following diagram, before being explained in detail.

² The developmental taxonomy attributed to Moffitt (1993) differentiating between Life-Course-Persistent (LCP) and Adolescence-Limited (AL) has been previously described on p. 3 of this document.

Figure 2. New Zealand-identified developmental offending trajectories against risk for future offending³



1. Identified risk factors for young people considered as at risk for serious, chronic offending:

The literature refers to a small group of young people, typically up to 5%-6%, whose offending behaviour is considered serious or chronic (Farrington & Welsh, 2007). The Christchurch study identified a small group of young New Zealanders (2.7%) who were considered to have *multiple problems* at age 15 years. These included police contact, early onset sexual activity, substance abuse behaviours, in addition to early onset conduct disorder, which has been consistently linked to future criminality in the literature (Fergusson, 2009; Fergusson, Horwood, & Lynskey, 1994; Fergusson et al., 2005).

³ This diagram has been adapted from the *Joint strategy from the prolific and other priority offenders strategy*: Home Office, Department for Education and Skills, and the Youth Justice Board for England and Wales, sourced from Nacro (2006).

For young people with multi-problem histories, this study found evidence for a high degree of family-related risk, with the family background of these mostly young males characterised by histories of significant disadvantage, disorganisation and dysfunction. The identified difficulties in such multi-problem families include: parental criminality, substance abuse and adjustment problems; issues with parenting and in attaining a high standard of child care, including levels of abuse; material and social disadvantage, and a high level of family instability, change and marital conflict (Fergusson et al., 1994).

The well-documented association between early-onset conduct disorder and a higher likelihood of subsequent criminality has also drawn attention to family-background risk factors. The familial risk profile of young Christchurch-based males and females exhibiting higher levels of early conduct problems (at ages 7 and 9 years) was considered reflective of multiple social and economic disadvantage. An elevated degree of exposure to *family dysfunction* was a strong risk feature, with salient variables including exposure to violence, divorce, separation and parental psychopathology. Higher levels of exposure to childhood physical and sexual abuse were also linked to increased offending risk. At an individual and social level, a lower level of intelligence, poor school achievement, and greater levels of peer rejection and other social problems were identified as risk factors (Fergusson et al., 2005).

Similarly, the Dunedin study also found early conduct issues to be associated with an increased risk for serious, including violent, crime and a higher risk for recidivism in males (Moffitt, Caspi, Dickson, Silva, & Stanton, 1996). While there were more males than females identified as displaying early conduct disordered behaviours, findings from Christchurch indicated the range of adverse adult outcomes, including a higher likelihood of offending behaviour, was similar for both genders (Fergusson et al., 2005). In relation to crime, the Christchurch study highlighted in particular the extremely negative adult outcomes for the 5% of children considered to be in the most disturbed group when compared to the lowest 50% of the conduct-disordered cohort. Assessed at ages 21-25 years, this differential was reflected in the notably higher rates of violent offending (32.6% versus 3.2%), arrests and convictions (32.5% versus 3%) and the experience of ever having been imprisoned (14.3% versus 0.2%).

2. Identified risk factors for young people categorised as being on the LCP developmental pathway: Significant research attention has also been given to the risk factors for young people considered to be on the LCP developmental trajectory (Rutter et al., 1998). This taxonomy hypothesises that offending behaviour emerges in childhood, sustaining and worsening throughout the life course (Moffitt, 1993). Findings particularly highlight the influence of family and individual risk factors. The identified variables are considered generally applicable to males and females (Moffitt, 2006; Moffitt & Caspi, 2001).

Family-related LCP risk: The following risk factors identified as being associated with a LCP developmental pathway by the Dunedin study relate to family background and parenting practices (Moffitt & Caspi, 2001). They include: parent criminality, a young mother at first birth, deviant mother-child interactions (rated by observations of harsh verbal and physical responses), harsh and inconsistent disciplinary practices, high family conflict levels, poor maternal mental health, more numerous caregiver changes, the higher number of years with a single parent and low family socio-economic status (SES). The Christchurch study reported essentially similar familial risk factors for male and female young people on a LCP-type of trajectory, with the addition of the low level of maternal education, and parental alcohol and illicit drug use also considered to contribute to an increased risk for offending (Fergusson, Horwood et al., 2000). Additional family risk factors for LCP-females included experiences of harsh and inconsistent discipline, as well as mothers who had mental health issues. High levels of family conflict and a low SES were also salient in their backgrounds (Odgers et al., 2008).

Individual LCP risk: Findings from the Dunedin study also suggest the neurocognitive profile of LCP young people is a risk for offending. The identified relevant factors include: observations of an ‘under-controlled’ temperament and low verbal ability as early as age 3 years, delayed motor development, a tendency to be rated as hyperactive, and low scores on neuropsychological tests, including IQ tests. Both cognitive and behavioural risk was acknowledged to increase with age (Moffitt & Caspi, 2001). During middle childhood (ages 7-9 years), Christchurch’s study found the risk for subsequent offending to be influenced by the variables of high early conduct problems, low IQ and reading comprehension scores, attention difficulties and higher hyperactivity scores (Fergusson, Horwood et al., 2000). In adolescence, the LCP-risk profile included the early onset of

alcohol and substance use behaviours compared to peers (Fergusson, Woodward, & Horwood, 2000).

Environmental risk: Both New Zealand studies found that LCP males and females during the early adolescent period were exacerbated by factors related to delinquent peers. Identified risk factors included the formation of associations with delinquent and substance-using peers (Fergusson, Woodward, & Horwood, 1999; Moffitt, Caspi, Rutter, & Silva, 2001).

3. Identified risk factors for young people categorised as on the AL developmental pathway: As proposed by the AL developmental taxonomy, antisocial behaviour, including offending behaviour, emerges with the onset of puberty and typically does not persist into adulthood (Moffitt, 1993). Research on young people on the AL pathway has received significantly less attention than those on the LCP pathway (Moffitt & Caspi, 2001). As determined by the Dunedin study, family background risk factors for AL males and females are considered low. However risk for the AL group is said to be differentially associated from those on the LCP pathway by the variable of deviant peers (Moffitt & Caspi, 2001).

4. Recent evidence of risk factors for young people classified as ‘moderate’ adolescent offenders

While the AL group is said to reflect an intermediate level of risk between the non-problem and LCP groups (Rutter et al., 1998), the Christchurch study has proposed a further sub-category of young persons whose profile is indicative of a relatively stable, slightly increasing offending pattern during adolescence. Falling between non-problem and AL categories, this group is believed to constitute a *moderate risk* for offending (see *Figure 2* on p.17). Findings generally indicated *associations with deviant peers* as greatly increasing the risk for a rapid onset of offending during adolescence, however the authors called for more research. They sought to investigate the underlying presence of a range of family, individual and social risk factors in the ‘moderate risk’ group that were broadly consistent with those found in the AL group, although at a much lower level of exposure. These factors included parental criminality, exposure to parental conflict, tendency for novelty-seeking behaviours, a low IQ score and low level of self-esteem (Fergusson, Horwood et al., 2000).

Identified risk factors for young people engaged in New Zealand's YJ FGC process

To augment the findings of the longitudinal studies, local research has sought to identify the specific risk characteristics of young people who have come into contact with the YJ system through the FGC process. The researchers found that the level of *disruption* these young people experienced marked a distinction from general samples, reflected in their engagement with multiple caregivers, and changes in residences and schools. Their profile included exposure to a level of violence and abuse, and a family background described as adverse. At the time of the FGC, the characteristics of these young people included: *poor school progress*, reflected in either truancy or exclusion/expulsion; *difficult relationships with others*, including with family, and *running away from home*. Engagement in *risk behaviours* featured prominently. These included alcohol and cannabis use, and engagement in early, unsafe sexual practices (Maxwell et al., 2004). These findings, taken from Departmental files, appear consistent with those of the Christchurch and Dunedin studies, and the international literature on youth offending risk.

Agents of the New Zealand justice-sector emphasise early risk identification and prevention

To deter young people from engagement in the justice system, the expressed priority of New Zealand justice agents is early intervention and prevention. Drawing extensively on the local research provided by the Christchurch and Dunedin longitudinal studies, the major justice-sector agents recognise the following significant childhood risk factors as the *most important predictors* of antisocial (including offending) behaviour for New Zealand children (to age 13 years) and adolescents (aged 13 years and over) (Ministry of Justice, 2008b). The identified risk factors, segmented by risk category, are displayed in the following Table 3. This will be followed by a summary of variables identified as protective factors believed to reduce the likelihood of offending (Table 4).

Table 3.
Risk factors by category for future offending in children and adolescents

| Category | Child risk factors (for young people aged under 13 years) | Adolescent risk factors (for young people aged 13 years and over) |
|--------------------|--|---|
| Individual risk | <p>Behavioural problems: including a history of antisocial behaviour and conduct disorder (including bullying, lying, stealing, non-compliance), and contact with law enforcement prior to age 12;</p> <p>Weekly or more frequent use of tobacco, alcohol and/or other drugs prior to age 12;</p> <p>Being of male gender;</p> <p>Low self-control and impulsivity;</p> <p>Hyperactivity and attention problems;</p> <p>Aggression, engagement in fighting and acts of violence prior to age 12.</p> | <p>A history of engagement in offending prior to age 13, with higher level of risk indicated by more numerous prior offences;</p> <p>Fighting, aggression and violent behaviour;</p> <p>Poor self-control, impulsivity;</p> <p>Hyperactivity and attention problems;</p> <p>A tendency toward stress and/or anxiety;</p> <p>Length of first incarceration, with a longer custodial period indicative of a higher level of risk.</p> |
| Family risk | <p>Low family income;</p> <p>Neither parent has skilled work, with one or the other unemployed and/or in low skilled/semi-skilled jobs;</p> <p>Neither parent has any form of school qualification;</p> <p>One or both parents has a history of criminal/antisocial behaviour</p> | <p>Poor parental supervision;</p> <p>Low degree of warmth, closeness and affection between parent(s) and adolescent</p> |
| Environmental risk | | <p>Association with peers engaged in anti-social/law-breaking behaviours, including drug and alcohol use from age 13 onwards, with more numerous associations indicative of higher offending risk;</p> <p>An absence of friends and low engagement in social/recreational activities</p> |

Protective factors

As mentioned previously, protective factors are variables considered to predict a reduced likelihood of offending or that may interact to safeguard a young person from the impact of a potential risk factor (Farrington & Welsh, 2007). Listed in Table 4, the following childhood-related protective factors are recognised by New Zealand justice-sector agents (Ministry of Justice, 2008b). Findings are broadly informed by the longitudinal studies of Christchurch and Dunedin (Fergusson & Lynskey, 1996; Odgers et al., 2007).

Table 4.
Protective factors for youth considered to prevent or mitigate risk of future offending by category

| Category | Protective factors |
|-----------------------|---|
| Individual factors | Healthy self-esteem; A cautious nature, with a lesser tendency for novelty-seeking and a high level of self-control |
| Family factors | Good parental monitoring and supervision; An authoritative parenting style, with the provision of rules and consequences, and parental consistency, including for foster parents; A close emotional attachment between parents and young person; Greater levels of ties to, and a high level of involvement and intimacy with parents; Low levels of family adversity reflected in positive socio-economic status, a low degree of family dysfunction and marital conflict |
| Environmental factors | Positive, supportive peer group associations, including a relationship with a non-deviant partner; Low level of associations with deviant peers; Good academic performance, and staying at school longer, and greater ties with school; Single sex schools for girls entering puberty prior to age 13, and for those with externalising behaviours aged 9 and norm-breaking behaviours aged 13; Greater ties with work, including opportunities for training; Positive relationships with adults in the community, including with family, partner, education, work and association with models of pro-social behaviour |

Local strategies to protect against the risk for future offending

The field of developmental psychology has raised awareness of the ongoing transactional process of protective factors and development. The literature indicates resilient children benefit from *ongoing support*, reflecting consideration of the individual in the context of their immediate and wider environment. Accordingly, when protective processes are evident throughout the lifespan, resilience may be bolstered (Davies, 2004). This knowledge has been adopted by New Zealand justice-sector agents, toward enhancing well-being in young people deemed ‘at risk’ for youth offending, and for supporting families and whānau. As mentioned, New Zealand’s youth offending strategy is guided by the knowledge that problem behaviours, including offending behaviours, are best addressed at an early level of intervention for both social and fiscal reasons. The following have been identified locally as key intervention points (Ministry of Justice and Ministry of Social Development, 2002).

1. In early childhood – from birth to age four

The literature on resilience emphasises the role of positive family circumstances, especially family cohesion and social advantage as factors in positive outcomes. To this end, the Ministry of Social Development (MSD), the parent organisation of the Department since 2006, is responsible for a number of initiatives to strengthen families. Parenting and preventing family violence programmes are two such examples. Also included is the Family Start programme for the 15% identified by MSD and/or other agencies as ‘at risk’. Family Start emphasises improving parents’ parenting capacity and child-rearing practices, and generally enhancing education, health and social outcomes for children (Ministry of Social Development, 2009). With family the focus of intervention during the pre-school stage, interagency co-operation is essential for successful outcomes (Ministry of Justice and Ministry of Social Development, 2002).

2. From school – age five+

As the child’s world expands beyond their family to the school context, a wider range of local initiatives have been established to protect against the risk for subsequent offending. These reflect a broader level of co-operation between child, family and allied agencies, which include the Police and the Ministry of Education. Programmes span the developmental stages of childhood to adolescence. They range from education on personal and sexual safety, truancy initiatives, Police-community run adventure and entertainment

opportunities, and drug education. Specifically for youth offending, initiatives include holistic youth development services designed to break the cycle of child offending. Such programmes encompass a strong family support component. The philosophy of breaking the cycle and family support is incorporated within the concept of the YJ FGC, once offending behaviour has occurred (Ministry of Justice and Ministry of Social Development, 2002).

Critiques of risk and prevention research for youth offending

The field of risk factor research has generally been critiqued on several accounts. Firstly, the sheer range of possible variables place thousands of young people as potentially *at risk*, yet many do not offend and lead productive lives. The inability of the field to determine causal mechanisms linking risk and offending has been a major source of criticism (Burnett, 2007; Muncie, 2009). This area of research has also been attacked for being disproportionately focused on the modification of the *individual*. This emphasis which has influenced the direction of policy and research, is considered by some commentators to have been achieved at the expense of due exploration of social risk factors, such as the effects of social exclusion (Brown, 2005).

The research accent on quantitative data is said to discount the experiences of young people themselves (Barry, 2006) and knowledge of YJ practitioners (Case, 2007). It has been argued that young people's narratives in particular afford valuable insight into both risk and protective factors, with identification of why young people commence, persist and desist offending behaviours (Barry, 2006).

That comparatively less research attention has been given to protective factors generally is considered an oversight, to the detriment of enhancing resiliency in young 'at risk' people (Kemshall, 2007). More research into risk as it relates to the different offending trajectories, particularly the AL pathway (Moffitt & Caspi, 2001) and its potential variants, may help to illuminate similarities and differences in risk profiles for males and females (Fergusson, Horwood et al., 2000; Fontaine et al., 2009). Commentators have nevertheless highlighted the issue of drug and alcohol use/abuse as a common thread in the offending behaviour of young people regardless of gender, identifying this as a key risk factor (Odgers et al., 2008).

While commentators and researchers alike acknowledge the many limitations of the existing risk and prevention research, efforts are generally guided by the underpinning premise of preventing at risk children from developing serious offending patterns (Burnett, 2007). This is particularly important for all young people but especially for high risk groups, as established offending behaviour shows a high degree of stability and continuity over the life course (D. J. Smith, 2007). More generally, these fields of enquiry are vital in the knowledge of the many negative life and personal outcomes associated with offending behaviour, with wide-reaching adverse effects for young people, victims and society at a broad level (Farrington & Welsh, 2007). How youth crime is managed is therefore important.

Managing youth offending in New Zealand

The previous sections of this chapter provide a context for the offending behaviour of children and young people. Next in this chapter, New Zealand's system of YJ will be outlined. It charts the origins of the Act that established the FGC process, with particular reference to New Zealand's social welfare reforms of the 1980s, political, rights issues and cultural imperatives. This section commences with a brief historical background to set a context for the introduction of the Act and the FGC process, with reference to pertinent contextual and cultural factors. Following is an overview of the present YJ system as it relates to the legislation, with particular emphasis on the FGC process.

A brief history of New Zealand's YJ system

Early justice systems were based on the notion of classicism. Under this philosophy, offending behaviour was considered hedonistic and irrational behaviour, a matter of *rational* choice. Accordingly, it was believed there should be no excuses or mitigations for such behaviour, with punishment appropriate to the nature of the offending. Mitigation was permitted for children but only to explain, not to excuse, offending behaviour (Muncie, 2009). This position evolved in the neo-classicist revisionist era of the late nineteenth-early twentieth century, as the lack of criminal capacity of young children was recognised. The education of young minds was favoured over coercive approaches to decrease criminal activity (Pickford, 2006).

Similar to its Western counterparts in the early twentieth century, New Zealand discarded the classicism approach to YJ in favour of a welfare ideology. A separate Children's Court

was established under the Child Welfare Act of 1925, with the *protection and guidance* of children and young people emphasised over disciplinary measures. Consistent with a welfare philosophy, the principle of the interests of the child or young person being *paramount* (the *paramountcy principle*) became the basis for the 1925 legislation's successor, the Children's and Young Person's Act 1974. The 1974 Act made a legal distinction between children and young people, and established different approaches to their management. With the introduction of community Children's Boards and Police Youth Aid consultation processes, *diversionary tactics* were encouraged to avoid engagement in a stigmatising Court process. A new Children's and Young Person's Court overseeing both Care and Protection (C&P) and YJ matters afforded priority to *rehabilitation* toward curing the young offender of problems believed symptomatic of family difficulties (Becroft, 2004; Watt, 2003).

The development of New Zealand's current YJ system and its legislation

New Zealand's welfare-orientated YJ system, and the 1974 legislation that governed it, came under increasing criticism throughout the 1980s. Summarised by Watt (2003), particular concerns included:

1. Inadequate diversionary procedures

Research highlighted a tendency for Police to circumvent diversionary systems in favour of arrest. Police were further accused of 'gate-keeping' the process in only referring to Children's Boards those cases they had pre-determined as unsuitable for prosecution (Morris & Young, 1987). A tendency for Police to exert control in an environment that was already considered to be dominated by professionals, and a lack of family and community participation in the process, were also identified as issues (Watt, 2003).

2. *An excessively proactive Court*

The high rate of Court appearances of children and young people was considered very problematic (Department of Social Welfare, 1984) because of its potential for stigmatisation. Local research found that young people and families often did not understand Court proceedings or the language used and, accordingly, felt unable to participate (Morris & Young, 1987). Consistent with a welfare philosophy, the invasive level of Court-imposed interventions for the purposes of *rehabilitating* young people and families was also criticised (Becroft, 2004; Watt, 2003).

3. *Concerns that the YJ system was failing young Māori*

Young Māori were significantly over-represented in the Court system, and disproportionately received custodial sentences when compared to non-Māori. Furthermore, the *paramountcy principle* underpinning the 1974 legislation was questioned for negating the role and responsibility of the whānau, hapū, and iwi in the lives of their children and young people (Watt, 2003).

The above critiques of the welfare-driven YJ system occurred in the context of major social, cultural and economic reform taking place in Aotearoa/New Zealand in the 1980s. This *neo-liberal* period was characterised by the reduction of state-interventionist policies and practices and a drive for efficiency (Cheyne, 2005). This era saw the re-emergence of *tino rangatiratanga*, a movement toward Māori sovereignty and debate regarding the role of the Treaty of Waitangi.

Awareness that the existing YJ system was failing to meet the needs of young Māori led to a four-year period of legislative review by a formal working party of Departmental officials, initially without representation from Māori (Tauri & Morris, 1997; Watt, 2003). Māori elders accordingly conducted their own investigation with a series of *hui* (community meetings) throughout the country. The outcome was the 1986 document, *Puao-te-Ata-Tu (Daybreak)*, which emphasised collective over individual responsibility (known as *tikanga o nga hara*, the law of wrong-doing) which exists in traditional Māori law and custom (Ministerial Advisory Committee, 1986).

The authors claimed that understanding the influences on young people's offending behaviour and collectively addressing its causes would benefit society. The whānau (family) *meeting* as a model for dispute resolution featured prominently in the document

(Becroft, 2004). This document has been acknowledged as significant for setting out a framework for a new justice process that would be culturally appropriate and empowering for Māori, and applicable to other family systems (Tauri & Morris, 1997).

The report by a senior Departmental official Mike Doolan, “From Welfare to Justice” (Doolan, 1988) has also been cited as highly influential in shaping the present YJ system. Following an extensive international review of YJ operations, Doolan recommended both the establishment of a Youth Court and a variation of the Scottish system’s Family Assistance Panels. In accord with the Māori Committee’s findings, Doolan suggested the legislation include provision for a *family/whānau conference* to take place once the young person had been arrested but prior to their Court involvement. He argued this process would place Māori at the forefront of decision-making in a manner that was inclusive and culturally sensitive (Watt, 2003).

These events took place in the broader temporal context of the development of the United Nations Convention Declaration on the Rights of the Child. This drew local attention to the issue of children’s rights (Lynch, 2008). In particular, Article 12 states that opportunities should be afforded to children to have a voice and free expression of their views in matters related to them, including justice (Office of the High Commissioner for Human Rights, 1989).

In summary, the aforementioned factors are acknowledged to have been influential in inspiring a radical shift in the philosophy and management of YJ in New Zealand. Revisions included legislative and systemic changes in what has been described as an innovative blending of Western and indigenous (Māori) approaches. These included a new Act, and the introduction of both a Youth Court and the FGC, a process now considered central to New Zealand’s YJ system (Becroft & Thompson, 2007; Maxwell et al., 2004). In the next section of this chapter, the Act and the current YJ system will be described, with a focus on the FGC process.

The Children, Young Persons and their Families Act 1989 (the Act)

The Act became law on 1 November 1989 and relates both to children and young people deemed in need of Care and Protection (C&P) or who offend against the law under Parts 2 and 4 respectively. For definitional purposes, the Act recognises a *child* as a boy or girl aged under fourteen years of age. A *young person* is defined as a person aged fourteen but under seventeen years of age, but excludes any person who is or has been married or in a civil union. Once a young person reaches the age of seventeen, all matters are managed within the adult Court system. The *age* of the person is determined by their chronological age at the time of offending. Under The Crimes Act 1961, the age of criminal responsibility in New Zealand is ten years of age.

Established under the Act, the Youth Court deals with offending by young people aged 14 to 16 years inclusive. Any form of criminal offence may be laid against a young person and matters are generally conducted within the jurisdiction of the Youth Court. The exceptions are: certain non-imprisonable traffic offences, election of a jury trial, or in the case of charges of manslaughter and murder. For the latter, a preliminary hearing will be held in the Youth Court before transfer to the High Court. Under section 272(2) of the Act, manslaughter and murder are the only criminal charges that can be laid against a child (under fourteen), although these cases are extremely rare.

The *objects* and *principles* of the Act govern the management of offending behaviour by children and young people in New Zealand. At the time of its introduction, many of the Act's objects and principles were believed unique in Western-based justice systems (Becroft, 2004; Maxwell & Morris, 1993; Watt, 2003). The main features are as follows:

Objects: The *general objects* of the Act are set out in Part 1 section 4 (see Appendix A). This establishes the overarching aim of the Act: that the well-being of children and families is promoted by the provision of culturally appropriate, accessible community-based organisations and services, and assistance to families to care for their children (Maxwell & Morris, 2006). It has been argued that the Act's objects enable the issues of *deed* and *need* to be addressed, with both considered important for young people who offend. In endeavouring to hold the child or young person accountable, and to accept responsibility for their actions, the *deed* (the offending behaviour) is dealt with. *Need* is considered by providing for children and young people to be dealt with in a way that acknowledges their needs, to help them develop in responsible, beneficial and socially

acceptable ways. This distinction requires a dual focus for professionals engaged in the YJ system (Becroft, 2004).

Principles: The Act includes both C&P and YJ principles that are separate and distinct (Watt, 2003), with welfare-related issues to be conducted apart from, or as an adjunct to, matters related to offending behaviour(s) (Maxwell et al., 2004). The Acts *principles* as they pertain to YJ are outlined in section 208 of Part 4 and are summarised below:

Criminal proceedings should not be instigated if matters can be addressed by alternative means, unless in the public interest

- a) Criminal proceedings should not be instigated for matters of C&P
- b) Any measures for dealing with a young person's offending should be designed to:
 - i. Strengthen their family, whānau, hapū, iwi and family group
 - ii. And foster the ability of the aforementioned groups to develop their own means of dealing with their child or young person's offending
- c) The young person should be kept within their community if possible and commensurate with public safety
- d) The age of the child or young person is a mitigating factor when deciding upon -
 - i. Whether sanctions should be imposed
 - ii. And the level of sanction
- e) The sanctions imposed should –
 - i. Be those most likely to promote the young person's development within that young person's family, whānau, hapū, iwi and family group
 - ii. And take the least restrictive form, as appropriate to circumstances:
- f) Measures should have due regard to victim interests
- g) The vulnerability of the child or young person entitles them to special protection during any investigation related to their offending.

In addition to its objects and principles, in the view of Maxwell (2007), the unique philosophy of the Act is further underpinned by *distinctive values* contained within other sections of the legislation. These values relate to *justice, welfare* and young people's *rights*:

- Justice: An emphasis on holding the young person accountable for their actions; an accent on diversion and the least restrictive sanctions; justice matters should remain separate from welfare issues
- Welfare: Timeframes for resolving issues should be suitable to the age of the young person; that rehabilitative and family support options are provided; that Youth Court be typically⁴ reserved for young people 14 and over
- Rights: In relation to the conditions giving Police the power of arrest, that young people are informed of their rights and of the process in a language they understand; that a parent or nominated person be present at formal interview(s); the right to legal representation.

In summary, the expressed aims of the New Zealand YJ system are as follows:

- To encourage *diversionary procedures* wherever possible, so that young people stay out of the formalised Court process
- To promote *participation* in the justice process from the young person, their family and victims
- To ensure *decisions are agreed by consensus*
- To conduct proceedings in a *culturally appropriate manner*.

To enact these aims, a revised system for the management of YJ in New Zealand was established under the legislation, which included a separate Youth Court and the FGC process. A brief summary of the FGC process, which has become a key vehicle in New Zealand's YJ system for addressing offending behaviour by children and young people, now follows.

The FGC Process

The FGC is a participatory decision-making practice mandated under the Act considered by commentators to be a modification of whānau decision-making (Maxwell et al., 2004). The process applies to C&P and YJ matters for children and young people under Parts 2 and 4 of the Act respectively.

⁴ Exceptions being cases of murder or manslaughter for children 10-13 years

As it pertains to YJ, the FGC is a formal meeting for stakeholders most affected by a young person's offending behaviour to collectively decide how the young person can be held accountable and take responsibility for their offending behaviour (Levine, 2000). Stakeholder views are discussed, negotiated and then encapsulated in a FGC *plan* (s260). Plan recommendations should be in accordance with the Act's principles of effecting a *just outcome*, that is, one that both holds the young person accountable for their offending actions, and serves to reduce recidivism (Becroft, 2004). As a system of justice (MacRae & Zehr, 2004), and a forum that facilitates the involvement of the young person and their family and gives due consideration to victims' interests, the YJ FGC is said to be the "practical mechanism" which gives effect to the Act's core principles (Becroft, 2004, p. 20). Consistent with the premise of a family-driven process, it is expected that professionals play a minor role (Hassall, 1996).

The YJ FGC process is managed by a YJ Co-ordinator appointed by Child, Youth and Family (the Department), a service line of the Ministry of Social Development (MSD). The appointment of YJ Co-ordinators is determined under section 425 of the Act, and places the responsibility for appointing a sufficient number of YJ Co-ordinators under the State Sector Act 1988 with the Chief Executive of the Department.

The participants or stakeholders entitled to attend a YJ FGC are defined by section 251 of the Act. They include:

- The child or young person
- Every person who is a parent, guardian or carer of the child/young person, and members of their family, whānau or family group
- The law enforcement agent (usually Police) or their representative, or the informant in the proceedings to which the alleged offence relates
- Any victim, their supporters or representative(s)
- A barrister, solicitor, youth or lay advocate representing the child/young person
- Any other person as in accordance with the wishes of the young person, their family/ whānau or family group.

The YJ Co-ordinator has a pivotal function in the management and delivery of the process, which must be achieved within the timeframes specified in section 249 of the Act. The Co-ordinator must ensure the young person and family are supported and empowered to play a major role in the process, whilst simultaneously attending to the victim's needs (MacRae & Zehr, 2004). Prominent features of the Co-ordinator's role include organisation, facilitation and negotiation, and the provision of information to encourage stakeholder participation so that all parties might exercise their right to decision-making at the conference. The Co-ordinator also has responsibility for arranging access to resources so that the young person or family might enact the agreed plan (Maxwell et al., 2004). Section 426 (a-f) of the Act describes the duties of YJ Co-ordinators:

1. To receive reports from C&P of children and young people in accordance with section 18(3) pursuant to section 14(1)e, whereby a child of or over 10 years and under 14 years of age has committed an offence or offences
2. Where a child or young person is alleged to have committed an offence, to explore alternatives to instigating criminal proceedings with enforcement agents
3. To convene YJ FGCs and any further conference meetings as required
4. To record details of proceedings, including decisions, recommendations and plans formulated by the FGC
5. To notify the results of a FGC, and
6. To perform any other duties as may be required.

Consistent with a family-driven philosophy, culturally-based decision-making is considered a prominent feature of the YJ FGC (Tauri & Morris, 1997). By virtue of its flexible format, the process can be readily adapted to accommodate the cultural and/or religious requirements of participants (MacRae & Zehr, 2004). As described by MacRae and Zehr (2004), a YJ FGC generally includes the following procedural elements:

Opening: The conference opens with introductions. A prayer or spiritual blessing may be included. The YJ Co-ordinator provides an overview of the process to orientate participants.

Information-sharing: The Police summary of facts pertaining to the offence is read and the impact on the victim described (in person or by other means, if the victim is not in

attendance). The young person is given an opportunity to respond. Options on a plan to address the offending are provided. Refreshments may be offered at this point (optional).

Family caucus and deliberations: The family is given private time to discuss plan options.

Reaching agreement: Parties reconvene, and the young people and their families offer suggestions for plan options. Negotiations may take place before the plan is finalised and documented by the YJ Co-ordinator.

Closing: The overarching aim of this phase is to bring a sense of “positive closure” to the proceedings (MacRae & Zehr, 2004, p. 48). A prayer or blessing may be included.

In summary, regarded as the “lynchpin” of New Zealand’s YJ system (Becroft, 2009, p. 27), the FGC is the process for determining how the offending behaviour of young people should be addressed. Furthermore, the FGC is also a means of avoiding prosecution in an endeavour to keep young people out of the formal justice system (Maxwell et al., 2004). As the core elements have been briefly outlined (above), the various circumstances through which young people might encounter the FGC process through New Zealand’s YJ system will now be described.

New Zealand’s current YJ system

When a child or young person is alleged to have committed an offence, decision-making criteria for frontline law enforcement officers (the Police) is governed by sections 209-214 of Part 4 of the Act. In practice, frontline Police responses to children and young people have been found to be influenced by the nature of the incident, the response of the child/young person, and the responding officer’s previous experience of the young person or their family (Maxwell, Robertson, & Anderson, 2002). In the event that offending behaviour is detected, a young person may be:

- Given a warning or another informal means of dealing with the matter
- Referred to a Police specialist Youth Aid officer for alternative action (diversion)
- Referred to a Police specialist Youth Aid officer for consideration of criminal proceedings

- Arrested, when the case is a purely indictable offence (such as arson) or when the crime is considered of a high level of seriousness, which results in an appearance before the Youth Court (Becroft, 2004; Maxwell et al., 2004).

Decisions made by law enforcement officers affect a young person's journey through or diversion from the YJ system. How this occurs is now explained in detail.

Warning/informal means

Frontline Police may consider that informal means are adequate for dealing with matters. Typically, the outcome is that no further action is taken. Consistent with the Act's emphasis on diversion, this is the expected pathway for first time and minor offences (Maxwell et al., 2004).

Frontline Police consider action is necessary

In cases where frontline Police consider an informal warning to be inappropriate or insufficient, or that offending is of a high level of seriousness, a referral is typically made to a specialist Youth Aid Officer. In cases where a young person is arrested under the strict conditions set out in section 214 of the Act or the offence is purely indictable or arrest is deemed in the public interest, a charge is laid in the Youth Court, and the Youth Aid Officer advised.

The Officer may decide on one of the following courses of action:

1. Informal means (Diversion)

- To give a *warning*: for example, with parents present;
- To instigate *diversionary/alternative action procedures*: for example, give the young person a community-based sanction such as community work, which is overseen by the Youth Aid division. In some instances, a young person may be required to make an apology to a victim, or make (pecuniary) reparation in the event of property damage.

Statistics indicate that approximately 62% of youth offending is managed by Police diversionary tactics. In 2007, a formal warning was actioned in almost 25% of cases, with

37% managed by Police Youth Aid through diversion/alternative action (Ministry of Justice, 2009).

2. Refer for a pre-charge FGC

- To make a referral to a Departmental YJ Co-ordinator for a “pre-charge” FGC
- In 2007, approximately 7% of young people were referred for a “pre-charge” FGC (Ministry of Justice, 2009).

3. Arrest

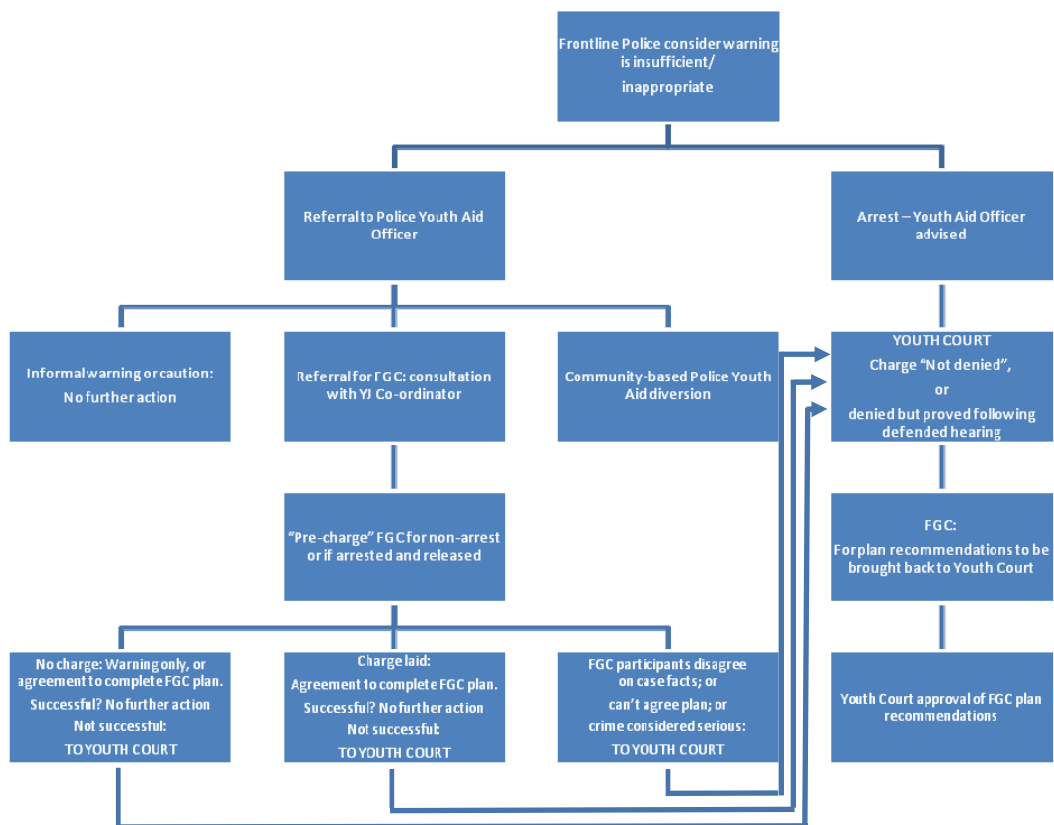
- A charge is laid against the young person in the Youth Court.

Just over 28% of cases in 2007 related to young people who had been arrested and were referred directly to the Youth Court (Ministry of Justice, 2009). In such instances, all cases which have been proved against young people must have a FGC to make plan recommendations which are then sanctioned by the Youth Court (Ferguson, 2009).

Youth Aid Officers have a significant role in the YJ system, with the authority to warn, divert, to refer for an FGC or to charge the young person in Court. Research found that a Youth Aid Officer’s decision-making was found to be primarily based on the nature, particularly the seriousness, of the offence. A young person’s previous history of offending and response to prior interventions, and their present attitude, was also considered. Family factors, particularly family circumstances and parental responses to offending behaviour, were also taken into account. Views of victims and family were acknowledged as important factors when an option for diversion was considered, although the non or low availability of locally-based programmes appeared to limit adoption of this option for many Youth Aid Officers (Maxwell & Paulin, 2005).

The various pathways through the YJ system, which may bring some young people into contact with the FGC process, are depicted diagrammatically in Figure 3 (below).

Figure 3. Pathways through New Zealand's YJ system for youth⁵



⁵ This diagram has been adopted from various sources including Maxwell and colleagues (Maxwell et al., 2004) and Becroft (2004)

While there are six types of FGC, two forms dominate. These are: the Court-directed FGC and the pre-charge (or intention to charge) FGC.

A Court-directed FGC: charge not denied: The most common of FGC sub-types, making up approximately nearly half of all FGCs (Becroft, 2004), this FGC takes place when a young person is arrested and appears in the Youth Court, and does not deny the charge. The Court must then direct a FGC to be held under section 246 of the Act. The stakeholder group must determine whether the young person admits the offence, and if so, what action and/or penalties should result, pursuant to sections 258d and 259(1) of the Act.

The pre-charge FGC: Reflecting the Act's philosophy of aiming to avoid prosecution, the "pre-charge FGC" is the second most common of six possible conference types, comprising approximately 40% of all FGCs (Ferguson, 2009). Also called an "intention to charge" FGC, this procedure takes place whenever a young person is alleged to have committed an offence and has not been arrested, or has been arrested previously and then released, and the Police (through the Youth Aid Officer) state their intention to lay charges. The Youth Aid Officer must first consult with a YJ Co-ordinator. Following such consultation, under section 245(1)(b) of the Act, if the Police still wish to lay a charge against the young person, a YJ Co-ordinator must convene a FGC. No charge can be laid in the Youth Court before there has been consultation between Police and the YJ Co-ordinator. At the conference, it must be determined whether the young person admits the charge (pre-charge FGC). If so, stakeholders agree what should be done. This may result in:

1. An agreed plan or
2. A decision to lay a charge in the Youth Court.

The other types of FGC include the following:

A custody conference FGC: A FGC must be convened under section 247d of the Act when a young person denies a charge but, pending its resolution, the Youth Court orders the young person to be placed in the custody of the Police or the Department. The stakeholder group must decide whether detention in a Departmental secure residence should continue and where the young person should be placed, pending resolution of the case under section 258c.

FGC as orders to be made by the Youth Court: Under section 281 of the Act, where a charge is admitted or proved in the Youth Court and there has been no previous opportunity to consider the appropriate way to deal with the young offender, a FGC must be held. At the FGC, the group must decide what action and/or penalties should result from a finding that a charge is proved.

FGC at Court discretion: Pursuant to section 281b of the Act, the Youth Court may direct that a FGC be convened at any stage in the proceedings if it appears necessary or desirable to do so.

A child offender C&P FGC: In the case of a *child* who it is alleged has committed an offence, pursuant to section 14(1)e of the Act, if Police have sufficient concerns for the wellbeing of the child, they must report this matter to a YJ Co-ordinator and a FGC may be ordered (section 247). If parties agree, a plan will be constructed to address both the child's offending and its causes. Following this, an application may be made to the Family Court that the child is in need of C&P.

Expected outcomes from the FGC process

While the types of FGC may vary in their purpose, the overarching aim of the FGC process is twofold: to reach a group consensus, and to effect a just outcome that both holds a young person accountable for their offending behaviour and serves to reduce recidivism. Participants are empowered to jointly arrive at decisions as to how this may best be achieved via the young person's plan. Such a plan must reflect the principles of the Act (Becroft, 2004). Core elements of plans should give priority to putting things right for victims, in addition to returning something to the community and addressing the underlying causes of offending (MacRae & Zehr, 2004). This may be variously achieved, affording a diverse range of possible, often creative, options (Becroft, 2004; Levine, Eagle, & Tuiavi'i, 1998).

When cases are conducted in the Youth Court, a range of outcomes are possible. Described by Maxwell et al., (2004), these may be:

- Transfer to the District Court
- Supervision with residence – up to nine months, with typically three months in Departmental custody (reduced to two months for non-absconding and if no re-offending) and up to six months’ post-residential supervision
- Supervision with activity – up to three months structured activity overseen by an appointed person
- Community work – to a maximum of 200 hours
- Supervision – for a minimum of six months
- A fine, reparation, restitution, or forfeiture
- A conditional discharge (required to attend if called upon within one year)
- Admonition
- Discharge, and
- Driver disqualification for a traffic offence.

A reduction in recidivism is considered to be a key factor constituting an effective outcome of the YJ FGC process. To this end, Maxwell (2007) draws attention to identifying a young person’s specific rehabilitative needs. This facilitates their reintegration into society, promoting a sense of belonging, personal worth and a feeling of making a real contribution. She also cites the influence of factors such as continuing family support and guidance for the young person as important toward preventing their re-engagement in the YJ system.

Unique aspects of New Zealand’s YJ system

New Zealand’s ground-breaking legislation and system for YJ is acknowledged to have subsequently inspired a global revolution in the provision of YJ services (Campbell et al., 2005). New Zealand’s particular emphasis on the role of family and wider-family group is considered a distinctive systemic feature of its process (McElrea, 1994). Some consider this reflective of the Māori customary *lore*, the collective body of traditional knowledge, in regard to the *lore of inherited circumstances*. This wisdom highlights the duty and right of whānau, hapū, and iwi decision-making responsibility for their children and young people (Denny, 1990), as described in *Puao-te-Ata-Tu* (Ministerial Advisory Committee, 1986).

Sections 5(a), (b), (e)(i) and 208(c) and (f)(i) of the Act specifically promote the empowerment of family and extended family groupings to construct solutions within the YJ FGC process toward the aim of preventing re-offending (Becroft & Thompson, 2007). It has been acknowledged that the YJ FGC and Māori systems of justice share certain elements: *healing the harm* caused by offending and the *restoration of harmony* between parties, active *participation* in identifying solutions to redress offending, and *decision-making by consensus* (Tauri & Morris, 1997). Despite these similarities, the New Zealand YJ system is generally considered to be *inspired* by, rather than a facsimile of, Māori traditional customary law (Maxwell et al., 2004). The system strives to give a prominent place to culture in the decision-making process related to young people who have offended (Tauri & Morris, 1997).

Indeed, Becroft (2004) positions the New Zealand YJ model as a “unique hybrid” by virtue of the Act’s objects and principles that blend Western and indigenous features. Furthermore, he argues that while it rejects the “flawed” welfare philosophy, New Zealand’s system is not a “pure justice” approach. He says it incorporates *due process*, the procedural *rights* of young offenders, and *proportionality of response* seen in a justice approach. It also retains the provision for punishment, if in the public interest (p. 31).

In summary, with the introduction of the 1989 Act, the New Zealand YJ system is now widely acknowledged as inspiring a new model of justice. This legislation also saw the establishment of the FGC process, the focus of the present study. With these events, some commentators also believe New Zealand was amongst the first to offer a *restorative approach to justice* in addressing the offending behaviour of children and young people (Maxwell & Morris, 2006). It is now appropriate to explore features of a Restorative Justice model in the next section of this document.

Restorative Justice

The overarching aims of Restorative Justice (RJ) are to redress the harm created by offending behaviour and to restore the equilibrium of societal relationships (Maxwell, 2007). With the introduction of the FGC, New Zealand is considered to have pioneered the provision of restorative responses to youth offending and is recognised as the first country to fully incorporate a RJ philosophy into YJ legislation (Becroft & Thompson, 2007; Campbell et al., 2005; Maxwell & Morris, 2006). It is therefore relevant to consider the FGC from a RJ framework. Before doing so, a brief overview of a RJ philosophy will be

provided to orientate the reader to this approach. The leading models considered to be RJ approaches to working with young people who offend will then be described, followed by detail on New Zealand's FGC system as it pertains to the philosophy and practice of RJ.

The premise of RJ

While there is no universally agreed definition (Dignan, 2005; Roche, 2001), the mostly widely cited description of RJ is attributed to Marshall (1999); "(RJ is)...a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future" (p. 5). With such stakeholder *parties* including the victims of crime, the offender's family, community members and associated professionals, the notion that RJ is not an offender-centric approach to justice is a point of consensus (Robinson & Shapland, 2008). RJ is considered by some analysts to be an alternative to a *retributive* system of justice, characterised by a focus on establishment of guilt, punishment, adversarial relations between parties and a state-versus-offender approach (Zehr, 1990).

Commentators distinguish between a restorative *process* and a restorative *outcome* (Campbell et al., 2005). A restorative *process* is one in which the victim, the offender, other individuals and/or community members actively participate to resolve matters related to the crime, often aided by a third, fair and impartial party. The FGC is an example of one such process. An *outcome* that is restorative relates to the agreement reached as a result of the restorative process. Such an outcome might include restitution or any other response designed to accomplish reparation to the victim and community, and reintegration of the victim and/or offender (Van Ness, 2003).

An extensive range of approaches and programmes operating in the YJ arena since the 1980's claim to be based on a RJ philosophy (Campbell et al., 2005; Robinson & Shapland, 2008). Regardless of format, according to Daly (2002), four key principles are believed to underpin a restorative framework. These are: *encounter*, *reparation*, *reintegration* and *participation*. Features common to all RJ models include:

1. A focus on victim experience and participation
2. The involvement of relevant parties (stakeholders) in discussions of the offending behaviour
3. The impact of offending behaviour and how the *harm* done should be repaired, and

4. Decision-making contributions provided by legal and lay stakeholders.

With a RJ approach to YJ, proponents propose key benefits to the main stakeholders. These are summarised below.

Victims: Victim empowerment is a major aim of a RJ framework. As persons who experience *harm* from an offence, affording a victim a *voice* in the process serves to restore a sense of control and autonomy that may have been compromised by the act of the offender (Zehr, 1990). Furthermore, the offender is held truly accountable with the victim's input into deciding agreed outcomes (MacRae & Zehr, 2004), demonstrating the reciprocal influence of victim engagement. A process based on a RJ approach has the potential to address the six *prevailing victim needs* identified in the literature (Strang, 2002).

- Access to a process in which they can exercise the right to participate
- The provision of an informal, fair process
- A process in which their views are counted and respected
- To be treated fairly and with respect within the process
- A process whereby victims are given the opportunity to gain both material and emotional restoration, including an apology
- To have ongoing information about their case, and its outcome.

The Offender: Of the numerous benefits to the offender, a RJ process is believed to situate the young person as a key *participant* as opposed to a bystander in a non-stigmatising, non-Court process (Morris & Young, 2000). The encounter with the victim and other affected parties affords the young person an opportunity to witness and reflect on the human consequences of their actions. The insight gained can inspire an offender to take accountability for their offending behaviour, an event that may be significantly enhanced by familial sponsorship and affirmation. The input and degree of control into important matters afforded by a RJ process may be not only empowering but also has the potential to positively benefit a young person's sense of self-worth (Maxwell, 2007). The young

person may also be given support to address any factors related to offending behaviour, such as drug and alcohol counselling (Campbell et al., 2005).

The Community: Community involvement is integral to RJ approaches, with the resulting interactions between community and offender affording two main, reciprocal benefits (Campbell et al., 2005). Firstly, the community provides a resource base through which an offender may be encouraged to repair harm, whilst simultaneously supporting their cessation of offending behaviour. Secondly, the community itself is said to be fortified and empowered by its active participation in problem-solving and conflict resolution processes (McCold, 1996). Many RJ proponents position *the community* as less geographically-defined but more as a personal connection between individuals and groups (McCold & Watchel, 1998). In this regard, *communities of care* or networks known to the victim and offender enhance the capacity for a restorative outcome (Campbell et al., 2005; Maxwell & Morris, 2006; McCold, 2004).

The State: As a key stakeholder in the justice process, a restorative approach is said to offer several benefits to the State. Community-based programmes and services are believed to deliver substantial fiscal benefits in comparison to the costs of incarceration (Campbell et al., 2005), and such options might contribute to reduce recidivism (Maxwell & Morris, 2001). RJ's higher public profile and the element of participation may facilitate greater public confidence and a higher degree of satisfaction with the justice system than possible from traditional (retributive) means (Crawford & Newburn, 2003).

Models of RJ

As previously mentioned, several models underpinned by a RJ philosophy now operate in YJ domains. The wide variation in how the models are conceptualised, enacted and evaluated indicates that restorative processes can take many forms, and expectations for outcomes may differ (Crawford & Newburn, 2003). Maxwell and Morris (2001) propose that the fundamental questions for any RJ-based model of YJ are:

1. Whether there is a restorative aspect to the selected approach and the values that underpin its process, outcomes and objectives, and
2. Whether the restorative model is superior to retributive justice processes.

According to Crawford and Newburn (2003), the main differences between the range of conferencing models operating in the YJ domain revolve around the following inter-related elements:

- *Form of referral*; whether caution, diversion, pre-sentencing or sentencing option
- *Seriousness of offence*; top tariff (serious), mid tariff (medium) or low tariff (minor offences)
- *Volume of cases*; high, medium or low volume
- *Leadership of the conference*; police, youth justice or trained volunteers
- Which parties, if any, are accorded a *veto right over the referral and/or outcome*
- *The amount of time allowed to complete outcomes*
- *Legal framework*; statutory or non-statutory.

Of the possible models, in the view of Dignan and Lowey (2000), five predominate: *victim-offender mediation, sentencing circles, youth panel schemes* and two variants of the *FGC* model. While space does not permit an exhaustive list, the following table (Table 5) provides an overview of the key features of the main RJ-orientated formats used in YJ situations. Data is drawn from several sources (Campbell et al., 2005; Daly, 2001; Dignan & Lowey, 2000; Miers, 2001).

Table 5

Features of the major models of restorative justice used to address the offending behaviour of young people

| | Victim-Offender Mediation (VOM) | FGC - NZ Model | FGC – Wagga Model | Youth Panel Schemes (Referral orders) | Sentencing Circles |
|--|--|---|--|---|---|
| Origination | Ontario, Canada 1974 | Aotearoa/New Zealand 1989 | Wagga Wagga, NSW, Australia 1991 | UK, 1999 | Manitoba, Canada 1989 |
| Influences | Christian Mennonite movement | Hybrid – Indigenous/Family welfare-orientation | Re-integrative shaming model (Braithwaite) | RJ principles (Crime and Disorder Act 1998) | From First Nation Canadian principles |
| RJ emphasis | Restoration | Reintegration | Recidivism | Recidivism | Reintegration |
| Features | Victim healing; offender responsibility; optional participation; consensus decision making; outcomes that restore harm done by offending | Diversion; accountability; family empowerment; due process; victim participation; consensus decision making; cultural appropriateness | Offender responsibility; family empowerment; offender support; victim rights; restore harm | For first time offenders; Discussion of offence and its consequences; operates in respect to referral orders only | Offender accountability; family & wider community consensus making; redressing harm; emotional, spiritual, cultural connection; community empowerment |
| Expected outcome | Apology and reparation | Agree plan to redress offending or refer to Court | Plan and agreed contract for reparation | Agree contract for reparation, rehabilitation | Recommendations to judiciary for case disposition |
| Attendees | Victim, offender | Young person, their family/ whānau or family group, victims, Police, other professionals, family/victim supporters | Young person, family, victim or representative, and supporters, Police, lawyer | Young person, parents/appropriate adult, Youth Offending Team (YOT) & Community Panel Members, victim/supporter, solicitor (support only) | Victims/supporters, young people/supporters, judges, court staff, lawyers, all community parties with vested interest; victim may elect not to attend |
| Process facilitator (s) | Independent mediator | YJ Co-ordinator | Police officer or Police-appointed civilian facilitator | YOT member and two Community Panel members | Keeper of the circle (community leader) |
| Mode of proceedings | Flexible: face to face/direct or shuttle/indirect mediation; mediator liaises between parties | Standard (mandated) process but flexible protocol | Scripted process | Flexible process | Flexible process; may require multiple meetings to agree outcomes |
| Operational | USA, Germany, Finland, France, England, Scotland, Canada, South Africa | New Zealand, most Australian states, Northern Ireland | USA, Canada, three Australian states, several UK districts | United States, Scotland, England, Wales | Native communities in USA, Canada |
| Examples of types of youth offences managed | Variety, often crimes of a lower level of seriousness | NZ: Any offence except murder, manslaughter | Canberra, Australia: Includes for violent crime | UK: First time offenders only | Canada: Serious cases only |

Comparisons of models

Regardless of how they vary in seeking to achieve their aim of reducing recidivism, all processes based on RJ models are considered to afford prominence to two key stakeholder groups: young people and their victims (Campbell et al., 2005). There is considerable debate in the literature as to which approach or format is superior for the purposes of YJ. While the New Zealand model of conferencing may have been the catalyst for a new YJ model, the Wagga Wagga Model has been most widely adopted internationally (Daly, 2001; Dignan & Lowey, 2000).

The “Wagga” model of conferencing is Police-led and scripted. It is based on Braithwaite’s theory of re-integrative shaming (Braithwaite, 1988), which aims to mobilise in a young person feelings of shame about the offending *behaviour*, not regarding themselves as a ‘*bad*’ person (Dignan & Lowey, 2000). The Wagga model contrasts the New Zealand FGC with its use of an independent mediator (the YJ Co-ordinator) and a flexible format. Furthermore, the local model aims to offer an empowering, *respectful* experience for the young person, considered the converse of a shaming process (Maxwell, 2007) in which finding the right approach is acknowledged to be sometimes difficult to achieve (Braithwaite, 1988). This claim is supported by local research which identified a young person having been felt *respected* in the FGC process to be a major factor in reducing the potential for recidivism (Maxwell & Morris, 2001) in addition to generally being important for good psychological health (Maxwell, 2007).

Critiques of RJ

As described earlier, a lack of an agreed definition for what constitutes RJ has been a major criticism of this paradigm, making evaluation of processes and outcomes problematic (Crawford & Newburn, 2003). Another salient critique is that, despite its range of processes, RJ models can currently claim only limited success in one of its main purposes: reducing recidivism (Hoyle & Zedner, 2007).

From a theoretical perspective, the claim that RJ is an oppositional paradigm to *retributive* justice has been questioned (Zernova, 2007). Similar to Becroft (2004), Daly (2002) argues for a *new justice* paradigm, but also notes that FGC participants flexibly engage in *multiple justice aims* which include elements of:

- Retributive justice – for example, censure for past offences
- Rehabilitative justice – for example, asking what can be done to prevent recidivism, and
- Restorative justice – for example, by focusing on what the young person can do to repair harm done to the victim.

Furthermore, Pickford (2006) argues that models based on a RJ philosophy retain aspects of a welfare-orientation, through offering the opportunity for personal and community rehabilitation. Daly (2002) perhaps makes a point of clarity, in acknowledging that this burgeoning field is currently fragmented and often contradictory.

At the local level, while many prominent local commentators have described New Zealand's YJ system as an exemplar of a RJ approach (Maxwell & Morris, 2006), others alternatively consider it to be "partly restorative" (McElrea, 1994, p. 4). It has been noted that RJ is not explicitly mentioned within the Act. However, as has been argued by McElrea (1994), it is the *practice* of the enacting the legislation's principles in which lies restorative potential. To this end, the principles of *holding young people accountable* and regarding them as *community-members*, and in encouraging *community-based alternatives to criminal proceedings* have been specifically highlighted (Becroft & Thompson, 2007; McElrea, 1994). In this regard, through their involvement in the YJ FGC process, one stakeholder group with a key responsibility is the YJ Co-ordinator group. It is their perspectives on the YJ FGC process that is the focus of this study.

In summary, this section has briefly reviewed aspects related to RJ, with a focus on New Zealand's FGC model. The next section of this chapter will look in depth at the available research on New Zealand's YJ FGC process, much of which has been conducted from a RJ framework.

The New Zealand YJ FGC

As described in the previous two sections, New Zealand's current YJ system, as it has operated since 1989, constitutes a distinctive departure from earlier philosophical and organisational approaches (Hassall, 1996). With its unique blend of indigenous and Western components, various aspects of New Zealand's pioneering system, including the pivotal FGC process, have been reproduced in several other judiciaries. While there is wide variation in the philosophy and operation of YJ conferencing models in the international arena (Nixon, Burford, Quinn, & Edelbaum, 2005), New Zealand's FGC is considered the basis for similar services now operating in Northern Ireland (Campbell et al., 2005), in some Australian states (Daly, 2001), parts of the United Kingdom (Crow & Marsh, 1999) and Canada (Longclaws, Galaway, & Barkwell, 1996). What follows in this section is a review of the available literature on the YJ FGC process, with an emphasis on studies evaluating its process and outcomes. It will be preceded by definitions of what is meant by *process* and *outcomes*, to provide a reference point for both the literature presented here, and the current study.

The distinction between process and outcomes

In the opinion of Unrau and colleagues (Unrau, Sieppert, & Hudson, 2000), FGC research is essential to aid the understanding of:

1. Whether the process is working as intended (process), and
2. Whether the process is achieving its stated purpose (objectives).

This highlights a key distinction between the study of *process* and *outcomes*⁶. It is important to briefly describe this distinction as it provides a context for the following review of the available literature on the New Zealand YJ FGC. These terms relate to the *phase of the process* under enquiry. Studies addressing *process* consider what occurs *during* the programme or service. In contrast, studies concerned with *outcomes* focus on the consequences for participants at the *end* of the programme or service (Weiss, 1998).

While much literature exists on the YJ FGC from a conceptual basis, some commentators consider it to be a significantly under-evaluated procedure (Mutter, Shemmings, Dugmore, & Hyare, 2008). Where evaluative studies have been conducted, emphasis has been

⁶ A full description of evaluation research and its purposes as related to this study will be provided in Chapter 2: Methodology on p. 64.

disproportionately afforded to *outcomes*, to arrive at conclusions over its effectiveness, for example, in reducing recidivism. However, there is growing appreciation of the worth of evaluating the *process*, toward understanding, explaining, developing and improving the effectiveness of the YJ FGC. Furthermore, consideration of process factors that might *contribute* to effective outcomes has also inspired recent interest in process evaluation research (Unrau et al., 2000).

From a New Zealand perspective, there have been several empirical studies over the past two decades evaluating the YJ FGC process, including the notable studies of Maxwell and colleagues (Maxwell et al., 2004; Maxwell & Morris, 1993). Studies particularly addressing process occurred in the formative stages of YJ FGC operation (Levine & Wyn, 1991; Renouf, Robb, & Wells, 1990), and in the 2001 survey by Schmid (2001). YJ Co-ordinator views were specifically captured in these studies. Co-ordinator accounts of practice have also illuminated process issues (MacRae & Zehr, 2004; Stewart, 1996).

Consistent with the wider criticism of Mutter and colleagues however (Mutter et al., 2008) is the argument that while other studies have included process elements, YJ FGC *outcomes* have been the predominant focus of the local empirical research. Furthermore, although their work at delivering conferences has been observed, the identification of YJ Co-ordinator views have not been a salient feature of the major recent studies (Maxwell et al., 2004). Accordingly, there is potential for the current study, an *evaluation of the YJ FGC process from the perspectives of the YJ Co-ordinators*, to make a valuable contribution to the literature.

What now follows is a review of the available literature and research on the New Zealand YJ FGC. The material has been considered to distinguish factors relating to the YJ FGC *process* and process-related features that might influence conference *outcomes*. Where relevant, comparisons with findings from the international literature will be made.

YJ FGC Process

As it functions in the New Zealand context, features related to the *process*, or the practical operation (Weiss, 1998), of the YJ FGC have been identified in the literature. These features can be grouped under the following five headings: perceptions of overall process effectiveness, practice-related factors, interagency co-operation, the role of the YJ Co-ordinator in the process, and organisational factors.

Overall process effectiveness

The literature claims that New Zealand's FGC process is a generally effective process for managing youth offending (Levine & Wyn, 1991; Maxwell et al., 2004; Maxwell & Morris, 1993; Renouf et al., 1990). Surveyed in 2001, 92% and 8% of YJ Co-ordinators considered the YJ FGC process to be effective or sometimes effective, respectively (Schmid, 2001). In one of the first local studies, YJ Co-ordinators also described their belief that the YJ FGC was an *appropriate process for most* young people, particularly those for whom offending behaviour was considered at a *low/moderate* level. However, some practitioners questioned the suitability of the family-decision making model and of its sanctions for addressing the needs of *recidivist* young offenders (Renouf et al., 1990). In a subsequent study, Co-ordinators suggested limiting the number of FGCs conducted for an individual young person (Schmid, 2001).

Practice factors

Aspects considered to constitute best practice in New Zealand YJ FGC service provision have been established from research (Levine & Wyn, 1991; Maxwell et al., 2004), and from practitioner-produced descriptions of the process (MacRae & Zehr, 2004; Stewart, 1996). As summarised below, best practice features may be identified in each stage of the process, which Co-ordinators report as consisting of four distinct phases (Stewart, 1996):

1. *Consultation with law enforcement:* Robust consultation with law enforcement officers to ensure the acceptability of the referral, in view of the legislation's emphasis on diversion/alternative action
2. *Pre-conference preparation:* Meeting all participants, ideally face-to-face, securing the attendance of and providing information and support for both families/whānau and victims

3. *The FGC (meeting)*: Holding the young person accountable in realistic ways in a respectful and non-shaming process, the participation of all stakeholders in decision-making, and providing appropriate resources for plan options
4. *Post-FGC follow-up*: Reporting conference plans to all participants, including details of who should have responsibility for plan monitoring.

Congruent with the international literature (Campbell et al., 2005), the importance of solid pre-conference *preparation* has been consistently emphasised in local empirical studies (Levine et al., 1998; Levine & Wyn, 1991; Maxwell et al., 2004; Maxwell & Morris, 1993; Renouf et al., 1990; Schmid, 2001) and practitioner-generated accounts of best practice (Compton, 1999; Stewart, 1996). This element has been identified as a major factor in both a successful conference experience for participants. For example, Maxwell and colleagues found that two-thirds of young people reported being well-prepared for their FGC, resulting in a high level of satisfaction with information provision and consultation over their preferences. The authors claim this experience to be associated with positive outcomes (Maxwell et al., 2004).

For YJ Co-ordinators, personal contact with all participants during the preparatory phase of the process is considered the ideal (Renouf et al., 1990; Schmid, 2001). For families, a face-to-face meeting in which they were fully briefed about the FGC process, was believed to greatly enhance their participation, and was described as a factor increasing the potential for a positive resolution at the FGC (Renouf et al., 1990). Indeed, as reported in the literature, the family taking responsibility for and supporting the young person at the FGC is widely considered to be a key component of an effective FGC process (Maxwell, 2007; Schmid, 2001).

Also ideally conducted in person, thorough Co-ordinator preparation ensures *victims* are co-opted into, briefed for, and engaged in, the YJ FGC process. Victims who have experienced a YJ FGC reported more satisfaction with the process after having been adequately prepared for the FGC in a prior *consultation* with a Co-ordinator, as opposed to just being *informed of* the process (Maxwell et al., 2004). Many Co-ordinators believe their in-depth work in this phase of the process also serves to protect victims from being *re-victimised* through the FGC process (Schmid, 2001).

While victims are acknowledged to be central to the YJ FGC process, Co-ordinators have reported that managing high FGC volumes, with the pressure to meet the timeframes specified under the Act, can serve to compromise their vital preparation time, including their work with victims (Renouf et al., 1990). This is problematic, as the *attendance* and *participation* of victims at the YJ FGC has been consistently identified in the local research as a component of a successful FGC process. For the reasons described later in this section, victim participation has also been linked to enhancing the potential for a restorative outcome from the FGC (Maxwell et al., 2004; Maxwell & Morris, 1993; Renouf et al., 1990; Schmid, 2001).

In a 2001 study, informed by their experiences of conducting FGCs, YJ Co-ordinators elaborated on why they consider a victim's attendance at the FGC might augment the likelihood of a successful process. In the view of these practitioners, the personal encounter between victim and young person at the conference could serve to highlight to the latter the *impact of the harm* caused by their offending behaviour. Sometimes accompanied by an observable emotional response, this realisation regularly inspired a young person's engagement in the process (Schmid, 2001). Independent researchers supported this claim, in noting that some young people were observed to spontaneously apologise during conference proceedings (Maxwell et al., 2004). Moreover, the encounter between the young person and victim at the FGC was considered by Co-ordinators as essential from a more fundamental perspective; as a practical enactment of the Act's aim of holding the young person accountable for offending behaviour (Schmid, 2001).

It is noted, however, that despite recent improvements, victim attendance at YJ FGCs has been consistently less than optimal (Maxwell et al., 2004). While cause-effect relationships are acknowledged to be difficult to establish, Maxwell and Morris found the presence of the victim, the ability of the young person to apologise and demonstrate remorse, and the opportunity to repair harm, to be factors correlated to their lower risk of reconviction (Maxwell & Morris, 1999).

Although YJ Co-ordinators claim inclusion to be a fundamental process component, research has found that YJ Co-ordinators and other professionals do not always conduct proceedings in a manner that produces non-professional stakeholder participation in the process and in decision-making at the FGC. In particular, it has been suggested that improvements to practice can be made to optimise the involvement of victims and young

people, and to limit the tendency for professional interference that has sometimes been observed at FGCs. While the majority of young people reported a positive experience of the YJ FGC process, a significant minority believed their voice was not heard, with 40% considering they were not involved in decisions, and one third feeling a level of stigmatisation as a “bad person” (Maxwell et al., 2004, p. 152).

Beyond the conference meeting, research has determined several problematic aspects of the *post-FGC follow-up* phase of the process. In particular, inadequate resources for plans, including an *absence of local programmes and services for young people* (Maxwell et al., 2004; Maxwell & Morris, 1993; Renouf et al., 1990), a lack of plan monitoring (Renouf et al., 1990; Schmid, 2001) and the inadequate support of young people following residential placements, have all been identified as significant process-related concerns (Maxwell et al., 2004).

The scarcity of locally-based programmes and services for young people in particular appears to be an ongoing feature of the literature (Maxwell et al., 2004; Maxwell & Morris, 1993). Although considered a core aspect of their role, Co-ordinators have reported that their ability to develop and maintain essential community and cultural networks to secure local plan options for young people is often curtailed by high FGC volumes (Renouf et al., 1990).

A lack of suitable local options has been described as particularly problematic for young people considered to be at a *high-risk* of offending and/or re-offending, who both require, and derive benefit from, having access to a range of plans. Co-ordinators have stressed that, for such young people, plans must address the individual needs of victims, young people and their families. In such cases, practitioners report plan elements can include dealing with outstanding C&P issues, evident in over 50% of cases, as well as developmental elements pertinent to the young person. Examples of the latter include addressing problems with substance abuse, establishing employment and leisure opportunities, and the provision of counselling. In the view of Co-ordinators, the comprehensiveness of plans, in combination with adequate support, can significantly prevent re-offending. This would be facilitated by solid Co-ordinator preparation and the availability and range of local plan options, made possible by Co-ordinator networking to establish vital community links (Levine et al., 1998).

Interagency co-operation

A sound working relationship between key stakeholder groups has been widely identified in the international literature as essential for an effective FGC process (Campbell et al., 2005). In the earliest days of conferencing, New Zealand Co-ordinators described good relationships with Police and the Courts, and overall satisfaction with procedural matters (Renouf et al., 1990). In a subsequent study, some Co-ordinators expressed concerns over the attitudes and practices of external parties toward both the Act and the interpretation of its principles (Levine & Wyn, 1991). The approaches and practices of frontline Police were particularly identified as reflecting an attitude that the YJ FGC was a soft-option for managing offending behaviour (Maxwell & Morris, 1993).

A Police-generated survey of YJ Co-ordinators' satisfaction with factors related to the Police's role in the YJ FGC process was published in 2001/2002 (New Zealand Police, 2002). This study found Co-ordinators reported an overall decrease in satisfaction levels from the previous year (2000/2001), from 87% to 80%. In their qualitative comments, YJ Co-ordinators generally suggested Police *improve information systems*, and particularly the standard of summaries provided to them. Police *training* in relation to the YJ FGC process was another area of improvement recommended by Co-ordinators (New Zealand Police, 2002), and has been echoed in other, independent empirical studies (Maxwell et al., 2004; Maxwell & Morris, 1993).

Another pertinent interagency-related process concern deserving of comment is the issue of inadequate data capture mechanisms for information used within the YJ FGC process, including those within the Department. Inconsistencies in agents' data recording and categorisation, and the fact that systems of parties involved with YJ FGCs are not essentially tailored for the needs of judicial processes, has been particularly highlighted as detracting from process efficiency. This also makes the evaluation of YJ FGC outcomes problematic (Maxwell et al., 2004).

The role of the YJ Co-ordinator

With the mandated responsibility for managing the process, the YJ Co-ordinator clearly plays a major role in YJ FGC service provision. Initial Co-ordinator perceptions of their role and responsibilities were captured within a wider evaluation of the Act's first year of operation by Renouf and colleagues (1990). The study authors commented on their

perceptions of the Co-ordinators' sense of energy and commitment to their pioneering position in their work with young people, families and victims.

In that early study, Co-ordinators reported that a lack of specialist YJ social workers was a major detriment to conducting their role in an efficient manner. Further to this, while expressing clarity about the nature of their role, some practitioners identified a need for the Department to better communicate the demarcation between the YJ Co-ordinator and YJ social worker functions. It was envisaged this would assist the understanding of the YJ Co-ordinator role and the YJ FGC process for others in the Department.

Many of the early YJ Co-ordinators also acknowledged a degree of practice variation in conducting their role amongst practitioners. Different approaches to practice pertained to the *level of preparation* undertaken for, and *decision-making* at, the FGC. These factors were considered linked to an overall absence of training for the new YJ Co-ordinator role (Renouf et al., 1990).

Organisational factors

As the delivery of services is underpinned and influenced by the organisational context (Weiss, 1998), Co-ordinator views of the YJ FGC process as delivered by the Department have been identified in the literature. When first surveyed by Renouf and colleagues (1990) in the early days of the Act and the YJ FGC process, several organisational issues were raised by Co-ordinators.

With the inclusion of both YJ and C&P aspects to the new Act, YJ Co-ordinators generally perceived *Departmental staff to be unfamiliar with YJ principles*. As mentioned previously, staff unfamiliarity with YJ features of the legislation was described as being a factor contributing to the degree of *role confusion* regarding the YJ Co-ordinator and social worker positions.

From a structural perspective, particularly at district level, some YJ Co-ordinators believed they held a *lower Departmental profile* in comparison to C&P Co-ordinator colleagues. In addition, a perception of *negativity* from other Departmental staff toward the new and highly-graded YJ Co-ordinator role was also described by many practitioners. These factors in combination were considered to provide an extra challenge for YJ Co-ordinators in conducting their role, and a contributing to a sense of *isolation* described by some practitioners (Renouf et al., 1990).

As mentioned previously, the lack of resources for plan options has been acknowledged to be a significant issue with the YJ FGC process. Early YJ Co-ordinators expressed concerns over *Departmental budget allocation*, perceived to affect two phases of the process, namely, the availability of resources for both convening YJ FGCs, and funding plans made at conferences (Renouf et al., 1990).

Identified as a major early problem, an *absence of training, professional development and supervision* in relation to the YJ Co-ordinator role has been a feature of several early studies (Levine & Wyn, 1991; Maxwell & Morris, 1993; Renouf et al., 1990), with few formal opportunities for these professionals to meet and share expertise (Renouf et al., 1990). The overall absence of training and professional development appears to remain an outstanding issue, and has been cited as a major factor contributing to inconsistencies in YJ FGC service delivery (Maxwell et al., 2004).

In light of the numerous Departmental tensions described by YJ Co-ordinators in one of the initial studies, the authors queried whether the Department was the most appropriate location for YJ Co-ordinators. A suggestion was made that the then Department of Justice might be a more appropriate base for these practitioners (Renouf et al., 1990). A 2001 survey that specifically asked YJ Co-ordinators for opinions on this issue found that 58% of respondents felt they should not be part of the Department. Views on alternative locations were mixed, with 33% nominating the Ministry of Justice and 23% suggesting the creation of a separate agency for YJ Co-ordinators (Schmid, 2001).

Research on YJ FGC outcomes

In contrast to *process*, which considers the actual operation of a programme or service, the study of *outcomes* relates to the *end result or consequences of a programme or service* (Weiss, 1998). As the focus of this study is the YJ FGC process from the perspectives of YJ Co-ordinators, a brief summary of the available literature on YJ FGC outcomes will be provided in this section to establish a context for the reader. Attention will be afforded to aspects of process considered to be associated with outcomes.

Holding young people accountable and repairing harm

Evidence that young people are being held accountable for their offending behaviour through the YJ FGC process has been linked to the high rate of participant agreement of plans constructed at conferences and a high completion rate (81%). However, as

determined by the nature of the plan, 60% of young people and 87% of attending victims felt the outcome was fair. In contrast, of victims who did not attend the FGC, 54% thought the outcome appropriate, while 42% considered it too lenient. Researchers nevertheless noted that restrictive elements such as a driving disqualification were incorporated into the plans for approximately 60% of all young people, despite the fact that these outcomes were considered neither consistent with the objects and principles of the Act, nor necessary in the public interest. Other such sanctions included higher tariff orders such as suspended sentences, supervision and convictions.

For victims who attended FGCs, outcomes included measures to *repair harm*, such as receiving an apology and/or pecuniary reparation from the young person. Furthermore, the importance of victim attendance and a restorative element to the process has been claimed, with the finding of 81% of attending victims reporting feeling better as a result of the FGC process (Maxwell et al., 2004).

Re-integrating the young person with the community

The re-integration of the young person into the community has been described as one FGC outcome that fortifies both the young person and community (McCold, 1996). In over three-quarters of FGC plans, work for the victim or the community was incorporated. Plans that contained re-integrative educational, employment and training elements were evident in approximately one-third of plans, although a greater need was identified. A lack of employment qualifications in many outstanding cases was identified as an issue that might prohibit effective community re-integration. Of the young people who had assistance with continuing their education incorporated into their plan, 90% considered this had been helpful two-to-three years later (Maxwell et al., 2004).

Rehabilitative outcomes

A rehabilitative element is a feature of New Zealand's legislation (Becroft, 2006) and may be observed in YJ FGCs outcomes (Daly, 2002). The New Zealand experience suggests such outcomes might include driver education programmes, drug and alcohol treatment, counselling and anger management courses. However, it has been claimed that the needs of many young people have remained unmet by FGC plans, with only one third containing a rehabilitative component despite a greater number of young people reporting mental health, anger and drug and alcohol issues. Furthermore, of the young people who have

attended a rehabilitative programme or service, approximately one third considered these had been unhelpful (Maxwell et al., 2004). Recently focus has been placed on risk and needs assessments with a view to increasing the potential for a rehabilitative conference outcome (Becroft, 2006).

Reducing re-offending

It has been claimed that changes in offending behaviour may be an expected outcome of RJ-based processes, such as the YJ FGC (Beven, Hall, Froyland, Steels, & Goulding, 2005). New Zealand research has identified several features of the YJ FGC process which are considered to be linked to a reduced likelihood of subsequent offending. These include the young person receiving support and encouragement to participate throughout the entire conference process, including in decision-making. To this end, the authors stressed it was important for the young person to understand the aims of process. That the young person should not feel stigmatised at the FGC was also a key factor believed to prevent recidivism (Maxwell & Morris, 1999). Furthermore, the researchers found a link to a lower likelihood of recidivism where the young person experienced a memorable conference experience which generated feelings of remorse, in which they had an opportunity to repair harm, and felt they were forgiven. These factors were concluded as being pivotal in influencing a young person's intention not to re-offend (Maxwell et al., 2004). It has been acknowledged that these features may be considered aligned with RJ-based principles (Mutter et al., 2008)

The use of diversion

In the main, the available research reflects that diversion from formal criminal proceedings was achieved in many cases. However, Maxwell and colleagues were of the opinion that minor offending matters were sometimes dealt with by a FGC, and offending at a level considered appropriate for a FGC was sometimes directed via the Youth Court avenue. In the opinion of the authors, some young people therefore un-necessarily came into contact with the YJ FGC system, with this outcome deemed contrary to both the intention of the Act and best practice (Maxwell et al., 2004).

Conclusion

In conclusion, this section has reviewed the literature pertaining to the operation of the New Zealand YJ FGC *process*, or its phases of operation, and *outcomes*, or what follows as a consequence of the FGC. Although evaluated in the years following its implementation (Levine & Wyn, 1991; Renouf et al., 1990), it is clear that New Zealand's YJ FGC process has subsequently received sporadic or isolated research attention in recent years. This is an oversight, as feedback from regular evaluation helps to develop and improve the conferencing process (Mutter et al., 2008; Unrau et al., 2000).

While some of the major studies have included aspects of process, notably those of Maxwell and colleagues (Maxwell et al., 2004; Maxwell & Morris, 1993) emphasis has been afforded to *outcomes*, and particularly whether these may or may not be restorative, for example, as determined by post-FGC participant satisfaction levels. While the studies specifically addressing process have been useful, there is a lack of emphasis on *how* and *why* the process works (Bazemore & Stinchcomb, 2000). This, in part, may be due to the employment of quantitative methods over qualitative methods. To illustrate, using a survey, Schmid's (2001) study has raised several important process issues from the Co-ordinators' perspectives, with some findings described in detail. For example, the YJ Co-ordinators' belief that one component of an effective YJ FGC process is the victim's attendance, which may affect an emotional impact on the young person, who may then reflect on the harm caused and take accountability for their offending behaviour. While this is important data, there also appears to be missed opportunities. For example, toward process improvement, the specific reasons why 8% of respondents in Schmid's study thought the YJ FGC was *only sometimes* effective would have been interesting to explore. As will be described in more detail in the next chapter, an enhanced understanding of the process should be a fundamental aim of process evaluation research (Bazemore & Stinchcomb, 2000), and may be facilitated through the use of a qualitative methodology (Patton, 2002).

The above review has nevertheless identified aspects that may be related to an effective New Zealand YJ FGC process. These components span role and practice, interagency co-operation and organisational factors, including:

- Good interagency co-operation, including a robust consultation with Police who are trained in and understand the FGC process

- Solid preparation of participants by Co-ordinators in face-to-face meetings
- Participants being well-briefed to facilitate their understanding of the FGC process
- Victim attendance at the FGC, particularly with a view to toward holding the young person accountable
- Participation of all parties in the process, including in decision-making
- Low involvement by professionals at the FGC
- Holding the young person accountable in a respectful, non-stigmatising process
- Supporting the young person throughout the process
- Having a range of local plan options, particularly for young people at high risk of offending/re-offending
- Departmental provision of budgets of FGC convening and resources for plans
- Following up plans
- A process delivered by trained YJ Co-ordinators
- Ongoing professional development and supervision for YJ Co-ordinators
- Departmental support and understanding of the YJ Co-ordinator role and function
- Quality information systems, internal and external to the Department.

As described by YJ Co-ordinators, a number of issues were also raised related to the YJ FGC process or their role in conducting the process. Some of these issues include:

- Poor training and inadequate supervision
- An early perception of a degree of confusion and an initially low view of their role from other Departmental colleagues
- Issues with Police process affecting all phases of practice

- Difficulty meeting timeframes when high FGC volumes, particularly impacting preparation time and community networking aspects of their role
- Consistency in practice, especially around preparation
- Poor follow-up of plans.

It has been some time since the YJ FGC process has been evaluated. It is hoped this situation will be somewhat rectified by the present study, aiming to make a meaningful contribution to the available literature. This study, concerned with YJ Co-ordinator views of the FGC process as it has historically and currently operates, and the methodology employed, will now be described in the next Chapter of this document.

CHAPTER TWO: METHODOLOGY

The first part of this chapter offers a contextual background to this process evaluation study. The study's aims are then outlined. An overview of the practice of evaluation and the framework used in this study follows, along with the qualitative research approach employed. Next, the research method is presented and the characteristics of participants described. An explanation of the procedure used for data analysis completes the chapter.

Background history to the study

The genesis of this study can be traced to late 2005, when the then YJ senior manager at the Department discussed the possibility of conducting university-led research on the YJ FGC process with my primary supervisor, Dr Ian Lambie. This discussion had arisen as a direct result of the findings from the 2005 Youth Justice Capability Review which had identified a number of gaps in YJ service delivery (Department of Child Youth & Family, 2006). The Department suggested using questionnaires to ascertain participant satisfaction with YJ FGC outcomes, and had these prepared. The university research team, however, perceived an overlap with the comprehensive, recently published study by Maxwell and colleagues (Maxwell et al., 2004), and raised this issue with CYF management. This resulted in a research proposal for a pilot study seeking to specifically consider participants' experiences of aspects of the YJ FGC *process* using both quantitative and qualitative methods.

This proposal was jointly agreed between the researchers and the Department and submitted for ethical approval. The University of Auckland's Human Participants' Ethics Committee (UAHPEC) granted conditional approval, but CYF's Research Access Committee (RAC) declined, for reasons that were not clarified in writing. A six month period of relative inactivity then ensued, which saw a change of YJ management and the merger of the Department with the Ministry of Social Development (MSD), effective from 1 July 2006.

This reorganisation saw the appointment of a new senior YJ manager and of Dr Marie Connolly as the Department's Chief Social Worker. She had formerly been Associate Professor in the Department of Social Work at the University of Canterbury and the Director of the Te Awatea Violence Research Centre. Prior to joining the Department, Dr Connolly had been commissioned to devise a Research and Evaluation Strategy for the

Care and Protection (C&P) division of the Department (Connolly, 2003b). Connolly's strategic framework comprised three components as described briefly in Table 1: Operations, Servicing, and (Service) Development. Under each component, Connolly devised individual research projects toward the advancement of C&P FGC practice and policy within the Department (Connolly, 2003b).

Table 6.

Connolly's Research and Evaluation Strategy for Care and Protection showing defined strategic framework and strategic focus of each component

| Strategy | Strategic Focus |
|----------------------|--|
| Operational Strategy | The four main FGC phases <ul style="list-style-type: none"> • Entry phase • Meeting phase • Exit phase • Outcome phase |
| Servicing Strategy | Resourcing the FGC |
| Development Strategy | FGC review and development |

Connolly's Development Strategy was formulated in order to be responsive to the ongoing need for review and development of the C&P FGC process (Connolly, 2003b). After discussions with my primary supervisor and Departmental management, Dr Connolly recommended that our research team emulate two of three process evaluation projects undertaken in 2003. As these studies had been beneficial in contributing to the advancement of FGC practice, strategy and policy for the C&P FGC process, Dr Connolly foresaw comparable benefit for YJ with a similar study. Based on the two (qualitative) studies of Dr Connolly, another proposal was submitted and accepted by both the UAHPEC and RAC.

Aims of the study

YJ Co-ordinators have the statutory responsibility to convene and conduct the YJ FGC process. The overarching aim of the study was to better understand the YJ FGC process from the perspectives of YJ Co-ordinators as a key stakeholder group to ascertain process strengths and areas for improvement. The specific study aims were:

1. To provide an overview of the development of FGC practice since the introduction of the Act

2. To identify any changes that may have occurred in YJ FGC practice over time
3. To explore differences in practice, and the ways in which YJ Co-ordinators respond to family and community diversity when performing their functions within the YJ FGC system
4. To ascertain regional differences in YJ FGC practice.

In comparing findings of the study with Dr Connolly's earlier work, the study also aimed to evaluate similarities and differences between YJ and C&P FGC practice. Connolly's studies had identified issues with practice, a tension in balancing lore and law inherent in the Act, and organisational/operational issues (Connolly, 2006a, 2006b).

Ethics and cultural safety

The study received ethics approval from both the University of Auckland's Human Participants' Research Committee (2006/110) and CYF's Research Access Committee in December 2006⁷. To ensure cultural appropriateness, approval was sought and granted by the University of Auckland's Department of Psychology Cultural Advisor, Dr Jason Turuwhenua.

The practice of evaluation

The practice of evaluation, and the specific approach employed in this process evaluation study, will now be described.

Background

Evaluation research is the practice of collecting data about the activities, characteristics and outcomes of a programme or service to enable managing stakeholders to make decisions about its operation and effectiveness (Patton, 1997). Originating in the United States in the 1930s, the discipline of evaluation was initially concerned with determining the success or otherwise of federal programmes in order to secure the allocation of funding and resources (Dehar, Casswell, & Duignan, 1993). Subsequent decades have seen an expansion of the role of evaluation from emphasising organisational accountability, towards enhancing organisational effectiveness. Applicable to programmes, products and/or personnel, the practice of evaluation is now recognised in both the public and private sectors. It is widely employed in the social sciences (Patton, 1997).

⁷ These approvals, and the Department's funding of the study, were noted on Participant Information Sheets and Consent Forms that covered both projects (Appendix C).

The increasing professionalism of this area has seen the establishment of four Standards for Evaluation (Patton, 1997). These are *utility*, the expectation that the evaluation will be of use to an audience. The standard of *feasibility* promotes that the evaluation should be practical, cost-effective and diplomatic. Evaluations should also be conducted with *propriety*, adhering to principles of ethics and fairness, with the information emanating from the evaluation presented with *accuracy* (Joint Committee on Standards for Educational Evaluation, 1994). These standards, adopted by many international bodies, have been devised to guide evaluation quality and to promote evaluator accountability (Patton, 1997).

Programme Evaluation

As mentioned, the practice of evaluation can be directed toward programmes or services. Patton (1997) defines *programme evaluation* as concerned with the systematic collection of information regarding a programme's characteristics, its activities and outcomes. The information generated can be used for judging a programme's merit or worth, for programme improvement and/or to generate knowledge. More broadly, programme evaluation can also make a valuable contribution to organisational learning (Bledsoe & Graham, 2005; Weiss, 1998). One way this is achieved is by charting a programme's history, where lessons can be drawn from its evolution. Evaluation may also serve to draw attention to programme goals. This action may influence practitioner behaviour and realign organisational activities with programme priorities (Weiss, 1998). It is also possible that evaluation may therefore serve to refocus an organisation's attention to a programme or service.

As proposed by Connolly (Connolly, 2004) programme evaluation findings in social service agencies, such as the Department, are often used to inform social policy by providing an enhanced understanding of social problems. Evaluation in such agencies also affords an opportunity to assess the congruency between the values advocated by social policy and a programme's or service's actions and activities (Unrau, 1993).

Stakeholders in Evaluation

While there may be multiple stakeholders or parties with a direct or indirect interest in the evaluation, Patton (1997) advocates focusing on identified primary users. Ideally, these key stakeholders should be actively involved throughout the process, in identifying

information needs and the terms of reference for the evaluation, interpreting the data and using the information generated (Gregory, 2000). Stuffelbeam (2001) considers stakeholder involvement to be highly correlated to their understanding, valuing and utilisation of the findings, and argues that it can lessen the resistance often encountered by an evaluation exercise. In particular, organisational learning is believed to occur when findings are shared widely amongst stakeholders (Preskill, Zuckerman, & Matthews, 2003).

The Role of the Evaluator

Evaluation is an interactive endeavour in which the evaluator plays a key role. Weiss (1998) proposes that having gained appreciation of the programme from the outset, the evaluator should expect to become increasingly familiar with the programme and its mechanisms as the evaluation continues. This provides the evaluator with a solid grounding in relevant issues, assists them with the formulation of pertinent questions, and aids both their understanding of data generated and data interpretation. Accordingly, recommendations and reporting that may arise from the evaluation are more likely to be tailored, pertinent and sound.

Process Evaluation

Recent years have seen a shift in focus from the evaluation of *outcomes*, the end result or consequences of the programme, to the evaluation of *process*, or what happens while a programme is being enacted (Weiss, 1998). The consideration of process components aids organisational understanding by illuminating factors related to *how* a programme works and considers *why* it may or may not be successful (Saunders, Evans, & Joshi, 2005; Unrau et al., 2000). While process evaluation may occur at implementation, it is also appropriate for programmes already in development, in which an established service is presumed to be effective (Rossi, Freeman, & Lipsey, 1999).

Process evaluation research affords equal consideration of informal process variables, such as bespoke delivery methods and interaction patterns, alongside more formalised service guidelines (Patton, 2002). Contextual factors such as structural, temporal, organisational values and political factors are also accounted for (Patton, 1997). Thus, a process evaluation offers organisations numerous opportunities for learning and development, including the exploration of programme origins and evolution, operational and programme

delivery factors, resource availability and participant experiences of the programme's strengths and weaknesses (Patton, 2002; Rossi et al., 1999; Weiss, 1998).

Evaluation Framework

Over twenty models or approaches to evaluation have been identified (Stufflebeam, 2001). The approach used in Dr Connolly's two projects (Connolly, 2006a, 2006b) and, ergo, this study, is Patton's (1997) *utilisation-focused evaluation*. To Patton, of the four evaluation standards, *utility* is of paramount importance. Concerned primarily with answering the questions posed by key stakeholders and conducted in a language they understand, the approach is flexible, purposeful and pragmatic. It emphasises stakeholder participation throughout the evaluation, which is considered to facilitate buy-in to the evaluation and increase the likelihood of findings being utilised. Accordingly, this approach promotes organisational *action*, in contrast to more static knowledge-generation.

Patton (1997) has acknowledged stakeholder turnover as the main limitation to his approach, an event which can disrupt, delay or force an evaluation to be revised or renegotiated. Furthermore, unless countered by a skilled evaluator, this model may be vulnerable to user corruption when stakeholders become over-involved in the evaluation process (Stufflebeam, 2001). Nevertheless, in an analysis of twenty-two known programme evaluation approaches, Stufflebeam (2001) rated the utilization-focused evaluation approach highly in comparison to other models applied to social agency/advocacy evaluation. Using this approach, Connolly (Connolly, 2004, 2006a, 2006b; Walton, McKenzie, & Connolly, 2005) found that the information generated by her programme evaluation endeavours was appropriate, thorough and informative toward the development of C&P FGC practice and policy.

Qualitative Methodology

This research employed a qualitative methodology. With the exploration of meaning being its primary concern, the aim of qualitative research is to understand and reflect the experiences and actions of a population of interest (Ezzy, 2002). The inductive methodologies used in qualitative research contrast with deductive-quantitative approaches, whereby an existing hypothesis is explored via the use of standardised measurement tools (J. A. Smith & Osborn, 2008). Qualitative-inductive approaches are beneficial in generating rich data sets that facilitate knowledge of complex processes from

which conceptualisations, themes and models of the topic of interest may emerge (Connolly, 2003a). This methodology is particularly appropriate when little is known about a population (Ezzy, 2002) and therefore appropriate for the under-researched YJ FGC process. Although both quantitative and qualitative methods may be employed for process evaluation research, its focus on dynamic human interactions and consideration of the influence of varying perspectives of participants ensures a qualitative methodology is a particularly apt approach for process evaluation research (Patton, 2002).

Researcher Orientation

Before describing the study in detail, it is appropriate to provide information on the researcher. In qualitative research through the engagement between researcher and participant, the researcher is integral to the process (Ezzy, 2002). Accordingly, he or she should consider how their personal experience and culture can influence the research and its findings (Madill & Gough, 2008; Patton, 2002). This is particularly pertinent in the interactive practice of programme evaluation (Patton, 2002)

My overarching interest in this topic stems from my generally hopeful stance for young people and families. I have previously encountered many young people and families who may be considered somehow ‘disadvantaged’, who have made positive changes for themselves and the community. This has been a major motivating factor for me to leave an established broadcasting career to train as a clinical psychologist. Inspired by literature on child and family resilience, I aim to work with young people and their families with an emphasis on early intervention.

My engagement in this particular topic was inspired by my work as an honours student under the supervision of Dr Lambie. As an acknowledged expert in the field of YJ and young people and families in general, I was easily convinced of the potential benefits of this kind of research. As a former manager, I was also encouraged by the pragmatism of this study, in the hope that the results would be useful to the Department to improve the FGC process for young people, their families, and victims. In preparing for the study, I was surprised by the many negative public perceptions of the FGC process I encountered when mentioning my thesis topic to others, and have attempted to remain objective. Throughout this research endeavour, I have benefited from being able to consult with my supervisor who has maintained an informed yet neutral position.

Specifically in regard to this study, and consistent with a utilisation-focused approach, my main objective has been to provide useful material to benefit the YJ FGC process. Unfamiliar with the FGC process, I acquainted myself with the procedure through reading and discussion. With Connolly's studies for C&P as my template, and assisted by my supervisor, I worked in collaboration with several key stakeholders at the Department to ensure the study was tailored to the YJ FGC process. Other associations included meeting with two key senior YJ managers to discuss and agree question structure and locations for the interviews and focus groups. I also contacted YJ area managers to explain the study and to ascertain likely participants, with whom I then liaised. I have attempted to retain the engagement of key stakeholders by updating them on research progress, and involving them in the process, for example, data checking.

The procedure employed will be explained in more detail in the following section, which outlines the research method used in the study. A description of the two projects that comprise this study and its participants will then follow.

Method

Frontline practitioners are a key internal stakeholder group who typically provide particularly valuable insights into the operations and goals of a service (Rossi et al., 1999). This study explored YJ Co-ordinators' perspectives of the FGC process in two different projects. Data was obtained via individual interviews of long-serving co-ordinators (Project One), and from four focus groups of Co-ordinators with a range of experience (Project Two). Both projects used a semi-structured interview format. In addition to personal factors that may influence the FGC process, by conducting interviews and focus groups in (naturalistic) Departmental settings in locations across New Zealand, it was anticipated that participants might provide regional perspectives which could contribute to process variations. Before describing the projects, the rationale for both interview format(s) and structure will now be briefly discussed.

Individual interviews

According to Madill and Gough (2008), individual interviews aim to "tap lived experience" (p. 256). Such personalisation affords a flexible format through which in-depth information may be derived. Close communication between interviewer and interviewee can alert the interviewer to subtle cues to control and deepen the conversation,

implicating the strength of rapport and astuteness of the interviewer. This format also allows for more time for the participant to impart information. Accordingly, individual interviews are a particularly useful format when the goal of the interviewer is to gain detail on a participant's experience (D. L. Morgan, 1997).

Focus groups

Focus groups offer a flexible, interactive format in which to access the substantive content of participant experiences, opinions and attitudes as expressed in a dynamic context (Berg, 2007). A cost-effective form of data collection, participant interactions can serve to enhance data quality. This format often facilitates deeper exploration of identified issues, or consideration of the heart of previously ascertained information (Levers, 2006). Focus groups afford the investigator ready assessment of whether views are consistent or diversified, giving insight into group norms, meanings and processes (Bloor, Frankland, Thomas, & Robson, 2001; Patton, 2002). It is beneficial toward the identification of major themes. Where stakeholders offer a varying range of experiences, when conducted by a skilled investigator(s), the format places each participant on an equal footing to encourage expression of minority views (Berg, 2007; Patton, 2002). While the inclusiveness of focus groups makes this an appropriate forum for evaluation research, the method may be detrimental if revisions are unlikely to be made despite study results (Edmunds, 1999).

The semi-structured interview

The semi-structured interview is a well-established, valid method for programme evaluation research (Patton, 2002). Within this structure, the interview is guided rather than determined by the question schedule. As there is less emphasis on the order of questions, the researcher is able to explore areas of interest (J. A. Smith & Osborn, 2008). The format is considered to marry interviewer control with 'normal' conversation (Madill & Gough, 2008). Strong rapport between interviewer and interviewee is essential, and to facilitate this, Smith and Osborn (2008) propose that the researcher should aim to enter the participant's experience. Although a risk for interviewer bias is acknowledged, sound rapport between researcher and participant may prompt greater depth of material as participants reveal 'true' experiences and attitudes (Bowling, 1997). The interviewer should therefore aim to be "empathically neutral", caring and interested in the participants and their experiences, yet neutral about the content revealed during interview (Patton, 2002, p. 569).

The two projects which comprise this study will now be outlined in detail. A description of participants will be included.

Project One: Individual interviews of long-serving YJ Co-ordinators

The first project comprised of semi-structured interviews of long-serving YJ Co-ordinators. As we were advised there would be few YJ Co-ordinators from 1989 remaining in the role, it was agreed with the senior Departmental manager that YJ Co-ordinators with twelve years' experience and over would meet inclusion criteria. Twenty-one YJ Co-ordinators nationally were invited to partake in the study, of which twenty consented. One participant's data was discounted, as it was revealed at the point of interviewing that length of service did not meet the criteria for the study, leaving a sample size of nineteen YJ Co-ordinators ($n=19$). This contrasted a participant group of eight C&P Co-ordinators in Connolly's (2006a) sample.

With questions derived from Dr Connolly's schedule, amended by myself and my primary supervisor in collaboration with a senior Departmental manager, a semi-structured interview schedule was devised for use in this project. Questions remained essentially similar to Dr Connolly's but were modified to accommodate the enforcement and community liaison components of the YJ FGC process. The questions, which can be found in Appendix B, covered topic areas relating to:

- Appointment to the YJC role, including training
- Experiences of early conferences compared to more recent experiences
- YJC perceptions of participants' involvement in, and engagement with, the FGC process over time, including community and external agency participation
- Perceptions of current role and practice
- Recommendations for the future of the YJ FGC process and conferencing practice.

Participants in both North and South Island locations were interviewed by me from January to May 2007.

- 74% of participants were male and 26% female
- Average length of service as a YJ Co-ordinator was 14.7 years
- Average age of participants was 51.3 years
- Interview length ranged from 80 minutes to 140 minutes (average 95 minutes).

Table 7 shows the ethnicity of the nineteen participants who were individually interviewed for this study.

Table 7.
Ethnicity of YJ Co-ordinators in Project One

| Ethnicity | % |
|-----------------------------|-----|
| Māori | 53 |
| Pakehā/New Zealand European | 20 |
| Pasifica | 16 |
| Other European | 11 |
| Total | 100 |

Project Two: Focus groups of YJ Co-ordinators

As recommended by Dr Connolly (2006b), a focus group format was deemed appropriate for this study to capture the views of YJ Co-ordinators with more recent and long-standing experience in FGC provision. While Connolly used a C&P-focused discussion topic to generate discussion in her focus groups of C&P Co-ordinators, in consultation with a new senior Departmental manager, it was decided that a semi-structured question format would be used. This was intended to concentrate more specifically on aspects of process. As the timing of the focus groups coincided with a major Departmental restructure, additional questions designed to gather perceptions of the proposed structural changes and their impact on the YJ FGC process were added by this manager. As advised by this manager, four focus group locations were also determined. These were drawn from a mix of urban and rural environments to consider the influence of regional practice variations. This again marked a deviation from Connolly's enterprise, as she had access to all C&P Co-ordinators by virtue of timing the study with a national conference.

The focus groups were conducted jointly by me and my primary supervisor throughout April and May 2007. They covered two North (urban) and two South Island (one regional and one urban centre), and yielded a total sample size of twenty-seven participants. A Senior YJ manager advised that total YJ Co-ordinator staff numbers at that time were estimated to be approximately $n=65$, 41% of YJ Co-ordinators participated in the focus groups. This compared to 63% of C&P Co-ordinators in Connolly's similar study (Connolly, 2006b).

The average length of interview at a focus group was 100 minutes, with the shortest 85 minutes and the longest 125 minutes. Table 8 shows the overall ethnicity of YJ Co-ordinators in the four focus groups. Table 9 shows the average length of service as a YJ Co-ordinator, and the gender and ethnicity of participants by focus group location.

Table 8.
Ethnicity of YJ Co-ordinators in Project Two

| Ethnicity | % |
|-----------------------------|-----|
| Māori | 22 |
| Pakehā/New Zealand European | 48 |
| Pasifica | 22 |
| Other European | 8 |
| Total | 100 |

Table 9.
Distribution of Project Two Participants by Average Length of Service, Gender and Ethnicity

| Location | Total Attendees | Average Length Service (years) | Gender | | Ethnicity | | | |
|--------------|-----------------|--------------------------------|--------|--------|-----------|---------------------------|----------|----------------|
| | | | Male | Female | Māori | Pakehā/ NZ European | Pasifica | Other European |
| 1 | 9 | 2.4 | 5 | 4 | 5 | 1 | 3 | 0 |
| 2 | 8 | 7.0 | 6 | 2 | 1 | 4 | 3 | 0 |
| 3 | 4 | 2.5 | 1 | 3 | 0 | 3 | 0 | 1 |
| 4 | 6 | 7.8 | 1 | 5 | 0 | 5 | 0 | 1 |
| Total | 27 | 4.9 | 13 | 14 | 6 | 13 | 6 | 2 |

Thematic analysis of data

Both projects facilitated rich, descriptive data, yielding over 500 pages of transcript in total. Data analysis was conducted in accordance with the method of thematic analysis recommended by Braun and Clarke (2006). Thematic analysis is considered appropriate for process evaluation studies that employ a qualitative methodology (Thomas, 2006).

The method of data analysis in this study marked another deviation from Connolly's studies. Dr Connolly employed a bespoke method of analysis drawn from grounded theory of Strauss and Corbin (1990). This involved developing detailed codes for each line, sentence and paragraph of the data towards generating lists of meaning, which were then synthesised (Connolly, 2003a). My primary supervisor advised using Braun and Clarke's more widely-known model for analysis in this study, which he advised would be

appropriate and valid. Furthermore, it would be effective for managing the voluminous data generated by the study, particularly in Project One ($n=19$), as the result of a larger sample size than in Connolly's equivalent study ($n=8$).

The model of thematic data analysis proposed by Braun and Clarke (2006) facilitates the identification, analysis and reporting of patterns or themes that emerge from the data. It involves the following phases:

1. Data familiarisation

This involves the researcher becoming familiar with the data through reading and re-reading interview transcripts. To achieve this, each individual and focus group interview was audiotaped and subsequently transcribed in full by myself. After transcribing each paragraph, I summarised the main features of the dialogue into a left-hand column. Material was cross-referenced with written notes taken at the time of interview. After finishing each transcript, the document, with my original interpretations of the data, was sent to the relevant participant. Such *stakeholder checking* (Thomas, 2006) at this early stage of the process aimed to ensure the overall accuracy of text, and to confirm that the initial interpretation of the data was consistent with that of the participants. This action aimed to ensure the fidelity of the process, and to secure the continuity of participant engagement in the research.

Notably in Project One (individual interviews), several informal telephone discussions between some participants and the researcher ensued as a result of producing the transcripts. After discussions, some minor modifications were made to transcripts as required, and returned for approval to the relevant participant. After an enquiry, one participant in Project One who was Māori was assured that his transcript could be checked by the Cultural Advisor if he chose. The participant did not exercise this right. No amendments were considered necessary in regard to focus group transcripts. After receiving feedback from each participant on their transcript, multiple readings of the text offered preliminary items (themes) of interest.

2. *Generating initial codes*

Each segment of text was then systematically and manually evaluated until an interpretation (broad theme) derived from the main points originating from a selection of text emerged. These were recorded (coded) in a separate electronic document for later cross-referencing. According to Morse (1994), the above two phases facilitate a researcher's maturing *comprehension* of the data. In the following two phases, the researcher begins merging the data in the process of *data synthesis*.

3. *Thematic searching*

The next phase of analysis involved synthesising the codes generated in the previous phase into potential themes. From the computerised document, each theme was designated a thematic label. As described by Braun and Clarke (2006), this label was written on a post-it note which could then be flexibly used to generate an initial thematic map. Thematic searching aimed to be broad and inclusive, accounting for significant themes while not discarding sub-themes. This level of analysis generated an initial list of three major themes that were consistent across Projects One and Two.

4. *Thematic review*

A deeper level of synthesis then began, whereby data was reviewed and refined at two levels. Firstly, all coded data extracts were reviewed, such that all the collated extracts for each theme were checked to ascertain a meaningfully coherent pattern. Again using post-it notes, this was depicted graphically on a more developed thematic map. Several iterations of this process ensued. Next, the entire data set was re-read to evaluate the validity of the candidate and sub-candidate themes against the raw material.

A check on the clarity of categories was undertaken to assess the trustworthiness and integrity of the coding (Thomas, 2006). Three YJ Co-ordinators from Project One carried out ongoing stakeholder checks to ensure the fidelity of analysis as it progressed. The faithfulness of analysis was overseen by my primary supervisor who also provided checks regarding analysis quality (triangulation). A degree of overlap between themes generated a discussion between my primary supervisor and I on the scope of each theme. This aided thematic clarity.

5. Definition and naming of themes

Each defined theme was described in the context of the research aims and questions. Names or titles were then ascribed to represent themes.

6. Reporting

The data was then essentially re-contextualised (Morse, 1994) as a report for the Department (Slater & Lambie, 2008). Consistent with a utilisation-focused approach, the presentation of data was influenced by the organisation's needs, with five themes identified in the report presented to the Department. This was largely influenced by the report's structure, which was designed to be accessible to a wide range of stakeholders.

For the separate purposes of this dissertation, the data is presented under three major themes and sub-themes. Findings relate to the research question(s) and literature.

Review of Study Aims

From the perspectives of YJ Co-ordinators, the purpose of this study was to better understand the YJ FGC process. Specifically, the study aimed to provide an overview of the development of YJ FGC practice and any changes that may have occurred over time. It also sought to examine practice differences in YJ FGC provision to illuminate process strengths and weaknesses. Comparing findings with the two studies of Connolly (2006a, 2006b) might highlight similarities and differences between YJ & C&P practice.

The Themes

In attempting to answer the above research questions, the results of the thematic analysis produced three major themes. The themes that emerged were consistent across both Projects One and Two, namely:

1. The Act as the Anchor
2. Working with the Act
3. 'The Office' – organisational factors

Each major theme produced a number of related sub-themes, enlightening and bringing coherence to the main theme. The three major themes that emerged from the data were consistent between Projects One and Two, despite different emphasises. These variations will be elaborated upon as the data is reported. To represent the prevalence of the themes,

the descriptors as recommended by Braun and Clarke (2006) of *all*, *many* or *several participants* have been used, although in some cases a numerical reference has been employed for particular accentuation. The data also uses quotes to illustrate salient features in relation to the research aims. In appreciation of the relatively small group of YJ Co-ordinators operating in Aotearoa/New Zealand, the quotes within the text are presented without specifying the speaker to protect confidentiality. The data was reported without identifiers so that quotations could not be linked to specific participants. The quotes nevertheless are drawn from a broad cross section of participants.

Each theme will now be described in detail in the next three chapters of this study, before findings will be synthesised and recommendations for the YJ FGC process outlined in the final chapter of this document. In the next chapter, the first theme, The Act as Anchor is described.

CHAPTER THREE: THE ACT AS ANCHOR

This theme concerned the importance of the Act as underpinning and guiding the YJ FGC process. As described by both original Co-ordinators (Project One) and colleagues with more recent experience in YJ FGC provision (Project Two), the emphasis was on *philosophical* over practice variables⁸. The experience of long-serving YJ Co-ordinators in Project One afforded a historical perspective to the development and introduction of the Act in 1989. The data is presented within the two main sub-themes identified: a) The Act is built on solid foundations, and b) Varying professional perspectives on the Act detract from a cohesive YJ FGC process. Each will be followed by a summary and discussion of the main findings, with reference to existing literature when relevant.

The Act is built on solid foundations

In this sub-theme, all YJ Co-ordinators in both Projects of the study generally lauded and supported the Act as innovative legislation, appropriately based on a Māori worldview, yet applicable to other cultures. Regardless of their own ethnicity, the concept of *family empowerment*, considered to underpin the Act's principles and widely understood to be the premise of the FGC process, was particularly aligned with their personal philosophies.

Pride in the Act

Recognised as the first to blend Western and indigenous Māori approaches, YJ Co-ordinators were universally and unreservedly enormously proud of the Act as an innovative legal concept. Three pioneering YJ Co-ordinators in Project One particularly described the honour and privilege of being actively involved in the preparation for the Act, either in working parties or in critiquing drafts of the legislation. With its emphasis on a family-led process, that the Act had subsequently inspired several imitations now operational in a number of Western youth justice legal systems was particularly gratifying. Co-ordinators considered this reflected positively on, and gave standing to, the New Zealand system in the international justice arena.

⁸ Aspects pertaining to the Act in practice are explored in the second theme: Working with the Act (pp. 91-128).

The Act is a wonderful piece of work...the best piece of legislation they have ever put out in New Zealand, I think... It acknowledges family-decision making and you would assume that a lot of social services in different countries would do that automatically. But they don't. And we do. And it is that simple, really.

The influence of Puao-te-Ata-Tu in inspiring the Act

Numerous Co-ordinators in both Projects, but particularly Project One, cited the document *Puao-te-Ata-Tu* to be the foundation for the Act, with one Co-ordinator describing it as the legislation's *parent*. Regardless of their own ethnic origin, these YJ Co-ordinators acknowledged this document as influential in shaping the legislation's objects and principles, particularly assisting understanding of the partnership between whānau hui (family meeting) and FGC. They therefore considered *Puao-te-Ata-Tu* as the foundation for the YJ FGC process, and believed it offered essential guidance in their work with young people, whānau and families. For three original YJ Co-ordinators in particular, the strength of the document was a major influence in inspiring them to become YJ Co-ordinators.

Puao-te-Ata-Tu goes hand-in-hand with the Act.

The job was based out of Puao-te-Ata-tu. It sort of fitted in with my understanding of what it should be about. And I decided that was something that could be used, looking at a holistic approach to whānau, hapū, iwi.

A professional commitment to the concept of family empowerment

A salient feature of this theme was the YJ Co-ordinators' commitment to the notion of *family empowerment*, considered embodied within the Act's principles (section 208). Whether operating within Departmental, primarily as social workers, or in other allied community-based roles such as residential or cultural officers, or Police, upon becoming YJ Co-ordinators, all nineteen participants in Project One variously described their hope for a more effective family-centred and less state-driven system than had been possible under the 1974 legislation. They believed the introduction of the Act necessitated a huge shift in ideology for both the Department and allied agencies. They recalled the premise of *family empowerment* under the new legislation functioned to lessen a tendency for state dependency in some families, resulting in increased self-reliance. Furthermore, and importantly, with *Family* becoming central to the new legislation, in uniting young people

with their families, two YJ Co-ordinators expressly stated that the Act served both as an inclusive and a protective mechanism. As afforded by the Act, that families could exercise their rights to become empowered through the YJ FGC process was the consensus view of Co-ordinators in both Projects of the study. They believed that the *majority* of families had embraced this possibility.

The new Act, it involved the parents and the family and got them more involved with their young people.

Under the new Act it was about saying to families, ‘Hey, we will support you but you guys really need to pick up and run with things yourselves’. And a lot of families have done that really well.

A personal belief in family empowerment

As described above, a fundamental belief in the Act’s concept of family empowerment was strongly conveyed by many Co-ordinators. Their faith in this premise attracted many, particularly longstanding YJ Co-ordinators to apply for the YJ FGC role. Noted in both Projects, but particularly expressed within the more detailed interviews in Project One, some YJ Co-ordinators described their personal beliefs regarding family empowerment, with three drawing parallels with processes in their own families of origin. This made a pleasing natural fit between the YJ FGC process and their personal beliefs, with an easy adjustment to the Co-ordinating role.

It fits with my belief. I come from a large family myself, and the first person you should come to about any of us is us, and we will actually make the decisions.

(Pakehā YJ Co-ordinator)

I found it easy because it was the way I was brought up, you know? To me it was natural.

(Māori YJ Co-ordinator)

YJ Co-ordinators are ‘guardians’ of the YJ FGC process

YJ Co-ordinators strongly believed a robust YJ FGC process was conducted in accordance with the Act and its principles. Just as the FGC process sought to hold young people accountable for their actions, the Co-ordinators strongly believed the same should be

expected of all representatives engaged in the YJ system. Situated in a pivotal position between the community and professionals, YJ Co-ordinators appreciated the neutrality or independence of their co-ordinating role in affording them a valuable overview of the conferencing process. In *overseeing the process*, the YJ Co-ordinators therefore considered it part of their statutory responsibility to ensure professional decision-making in relation to the FGC process was guided by the values and principles of the Act. They described employing their *legislative expertise* in the Act, and other relevant legislation such as the Crimes Act, to maintain the integrity of the Act and YJ FGC process.

There should always be challenging in our business. We are not Police. We are not lawyers. We are not social workers. We are facilitators and conveners, and the link between all. And that is a really, really important place to be.

Summary:

The findings confirmed the early impressions of Renouf and colleagues, who noted a strong Co-ordinator commitment to the Act and the YJ FGC process (Renouf et al., 1990). The study also found that the enthusiasm of original YJ Co-ordinators had not waned over time. Indeed, long-serving practitioners believed their faith in the Act had been fortified by their experiences of what they considered to be effective, culturally-appropriate process producing positive outcomes. The YJ Co-ordinators were unanimously proud of the Act as a unique concept as the first known to blend Māori and Western approaches to justice, and its subsequent international adoption.

The Co-ordinators in this study particularly emphasised the premise of *family empowerment*, and its potential to inspire and unite families, as being aligned with both their professional position and personal worldviews. Similar to a finding described by Renouf and colleagues (1990), they situated themselves as positioned in a pivotal, independent/neutral central role although, in this study, they explained this as concerned with maintaining process integrity. Co-ordinators in Project One particularly described themselves in terms indicating a high degree of process ownership, for example, *guardians of the Act*, and *overseers of the process*.

Varying professional perspectives on the Act detracts from a cohesive YJ FGC process

For a truly effective YJ FGC process, the YJ Co-ordinators in this study were unanimous and resolute in their belief that all professional parties needed to be '*singing from the same song-sheet*' in relation to the Act. However, all YJ Co-ordinators firmly believed the Act had recently '*lost its way*', with a concomitant effect on the FGC process, as described in this section.

Variable professional enthusiasm for the Act at its origin

The original YJ Co-ordinators considered the change from a *welfare* approach to one of *family empowerment* forced an enormous conceptual as well as practical shift for both the Department and the wider justice system, such as Police, Courts and advocates. Four Co-ordinators in Project One particularly recalled the Department's *strong political will* to support the Act at its inception, acknowledging it to be *the driver of the legislation*. In contrast, at least six participants in the same project believed the Police were significantly less enthusiastic of the legislative change. Regardless of its enthusiasm, a number of original YJ Co-ordinators believed the Department had nevertheless been *caught short* in adjusting to the requisite, complex legislative change in comparison to other professional parties. This was mostly expressed in reference to Departmental training for the Act, while thorough in main centres, was recalled as markedly absent in some regional areas. In sharp contrast, several Co-ordinators, including two working as law enforcement officers circa 1989, recalled that despite their reluctance to adopt the new Act, the Police had been especially proactive in evaluating the legislation. An established YJ division and expertise in legislation per se were factors perceived to afford the Police an early advantage in how the Act was applied in the YJ FGC process. While this may have not been their current experience in their own area, the majority of YJ Co-ordinators believed a negative Police approach to the Act has endured, particularly in certain geographical regions.

Despite the Police being vociferous opponents of the law as a bill, when it became law they were up and running with their training programme. And it was ironic that it was our piece of law, our legislation, this Department's legislation, and we piggy-backed on the Police.

Right from the start of the Act, the Police started to take control of it...Our opinions in the early days didn't count for much. The Police, in my view, have promoted, have been able to promote, where they stand on a legal basis. We just had to learn on the hoof.

Varying interpretations of the Act by other professionals contributes to FGC process inconsistency

As described above, the early YJ Co-ordinators universally believed the Police were generally reluctant to embrace the legislation. A subset of YJ Co-ordinators considered themselves and their local Police/Youth Aid to be relatively aligned in relation to its principles, and had developed a solid professional working relationship. In contrast, several others described a recent palpable loss of faith in the Act from their local Police with a *top-down* senior Police directive endorsing a restoration of a *net-widening* approach for young people's offending that existed pre-1989. This directive, embraced by both Youth Aid and frontline Police, was believed to influence a lower threshold for arrests and fewer diversionary practices, effectively reinstating the situation as existed under the 1974 legislation. There were also concerns of inconsistent approaches to the legislation by some members of the judiciary and certain other professionals involved in the YJ FGC process. While the majority of YJ Co-ordinators spoke of *wonderful* Judges, a subset of the judiciary were perceived to make liberal, even personal interpretations of the legislation in their rulings. With particular Judges, some Co-ordinators questioned the buy-in, and even knowledge of the Act. Interpretative differences in the legislation were also noted between Co-ordinators and advocates, and in some cases, the Department's own Court Officers responsible for Department-Court liaison. A small subset of YJ Co-ordinators believed that at times they, as a group, had been pawns in politically-motivated Department-professional clashes over interpretations of the Act. The outcome was typically a lack of attention to a young person's accountability for their offending behaviour, described as a significant source of Co-ordinator frustration.

I talk to our Court people. Even they get it wrong too. And of course, even the Court itself. I mean, our youth advocates. They should know the legislation as well...I guess we have got to know all these things because we get pounded by the Court. For this and everything else.

The judges here are pretty good. Although they are, again, not trusting of the parents.

The tension in balancing ‘lore’ and ‘law’

In explaining the current lack of a cohesive professional approach to the Act, some YJ Co-ordinators perceived the core of the issue to be the tension in finding a balance *lore and law*. These Co-ordinators spoke of the challenge for professionals in attempting to balance public accountability (*law*) with the legislation’s intention of promoting family-led processes (*lore*). They appreciated the philosophical issues this presented, but also described an associated impact on the process. By way of illustration, five Co-ordinators discussed the issue of *law-lore* with direct reference to a current FGC practice issue; the recent initiative of health and education assessments for recidivist young offenders. In general, the vast majority of YJ Co-ordinators approved of this scheme in the belief that assessment information helped toward understanding factors that might contribute to an entrenched offending pattern. In contrast, citing the *lore-law* issue, a passionate sub-group of three Co-ordinators who were Māori vehemently disagreed with the emphasis of the assessments which they considered to focus on the *young person as the ‘problem’*. They felt this was stigmatising, and ignored the wider systemic issues understood to be regularly associated with the profile of youth recidivists. Furthermore, the intensified professional input through the provision of assessments was believed to detract from the Act’s *spirit* of promoting family empowerment, signalling a return to the professional dominance that existed under the 1974 legislation. Alternatively, the other YJ Co-ordinators who highlighted this issue questioned whether families of recidivist young offenders, for various reasons, were equipped or motivated to fully embrace their power under the Act. These Co-ordinators offered this as one explanation that the current FGC process appeared to be failing recidivist offenders (considered further on p. 122). Regardless of their viewpoint, the issue of assessments was indicative to many YJ Co-ordinators of their perceptions of a recent loss of focus on the Act and its intentions. The majority of YJ Co-

ordinators generally considered it was appropriate to refocus on the Act, at a broader level of debate.

If you go into an FGC with a young person, you should know what you are looking at. So that sort of information is great. The more information you can have at a conference, the better the decisions...They give you options, they give the family options.

We get a whole lot of professionals involved in working with Johnnie, not Johnnie and his family...And that's not about family empowerment.

A 'back-to-basics' approach to the Act is required

The finding that other professional groups engaged in the FGC process had gradually lost sight of the principles of the Act (section 208) was a salient feature of this study. Vastly differing professional interpretations of the legislation were acknowledged to be a major factor contributing to an inconsistent FGC process, appreciated to be a significant issue. Despite almost two decades of operation, the YJ Co-ordinators lamented the absence of official opportunities for professional parties to collectively debate the legislation and the YJ FGC process in Aotearoa/New Zealand. In many areas, professional colleagues informally reviewed proceedings at a local level, which appeared to contribute to a more aligned professional approach to the FGC and inspire a more collegial professional relationship. However, many YJ Co-ordinators strongly advocated for a wide-scale review at a broader level than provided by the current revision of the legislation, which was considered opportune as the twentieth year of the Act and the FGC operation approached. The YJ Co-ordinators also felt such a review would benefit from capturing their experiences in conducting YJ FGCs, which they believed had not been fully solicited, to the detriment of the process. Congruent with the *back-to-basics* approach they advocated, numerous Co-ordinators in both projects stated their view that *Puao-te-Ata-Tu*, the foundation document that originally guided and for many, *underpinned* the Act, to be the most appropriate starting point for future debate. What was abundantly clear was a call for improved dialogue in relation to the Act and the YJ FGC process, considered by many to be long overdue.

What needs to be reviewed is Puao-te-Ata-tu. And is that korero still relevant? And do that review first before we try and review the baby, let's review the parent.

Refocus. That is what I have always said we have to do. Refocus.

We have changed. But the Act is still the same.

Summary:

The conferencing literature suggests that professional perceptions of the FGC has a significant bearing on the process, influencing values and decision-making (Nixon, 2000). The YJ Co-ordinators in this study considered a robust YJ FGC process as conducted in accordance with the Act's principles. With particular reference to the legislation's emphasis on *family empowerment*, the differing belief systems of interagency staff involved in the FGC process were perceived to influence regional variations in approaches to the legislation reported by Co-ordinators in this study. The long-serving Co-ordinators in Project One particularly expressed concerns over the general *loss of faith* by the Police in the legislation over time, also now perceived in some members of the judiciary. These findings are broadly consistent with some of the earliest research, noting interpretative professional, particularly Police-Co-ordinator differences of the legislation that contributed to variants in approach to, and effecting the delivery of, the YJ FGC (Maxwell & Morris, 1993; Renouf et al., 1990). From the perspectives of Co-ordinators in this study, the situation with the Police appears to have significantly deteriorated over time, with the non-aligned professional approaches to the legislation now perceived to be evident in other justice agents.

Reflected in its objects and principles, the Act is acknowledged as unique legislation. As first described around the time of the introduction of the Act (Renouf et al., 1990) and consistent with recent views from C&P Co-ordinators (Connolly, 2006a), the inherent tension for professionals in balancing the Act's dual partnership of *law* with aspects of *lore* appears to constitute an ongoing challenge for YJ Co-ordinators. Using the issue of assessments for recidivist young offenders, the practitioners in this study highlighted how this philosophical debate impacted their practice. The dialogue raised some interesting intra-Co-ordinator differences as to whether this requirement was in accord with or against the spirit of the Act, with the latter view particularly supported by three Co-ordinators who were Māori.

While no firm conclusions can be drawn, this issue served to emphasise the absence of regular formal opportunities for YJ Co-ordinators and other related professionals to debate

and derive more common perspectives on the legislation and other issues related to the YJ FGC process. This study's findings echoed those of Renouf and colleagues' (1990) conducted in the early days of the legislation, with current Co-ordinators confirming the recommendation that more regular meetings to discuss issues and tensions in practice would benefit the Co-ordinators' development and cohesion as a professional group.

Similar to their C&P Co-ordinator colleagues (Connolly, 2006a), notwithstanding the legislative review which was underway at the time of this study, the YJ Co-ordinators believed it was timely to bring professionals together to debate the Act at a broad, more conceptual level. It was hoped that the outcome of such stakeholder discussions might benefit the YJ FGC by facilitating a more consistent professional approach to the process. To this end, the participants in this study believed the most appropriate starting point to be *Puao-te-Ata-tu*, the document for which numerous Co-ordinators in both Projects One and Two regarded as being the foundation for the Act and the YJ FGC process.

In this theme, *The Act as anchor*, the YJ Co-ordinators described their perceptions of the Act as providing a guiding framework for their practice. In the second theme, *Working with the Act*, they explain their perceptions of the Act as it is practiced through the YJ FGC process.

CHAPTER FOUR: WORKING WITH THE ACT

This second theme concerned YJ Co-ordinators' experiences of the Act as it is enacted through the YJ FGC process. This theme illuminated important variables pertaining to practice and the role of Co-ordinators. The theme was able to be compartmented into factors that were believed to promote i) effective practice in YJ FGC service provision, and current issues that were understood to be ii) barriers to effective practice. Under these topics, a number of sub-themes emerged. These are now described in detail in the following two sections.

Factors promoting effective practice in YJ FGC service provision

YJ Co-ordinators described process variables they considered to contribute to best practice in YJ FGC service provision. This section provides insights into the *strengths* of the YJ FGC process, and how these are practically achieved through best practice. Six main topics were identified relating to: a) functional relationships with Police, b) quality preparation, c) tailoring the process to the young person, d) linking the young person with their local community, e) victim input into the process, and f) Co-ordinator qualities. After each sub-theme, the main findings will be summarised and discussed.

a) Functional working relationships with Police

Consistent with the literature (Levine & Wyn, 1991; Maxwell et al., 2004; Renouf et al., 1990) collaborative professional partnerships were considered by Co-ordinators to be integral to an effective YJ FGC process. The *quality of interaction* between Co-ordinators and Police, particularly their local Police Youth Aid Officer(s), for a successful process was particularly emphasised in this study. The responses highlighted some regional variations.

Positive attitudes of frontline Police toward the Act and the YJ FGC process

YJ Co-ordinators felt strongly that *frontline Police* should have a thorough grounding in the Act and its applicability to the YJ FGC process. They believed an informed approach by frontline officers resulted in only the *most apt* cases being referred to Youth Aid for a FGC. Not only was a diversionary-orientation considered in accordance with the Act, it also safeguarded against the overuse/misuse of the FGC process. Furthermore, when new participants were suitably informed of the FGC process by frontline Police, it was believed

this action served to facilitate their engagement when Co-ordinators made contact as their own role in the process began. The quality of information provided by the Police to potential FGC participants could serve to offset the initial resistance the Co-ordinators sometimes encountered upon making first contact with young people, families and, particularly, victims. For Co-ordinators, the advantages of positive frontline Police actions manifest in a lower FGC volumes, and an improved potential to engage participants in the process.

If you get a frontline Police officer who is switched on, and you have got a good Youth Aid Officer, which I am lucky to have, then the whole system just runs smoothly. Everyone is engaged. And they are engaged before they walk through that door. They know why they're here.

The Co-ordinators come into play well down the track in terms of victims. So, in actual fact, how well that victim has been treated and appreciated and given information about FGCs is often set in concrete before we even say hello.

Robust consultation with Police Youth Aid

Other than for Youth Court-directed FGCs as a result of offending of a higher level of seriousness, the Co-ordinators' participation in the formal process typically began with their consultation with local Police Youth Aid over cases proposed for YJ FGCs (intention-to-charge). The YJ Co-ordinators universally agreed that the robustness of this consultation was crucial toward *gatekeeping*, ensuring young people did not unnecessarily come into contact with the YJ system. Under the Act, Co-ordinators could not refuse an FGC referral from Police Youth Aid. However, negotiating to ensure *alternatives to prosecution* had been duly considered prior to a conference being ordered was deemed within the jurisdiction of a YJ Co-ordinator's legitimate power. This included encouraging the use of diversion, as provided for under the Act, should Co-ordinators consider it warranted. The Co-ordinators' experiences of working at the coalface of the YJ system reinforced their belief that keeping young people from unnecessarily coming into contact with the stigmatising justice system was beneficial in reducing the risk of future recidivism. To ensure this phase of the process was conducted in accordance with the Act's intentions, the YJ Co-ordinators described drawing on their extensive knowledge of the Act and other pertinent legislation pertaining to young people, such as the Crimes Act.

One of the main aims of the Act is to keep young people out of the Court process. The reason for that is that we know that actually putting them into a Court process is not that conducive to them not re-offending.

I have been particularly lucky in this area. The Youth Aid Officers have been brilliant. I have found they are quite happy to negotiate if I say, ‘Don’t you think you could give a warning here rather than going to conference?’

Opportunities to debate foster a collaborative approach to the YJ FGC

In emphasising positive Co-ordinator-Police interactions, formal and/or informal opportunities for these two professional groups to debate issues related to the Act and the YJ FGC process were widely promoted as serving best practice. Several Co-ordinators from Project One recalled deriving considerable benefit from their prior participation in early formalised training for Police and Co-ordinators, now discontinued. While some YJ Co-ordinators described few opportunities to liaise with Police, those who described meeting on some level with local Police cited significant benefits. The *regularity of (such) meetings* was believed to enhance communication, as well as facilitating a more collegial aspect to professional relationships. While acknowledging sometimes differing service priorities, in clarifying practice tensions and resolving points of difference, interactions between these key stakeholder groups were perceived to bring about a level of *congruence to the YJ FGC process*. The interchanges also enabled each party to gain understanding of the individual roles and responsibilities of the other in the YJ FGC process, facilitating a more informed, respectful practice, to the benefit of its participants and in superior outcomes. For their part, Co-ordinators generally appreciated they could inspire a strong level of trust and confidence in the process in Police Youth Aid colleagues by working to a high level of professionalism. Central to this was the quality of the Co-ordinator’s own process, characterised by an open and transparent approach to their work.

We have a degree of pride, in fact, that we have been able to maintain positive relationships, largely, through the years... Some (disagreements) are accepted as a part of having different roles in the place, and move on. But we also have some constructive discussions about areas where Police principles and our service principles might lead in different directions, or create different tensions.

It's crucial for the Co-ordinator to have the trust of the Police. The Police have got to be able to trust you implicitly. If they don't trust you then they are doubtful of your ability. And when they have doubt, you know, they lack the confidence, they lack the trust. And that becomes problematic. So I run an open ship. Everything is transparent. It's there on the table, it's there in the plan.

Summary:

Consistent with other research (Maxwell et al., 2004; Maxwell & Morris, 1993), these findings also highlight the interdependence of the relationship between YJ Co-ordinator and Police, two key stakeholders in the YJ FGC process. It was clear that understanding each other's role and responsibilities was believed to encourage a more respectful, trusting reciprocal professional relationship, in addition to more aligned perspectives on, and approaches to, the Act. This has an associated impact on the FGC process, for example, on the use of diversionary practices with young people.

In areas where these positive interactions take place, a more cohesive YJ process is depicted than in other regions. This is achieved by parties having access to regular opportunities to clarify points of practice differences at a broader level of debate. While this is often done informally, as previously experienced by some long-serving Co-ordinators in Project One, more formalised area-wide meetings may improve Police-YJ Co-ordinator relationships in regions where less positive Police-Co-ordinator relationships are currently described. Where this occurs, a degree of Co-ordinator satisfaction is noted, illustrated through comments such as, *I have been particularly lucky in this area. The Youth Aid Officers have been brilliant.*

b) Quality preparation

The YJ Co-ordinators in this study described four fundamental work phases: prior consultation with Youth Aid (discussed above), their preparation of young people, families and victims, the conference meeting and follow-up. While considering each to be of equal importance, the Co-ordinators were unanimous in underscoring the preparatory aspect of their work as a significant, often under-appreciated variable that was vital to the success of subsequent FGC phases. The *quality* of a Co-ordinator's preparation was widely believed to increase both the likelihood of an effective, satisfying process and positive outcomes for all participants. Responses highlighted some practice differentials.

Conducted in person

In the words of one YJ Co-ordinator, the preparation phase essentially concerned *establishing the rules of engagement* for the FGC process. Within their preparation, Co-ordinators generally aimed to engender faith in the process by inspiring a *collaborative approach* between themselves and FGC participants. A solid rapport between Co-ordinator and participants was widely understood to be a key component for a successful YJ FGC experience for all parties. In accordance with *Māori tikanga* (protocol), contact was ideally and most appropriately achieved through *face-to-face* (*kanohi ki te kanohi*) meetings with *all* eligible participants. Co-ordinators elaborate upon the importance of this form of interaction in the following sections.

Preparation is the name of the game. If you don't get your preparation right, you have lost it before you start.

I personally feel that both the victims and the family can relate to you as a Co-ordinator better if you have had a previous face-to-face meeting with them. You develop a rapport in that contact.

The exchange of information offers insights into a family's resource-base

In practical terms, in orientating participants to the process, YJ Co-ordinators described they confirmed the nature of the offence, clarified procedure, and provided information on roles and responsibilities of parties in the FGC as specified under the Act. In addition to conference-specific material, Co-ordinators often provided allied knowledge for the benefit of participants, drawing on their *comprehensive overview* of information. This included advising on other pertinent legislation, such as the Crimes Act, and *entitlements*, such as benefits and work and income-related information.

While some Co-ordinators focused on the delivery of their knowledge in describing their preparation, others emphasised this phase was about *reciprocity of information*. Particularly in preparing families and young people, these Co-ordinators aimed to identify information related to a family's level of *practical and personal resources* that might enhance or detract from a successful conferencing process. For instance, they sought knowledge regarding the family's ability to access resources, the strength (or otherwise) of existing community connections, and their means or ideas for potential plan options. *Tuning into a family's belief system*, such as their view of Police, also informed Co-

ordinators of a family's level of perceived empowerment within the process. Co-ordinators described determining information through employing skills in in-depth interviewing techniques, plus listening and observational techniques. Their experiences had led these Co-ordinators to conclude that it was the *exchange* of information that added a richness and depth to their preparation.

With good consultation, most people know what the process is about, you know what your roles are, and then most people will approach things in good faith. That has been my experience, pretty much independent of ethnicity.

(Preparation is about) information sharing. All the things you have got to know because your conference can turn to custard if you didn't know.

Personal and family relationships are important considerations during FGC preparation

In addition to the family resource-orientated information described above, YJ Co-ordinators also considered family and personal relational factors witnessed during their preparation as informing the process. Pertinent relational factors included the *identification of people the young person respected* (or disrespected), *which family members were active* (or passive) in decision-making, and those who were otherwise *supportive* of the young person. This was enacted in the knowledge that *strong family support* was a critical variable for a successful conference experience and positive outcomes.

Specifically mentioned by a number of YJ Co-ordinators, the *attitude* of the young person was also important to ascertain. A *positive attitude*, signalled by the young person's willingness to accept responsibility for their actions as reflected by their full engagement in the process, was considered highly correlated with the likelihood of a successful FGC experience and outcome. The converse was also understood to be true. A young person's attitude was often conveyed through body language, such as their ability or inability to meet the YJ Co-ordinator's eye gaze. Encountering a poor attitude prompted Co-ordinators to undertake a more extensive search for supporters. It also assisted their preparation of victims to reduce the risk of them being *re-victimised through the process* (discussed further on p.111).

To ascertain relational information, the vast majority of YJ Co-ordinators preferred conducting *home visits* to observe the young person in their natural (ecological) setting.

Only two Co-ordinators did not advocate for home visits, with one stating a clear preference for meeting on Departmental premises to put the young person *out of their comfort zone*. Regardless of location, determining relational information within the preparatory stage of the process was described by many YJ Co-ordinators as a key aspect toward best practice in YJ FGC provision.

I remember sitting down with a family and the kid was playing up on his parents. He just wouldn't listen. I said to the family, 'What are you going to do about that?'

And we got the kid to stay with the uncle for a while. And the kid ran well.

I can tell those ones that I am probably going to get back. Those ones that won't look you in the eye, they grunt, they are very disinterested in the FGC, don't really give two hoots, their eyes keep rolling all over the place...they have no remorse for what they have done.

Identifying key supports for young people

As mentioned above, with the availability of *family support* for the young person a critical factor toward the likelihood of a successful FGC experience, the identification of available family supporters was another of the Co-ordinators' essential preparatory tasks. Although not advocated by all Co-ordinators, conducting an extensive search for available support for the young person was widely considered best practice. Co-ordinators typically described sourcing such persons within the family/extended family. A recent trend for some young people to nominate external persons such as a tutor or community leader as '*family*' or as their primary supporters was now inspiring some Co-ordinators to broaden their search criteria for potential conference attendees.

One point of difference in Co-ordinator responses concerned sourcing the optimal number of family toward attending the FGC. Some practitioners favoured securing the attendance of numerous family members, affording enhanced creative input into plans and shared responsibility for plan monitoring. Within one focus group, from a Māori and Pasifika cultural perspective, one Co-ordinator explained that the physical presence of extended family also offered *tautoko* (in Māori) or (in Samoan) *tapua'i*, a form of spiritual support, inspiring an *awakening* in some young people. Offering an alternative position, their experiences meant other Co-ordinators favoured securing the commitment of even one *involved* and *proactive* family person over more numerous, inert family participation.

Regardless of viewpoint, the consensus of the Co-ordinators in this study was to identify a *key* person during their conference preparation, one whom would provide *ongoing practical and emotional support* for the young person, not only through the YJ FGC process but into the future. Accordingly, determining *key, quality* supporters for the young person was deemed an aspect of best practice by YJ Co-ordinators within the preparatory phase of their work, particularly in its potential for limiting the risk for recidivism.

To get a good outcome, you have to actually meet everybody who's entitled to attend those meetings. And if you do that, they're prepared by the time they get to the conference.

People say that to have a good conference you have to have a lot people. Not necessarily the case. You can have a lot of people there, but no one is there to take responsibility, they are just there for a sideshow. You have got to have the key people.

(With more numerous family attendees) It shows the young person that his/her family are prepared to give of their time to help him, and not just to his nucleus family. It is a collective responsibility. That all these people from the family are coming now because it is a serious matter that needs to be remedied. And they are there to play their part in whichever role.

Good preparation should not pre-empt the conferencing phase of the process

While YJ Co-ordinators considered it essential for young people and families to be suitably prepared for the FGC, they stressed it was important not to attempt to pre-empt the proceedings of the conference meeting itself. Co-ordinators strongly believed that respecting the rights of *all* participants, especially victims, to fully contribute honoured the process and ensured its completeness. YJ Co-ordinators nevertheless concurred that a young person coming suitably prepared for the conference could indicate to other participants their commitment to the process. They cited examples of a young person having *a prepared apology*, money for *reparation*, and some *options for plans* as appropriate. Co-ordinators also felt solid preparation could serve to *counter the initial resistance* of (some) Police and victims that young people often encountered, particularly in highly emotive conferences. Furthermore, several YJ Co-ordinators appreciated that a suitably prepared young person and family contributing fully to the process often *reduced*

unnecessary professional input into a forum that they strongly believed should be family-driven.

That is what I say to my kids. ‘You come prepared, it looks good. You come with nothing, expect the worst’.

Summary:

Preparation has been widely identified as a key aspect of the YJ FGC process in both the local and international literature (Campbell et al., 2005; Maxwell et al., 2004; Renouf et al., 1990; Stewart, 1996). These findings provided confirmatory evidence of the potential of this vital phase for increasing the potential for an effective YJ FGC experience and positive outcomes for participants. While there was general agreement this process stage was essential, Co-ordinators acknowledged there were practitioner differences in the level of preparation undertaken, supported by Co-ordinator differences in responses in explaining their practice in this phase. For the Co-ordinators who particularly emphasised the necessity of solid preparation, the attention given to this phase of their work was deemed to positively benefit their workload by virtue of significantly reducing the likelihood of re-offending. To this end, *getting it right*, particularly for the young person’s first FGC experience was essential.

In *establishing the rules of engagement*, the Co-ordinators who staunchly emphasised this phase illuminated several factors considered best practice, promoting the likelihood of successful outcomes. Reflecting earlier literature (Maxwell et al., 2004), *face-to-face* (*kanohi ki te kanohi*) meetings were the ideal, serving to facilitate a strong rapport, as well as respectful practice in accordance with *Māori tikanga*.

The *reciprocity of information* during preparation was a key finding in this study. Co-ordinators drew on an extensive knowledge base to inform participants of their rights and obligations within the process, as well as broader entitlements. However, information *from* participants, particularly the young person and their family, was also sought, which included:

- *The family’s belief system regarding authority* – suggesting a family’s level of empowerment to drive decisions within the family-led FGC process

- *The family's availability and access to resources* – toward the development of ideas for appropriate plans for the young person
- *The identification of key family members* – those whom the young person respected, were proactive in decision-making, and might provide practical and emotional support of the young person throughout the entire FGC process and into the future
- *The attitude of the young person* – signalling their level of engagement, with this knowledge serving to prevent a victim from being *re-victimised* through the process

The identification of *one key person*, ideally from the family group, to take responsibility for supporting the young person throughout and beyond their FGC experience was an important finding in this study. Sourcing this person was a critical preparatory task for YJ Co-ordinators.

While a suitably prepared young person indicated to other participants their accountability in the process, the YJ Co-ordinators in this study strongly advocated to protect the rights of other participants to have due input as a major aspect of an effective FGC process. This finding underscored the YJ Co-ordinators' acknowledgement of the vital importance of victim participation within an essentially collaborative process.

c) Tailoring the process to each young person

The YJ Co-ordinators were unanimous and firm in their belief that the YJ FGC process was effective for the *majority* of young people they encountered through their work. The FGC was acknowledged as an adaptable process, in accommodating a diverse mix of ages and cultures, and a suitable forum for a range of offending behaviours. As provided under section 256 of the Act, the YJ Co-ordinators described exploiting the flexibility of the format to manage individual cases, with the *bespoke* application of the process considered best practice.

A knowledge-based, positive approach to the young people

In general, their passion for, and a positive approach to, young people was directly described or indirectly conveyed by all YJ Co-ordinators in this study. The *love of working with young people* and families was described as the motivating factor for many YJ Co-ordinators to adopt their role, and remained the key variable in retaining their services. Beyond the FGC itself, YJ Co-ordinators understood working with children and

young people to be a distinct area of specialisation. Gained from previous roles and/or their experiences of conducting FGCs, Co-ordinators drew on knowledge pertaining to the developmental stages of young people and family-related issues to inform their current work. Conveyed predominantly in Project One, long-serving Co-ordinators described utilising broader specialisms to assist the YJ FGC process, for example, in the areas of domestic violence, child and/or sexual offending. Several others acknowledged a Social Work and/or C&P background as informing a wider perspective. Regardless of origin, to these Co-ordinators, their knowledge of young people and the issues they faced afforded them an extra depth of understanding, with a perceived advantage in their practice of working with young people and their families within the process. A considered approach was also deemed respectful practice, honouring both the YJ FGC process and the young person.

Working with adolescents is actually a specialised area. And the first thing that you have to do is actually love them dearly.

I try not to focus on the negative for the young person, I try to uplift them. I try to let them leave the FGC with their dignity intact. With everyone's dignity intact.

Giving consideration to the context of offending behaviour

Reflecting a belief that offending behaviour could not be considered in isolation, a number of YJ Co-ordinators passionately believed that *broader contextual factors* surrounding the young person's offending were important to take into account as part of the process. These YJ Co-ordinators acknowledged that, for the vast majority of young people they encountered, an FGC was often the result of adolescent risk-taking behaviour or from a young person making poor choices. Typically one-off events, cases of this kind accounted for anywhere between sixty to ninety percent of the workload reported by Co-ordinators. Nevertheless, when managing such cases, the YJ Co-ordinators believed that it was important to investigate the wider, contextual issues that pertain to young people. For example, drug and alcohol use, the influence of a negative peer group and low involvement in sports and cultural activities, were oft-cited factors indicative of recidivism risk.

Ensuring these variables were adequately explored was considered part of best practice by some Co-ordinators, although it was acknowledged that such inquiry was not routinely exercised by all practitioners. One YJ Co-ordinator described this as the difference

between *a number one and a number two Co-ordinator*, with the former routinely undertaking a detailed investigation beyond addressing offending behaviour within their practice.

As they did with young people attending the FGC for the first-time, the YJ Co-ordinators who promoted this method took the same approach with young people with multiple presentations at an FGC. However, the significant familial and personal issues in the profile of many of these young people often necessitated a broader level of inquiry. This added a layer of complexity to their practice, with a further challenge of conducting this important investigative work within the Act's timeframes.

I have always believed that if you don't (look into the underpinning issues), the young person will be back on your doorstep pretty fast. And there are exceptions to that rule. There are a lot of young people who don't carry a lot of the underpinning issues. They have simply taken a risk and made a lousy choice, and you don't have to go too deep into the stuff because it is not there. So it is all contextual.

You develop skill sets around that age group. Around parents, around abuse, around neglect. And so when you are confronted with a 14 to 17 year old who has got behavioural stuff going on, often has mental health issues, ADHD, you name it, and on top of that is a normal adolescent with everything that goes with that, the risk taking, that drug-taking, you know, everything, that is huge.

Keeping the focus on YJ while balancing C&P issues

In their work with recidivist young offenders, the YJ Co-ordinators particularly noted a strong association with factors that were described as C&P in origin. Inter-familial problems were recognised in the profile of such young people presenting for multiple FGC, and often seen in combination with adverse adolescent behaviours, including truancy, alcohol and drug abuse, and violence. While acknowledging the influence of C&P factors at the FGC, Co-ordinators appreciated that their task as YJ practitioners was to *focus* on offending behaviour and its consequences. YJ Co-ordinators believed over-emphasising C&P concerns during the FGC process often *confused the young person*, potentially even offering reasons that might be interpreted as excusing offending behaviour. Moreover, the same effect was sometimes observed in *altruistic* victims during the conference meeting, in

response to hearing stories perceived to indicate familial and personal disadvantage. Finding a suitable balance of managing, yet not prioritising, C&P over YJ-related matters was appreciated to require a high level of Co-ordinator skill toward holding the young person accountable for their offending behaviour.

The most important piece of work in a YJ conference is getting the message across to the young person about the consequences of their offending. And the damage it does to others.

Ensuring a conference experience is meaningful

While all FGC participants were considered equally important, toward holding the young person accountable for their actions, several YJ Co-ordinators framed the conference as essentially *the young person's conference*. As mentioned previously, often signalled by their attitude, the young person's engagement in the process was recognised to be a key ingredient facilitating the likelihood of a successful FGC experience and outcomes. Securing the engagement of the young person in the process was, accordingly, a key Co-ordinator task. To limit the risk of recidivism, many YJ Co-ordinators in this study particularly emphasised that a young person's first conferencing experience in particular should be a powerful, meaningful event. The Co-ordinators believed a shift in a young person's disengaged to a committed attitude was often facilitated when some aspect of the process *became meaningful* or made sense to the young person.

To achieve a meaningful conferencing experience, the YJ Co-ordinators described various, often *creative approaches* employed within their practice. For example, while maintaining a professional yet neutral stance, Co-ordinators encouraged the young people to *take ownership of the process*. In general, this was achieved in interactions, for example, *by talking to the young person on their level*. One YJ Co-ordinator who was Māori described watching gang-orientated DVDs together with some young people of his culture, then asking them to contrast their own experiences and brainstorm more pro-social alternatives. Another means of *meaning-making* was by Co-ordinators continually highlighting the link between offending behaviour and the negative consequences for victims. Co-ordinators from non-Pakehā cultures particularly described impressing upon the young person the impact of offending behaviour on the young person's family in their practice. More generally, the longer-term consequences of offending were also brought to a young

person's awareness by Co-ordinators, in appreciation that *criminal convictions can destroy the hopes and dreams of young people*.

Although both Māori and Pakehā Co-ordinators emphasised the importance of *meaning-making*, it seemed variously achieved. Māori Co-ordinators in particular described adopting highly active tactics, with one explaining this as appropriate, inherent in Kaupapa Māori, or a Māori worldview. Regardless of culture and style, the overall effect for the young person was described as similar, characterised by their increased participation in the process and a willingness to accept responsibility for offending behaviour.

You are relating back to them that what you are doing is sorting out the business to stop them offending. As long as you keep that message solid all the way through, you can deal with any issue. Why are we looking at counselling? Because we want to make you look at how you think, and therefore to make better decisions about not offending.

Psychological training for our kids, I do it up there on their papakainga (original home base). Not here, not in a room. But up there. Up there on their taonga (treasure, property). Feeling the breath of their people, walking in the footsteps of their Kuia (female elder). Feeling the blood coming through the soles of their feet. Feeling the kiss and a whisper on their chins. That is why we go up there and that is what we do. And we talk to our kids.

Channelling a young person's strengths and creativity into their plan

While holding a young person accountable, many YJ Co-ordinators considered it important to also focus on a young person's positive attributes. Consistent with their strengths-based ideology, while careful not to negate offending behaviour, a subset of YJ Co-ordinators sought information on the young person's skills, interests and aspirations. While this could promote engagement, incorporating pertinent aspects into plan options further ensured the *entire* conferencing process was meaningful to the young person. The practitioners who particularly promoted this strategy considered the effect to be enhanced when skills were *linked back to the community*, assisting integration between the community and young person. This essentially restorative approach was perceived to influence superior outcomes by positively influencing a young person's self-esteem and lowering the risk of recidivism.

The resourcefulness and talent of young people, suitably empowered, regularly surprised and delighted the YJ Co-ordinators who actively promoted this strategy. Beyond being a factor in reducing the risk for offending, creative endeavours often resulted in additional unexpected positive outcomes. These included new educational or employment opportunities for many young people who were previously perceived to be without direction, assisting the young person to re-connect with their local community. This was particularly important when young people had been excluded or were ostracised from the school system, and alternatives were deemed more appropriate.

We got him to make a rocking horse for his sibling's day-care centre. That is something that he dared to. He had his name on it, and he could be proud of it. And I said to him, 'How would you feel if I went to destroy it? Because that's what you did to someone else's property'.

They go out and rebuild children's or school playgrounds. When they are driving past, they will say to their mate, 'I built that'. They are absolutely rapt.

A high quality, tailored and well-monitored plan

As described above, a plan tailored to the young person using a creative, strengths-based approach was considered one aspect toward best practice for YJ FGCs. In general, many YJ Co-ordinators believed the *quality of plans* provided a measure of not only the young person's accountability within the process, but also their own performance as practitioners. A quality plan was widely considered to limit the risk of recidivism. While significant effort often went into the creation of plans, which aimed to be detailed and goal-specific, follow-up was described as variable. YJ Co-ordinators acknowledged various parties as being tasked to provide the monitoring of plans, including family, community and Social Workers and in some instances, Co-ordinators themselves. Regardless of the appointee, *ongoing monitoring* of the plan's progress ensured a young person remained accountable until the process was complete. Monitoring was also considered important as some Co-ordinators believed plans should be fluid, with the flexibility to be adjusted if what was originally determined at the FGC was proving less effectual for the young person's rehabilitation than anticipated. Accordingly, having an appointed party monitor the young person's plan to its conclusion was considered best practice, and essential for a thorough and complete FGC process.

(The plan is) very detailed, it's very specific. Every person is tasked for it to meet the outcome, so that if things start going wrong, I can pull it together very quickly.

If you have an FGC and the follow up is poor, you have only done half the job, haven't you?

Summary:

The potential for the YJ FGC process to be flexibility adapted to the needs of the young person was considered one of its strengths. Using creative means, the findings afford a level of insight into Co-ordinators' practice of working effectively with young people through the YJ FGC process. While holding young people accountable for their actions, they took a broader perspective toward the aim of making the conference process a personal and *meaningful* experience.

Drawing on their knowledge and experience of working with young people, these Co-ordinators described an essentially holistic, collaborative approach to their practice. Three YJ Co-ordinators who were Māori described highly active methods, fundamentally concerned with reconnecting the young person with aspects of themselves and of their *whakapapa*. However, regardless of ethnicity, it appeared all the YJ Co-ordinators who described this as an aspect of their practice were essentially describing a young person *finding a sense of self* through the process. In addition, these Co-ordinators resolutely believed that linking the young person's talents and skills back into their local community was restorative to both the young person and the community (described further in the following section). The importance of monitoring the plan through the process was also highlighted in this study, with parties tasked to keep the young person on track as a major factor contributing to the successful completion of the process.

While acknowledging that creative practice often carried an element of risk, the Co-ordinators who specifically utilised this method described it as one of the most satisfying aspects of their work. Beyond *making meaning*, it was also evident that the Co-ordinators saw this as a respectful manner of dealing with young people. Overall, the Co-ordinators who applied this strategy perceived it to be a major indicator of the likelihood of positive conference outcomes, reflected in adherence to plans and a lower risk of recidivism.

An interesting feature of the dialogue of these Co-ordinators was their use of terms such as '*my kids*', '*my young people*'. Three YJ Co-ordinators became emotional, with some

shedding tears when talking about *their* young people, which also indicated a high level of personal investment conveyed by many Co-ordinators in the study.

d) Linking the young person with their local community

All YJ Co-ordinators considered community work a key component of their role. A number of Co-ordinators depicted many of the young people and their families they encountered through the YJ FGC process as typically disenfranchised from their local community and/or for Māori clients, their marae. Such estrangement was believed to be a major factor contributing to offending behaviour. Described in this section are factors deemed to constitute best practice in relation to the community activities of YJ Co-ordinators.

Community links provide plan options and support for young people and families

Maintaining a strong local community profile was considered the ideal by the YJ Co-ordinators in this study. With a strong belief that plans had greater potency when relevant to the young person, access to a wide *range of plan options* situated within their local community was highly desirable. Through connecting the young person and their family with the community, YJ Co-ordinators believed a greater degree of restoration occurred when both plans and programmes/services for specialist treatment provision were locally-based. Their activity within their local community enabled a YJ Co-ordinator to establish vital networks that promoted access to a typically extensive range of plan options. Armed with a breadth of alternatives, and mindful of the personal qualities, talents, skill-set and potential of the young person, YJ Co-ordinators could then recommend plan options that would be tailored to suit each young person, thus maximising their rehabilitation. Without choices, conference plans tended to default to the ubiquitous *community work* which, although practical, was devoid of meaning to the young person.

Families, too, were considered to have more confidence in the FGC process when fully informed of available plan options. In some cases, information of this kind could inspire a family's (or a young person's) participation in the process by raising awareness of their personal connections and access to resources, furthering their potential for empowerment through the process. Factors such as time-limited funding or changes in personnel that might affect the direction of the resources necessitated ongoing Co-ordinator liaison to ensure community links remained current. Community work was acknowledged to be

difficult to achieve during busy periods, requiring a strong Co-ordinator commitment to this aspect of their duties.

You have got to know your patch. Know your area. You have got to know your resources. You have got to know what is out in the community, what is available.

It takes time to develop your networks and see what is in your community. You've got to be committed to it. It's very easy to say, 'Oh, I can't go to that meeting'. But they are as important as the FGC itself.

Mobilising the community to take responsibility for crime – restoration in action

A number of YJ Co-ordinators held a belief that youth offending behaviour often reflected local community issues, for example, their attitude towards drink driving. Accordingly, they considered the solutions for addressing offending were best derived at the local level. In addition to gaining resources for plans and programmes as described above, some YJ Co-ordinators considered their engagement with local professional stakeholders and community groups served a broader, educative purpose. The overarching aim was essentially to switch the public perception of young people who offended as *taking from* the community to one of *contributing to* it when provided with suitable support. Such community-situated collaborations often produced useful local strategies appreciated to reduce the risk for crime and/or recidivism. One example was a driver education programme for young men with Excess Breath Alcohol to prevent future drink-driving in the community. In addition to encouraging the local community to take more responsibility for their young people and to address crime, YJ Co-ordinators believed their activity and profile within the community generally served to reduce public resistance to the FGC process. The overall impact of this activity was appreciated to facilitate the likelihood of positive outcomes for young people, families and the wider community. To serve the community, their community profile also enabled the YJ Co-ordinator to keep abreast of local area changes, for example, diversifying cultural composition of residents.

The role of a Co-ordinator is not just running conferences. It is to help mobilise the community. I am on the board of a couple of organisations because the best way to mobilise a community is to get involved.

Church people, schools, police, social workers, community groups, you name them. It's a mass meeting. And they talk about strategies about how they can

reduce youth offending and save their youth from this problem. We notice the down rate of offending after those meetings.

Summary:

This study underscored the reciprocal benefit for community and young people and families through the YJ FGC process, and the Co-ordinator's role in facilitating this. Engaging *like-minded, caring* community stakeholders in supporting the YJ FGC process was considered to have a *restorative* flavour, with both a practical and philosophical purpose. The Co-ordinator's local knowledge of potential resources ensured a greater range of available options so that plans could be tailored to the young person. In acknowledgement of a local responsibility for crime, through their involvement in programmes such as driver education, a small but passionate sub-group of YJ Co-ordinators also noted a preventative component to their role. Whether conducted formally or informally, their activity at a local level served to educate the public in demystifying and raising awareness of the potentially restorative benefits of the YJ FGC toward the integration of the young person and community.

Appreciation of the dynamic nature of the local community was also an underlying feature of the findings. Several long-serving YJ Co-ordinators particularly commented on the changing composition of their local community over time. They stressed the importance of keeping abreast of changes to adequately serve FGC participants, for example, through developing cultural awareness of new cultures.

e) Victim input

YJ Co-ordinators considered the amicable resolution between victim and young person as one of the most rewarding aspects of their role. Linked to the concept of restoration, they believed this increased the likelihood of good outcomes in reducing re-offending, and helped to promote a positive view of the FGC to the wider community. In this sub-theme, YJ Co-ordinators described aspects pertaining to victim involvement considered to contribute to best practice in YJ FGC service provision.

Victim attendance at a FGC personalises a criminal act to the young person

On the whole, YJ Co-ordinators strongly promoted the attendance of victims at conferences. Beyond respecting a victim's statutory right to be engaged in the process, YJ Co-ordinators in this study considered their attendance afforded a vital emotional

component that enhanced the conferencing process. Co-ordinators described that during the face-to-face conference encounter in which a victim described the personal impact of the offending behaviour, the magnitude of their actions often became impressed upon the young person. In response to being moved by a victim's story, resistant families could also step up and be more accepting of their responsibilities within the process.

Accordingly, in *personalising crime*, a victim's presence at the conference was considered a key process variable believed to influence a lower risk of re-offending than if the victim was not present. An important aspect of the YJ Co-ordinator role was, therefore, to *encourage* a victim to attend the FGC.

I cannot say how much and how important it is for victims to come. A lot of victims don't think they have an impact. But I tell you, the actual impact of them attending is huge on the young person and their families.

This lady (victim) was so much like his mum. And he thought about what he had done, and the damage he had done, and it really, really made him sad. And he just knew he could never do it again.

Managing victims' expectations of the process

While YJ Co-ordinators endeavoured to ensure a level of victim satisfaction with the FGC process, this could not be guaranteed. Accordingly, Co-ordinators considered *managing a victim's expectations* an important aspect of their role. One regularly cited example related to the containing of a victim's unrealistic expectation of the young person or family's ability to meet reparation. Furthermore, while YJ Co-ordinators generally promoted personal attendance at the FGC, in some instances, several had reservations as to whether this action best served victim interests. As previously described, Co-ordinator reservations were often informed by their experiences of the *attitude* of the young person, and sometimes their family, considered indicative of their willingness to accept accountability for their offending behaviour. Hence, when YJ Co-ordinators suspected the likelihood of the victim being disappointed by the process, many raised their concerns to prevent victims from being *re-victimised by the process*. Suitably informed, if victims then elected not to personally attend the FGC, their input was achieved via Victim Impact Statements and their contribution to the FGC plan.

In such instances, communication of post-conference outcomes by the Co-ordinator was believed to ensure the completeness of the process for the victim. This afforded a level of victim participation and increased the likelihood of them gaining some degree of satisfaction with the YJ FGC process, despite non-attendance at the conference itself.

You have got to be honest with (victims). ‘I think this is going to happen. I think (the young person) is going to be disrespectful. It is your choice as to whether you want to come’. Because I know my kids.

I know we have to do everything to get (victims) to come along, but no way do I want them to be re-victimised. That makes the victims feel worse.

Summary:

In the majority of cases, these findings stress the importance of victim attendance at the FGC as have other studies (Maxwell et al., 2004; Schmid, 2001). Supporting Schmidt’s (2001) findings, victim attendance often serves to personalise a criminal act to a young person, and sometimes their family, magnifying the young person the consequences of their actions. Within the dynamic FGC setting, the hard-to-define but fundamentally *emotional element* in the interactions between parties is often the catalyst for a restorative effect between the victim, the young person and their family as achieved through the process.

However, in certain situations, some Co-ordinators in this study had reservations as to whether this was always in the best interests of victims. The *negative attitude* of a young person, considered indicative of their lack of engagement in the process, signalled their unwillingness to accept responsibility for their offending behaviour. In this event, Co-ordinators cautioned against victims being *re-victimised* through the process. On the other hand, a number of YJ Co-ordinators had experienced an unexpected change in young people at a FGC. However, they appreciated they could not identify the causal mechanisms for such change. For reasons explained further in Chapter Six, this was acknowledged to be less than ideal and an area of process improvement.

f) Service delivery by trained, skilled, professionally suitable YJ Co-ordinators

The requirement of trained, skilled practitioners delivering the service was perceived to be a significant factor in the success (or otherwise) of the YJ FGC process. In this sub-theme, the Co-ordinators outline the skills employed in carrying out their role, and the personal attributes of effective YJ Co-ordinators.

‘They call us weavers’: The skill-set of an effective YJ Co-ordinator

The YJ Co-ordinators in both Projects described a long-standing misconception of their role as *just convening meetings*. While this was certainly one facet, Co-ordinators were at pains to stress their role extended beyond this. Nor was their work *Social Work*, described as another, mainly Departmental, misconception of their role. This study found that the dynamic FGC setting requires the YJ Co-ordinator to draw on a variety of skills. In addition to strong organisational and relationship-building abilities, YJ Co-ordinators described their skill-set as including: facilitation, mediation, conflict resolution, negotiating abilities, motivational interviewing techniques, and navigating group dynamics (including handling strong emotions). Some practitioners utilised their specialist knowledge, for example in child and/or sexual offending and domestic violence. A comprehensive knowledge of the Act and other pertinent legislation, such as the Crimes Act, was considered essential. Appreciation of issues pertaining to young people, including awareness of developmental stages, was also highlighted as a key component of a YJ Co-ordinator skill-set. YJ Co-ordinators employed these skills in an effort to give all parties a *voice* in the YJ FGC process in which they maintained a neutral, independent stance. The ultimate aim for Co-ordinators was the achievement of positive outcomes for *all* participants within a process that was essentially *family-led*.

Although you are responsible for trying to ensure the process is OK, you don’t have to take ownership of the content and everything in it. That is other people’s business. Your role is to give them a vehicle to do it. The best conferences, in my opinion, are the ones where the YJ Co-ordinator says very little.

Having 'commitment and heart' for YJ: personal qualities of YJ Co-ordinators

In addition to the necessity of well-trained practitioners, the personal qualities and attributes of Co-ordinators were also acknowledged to have a bearing on the FGC process. The range of people Co-ordinators dealt with in the course of their work necessitated a strong community focus requiring an adaptable and empathic approach. The YJ Co-ordinators in Project One particularly described themselves as, personally and professionally, *community people*. This requirement was historically believed to a prerequisite for the Co-ordinator role. Many practitioners retained positions on local boards in their private time. It was generally considered that the absence of a qualification should not necessarily deter the Department from recruiting suitable community-based persons who possessed the potential to develop expertise in the field. Holding both respect of and regard for cultural as well as individual differences was another important facet of the process described by Co-ordinators. They described effective practitioners as being passionate about working with young people, families and victims, taking a hopeful approach in their dealings with the young people while constantly balancing the requirement of holding accountability for offending behaviour. These qualities were of importance, as Co-ordinators believed that professional disinterest or ambivalence was not lost on young people, causing them to disengage in the FGC process.

To strike up a rapport, that non-verbal stuff. It's to present a face where you didn't care about the three pit bull terriers out the front, you didn't care about the shit all over the back doorstep. That's a great icebreaker. And some people can't get past that.

I love the young people and I love working with them. I believe in the FGC firmly, even today (Original YJ Co-ordinator).

I see some Police Officers that I have a quiet word to and say, 'I don't think Youth Aid is fit for you mate, I think you need to go on and maybe join the Dog Section' (Laughter). Because they haven't got any rapport with kids.

Summary:

Many earlier studies have emphasised the importance of Co-ordinator training (Maxwell et al., 2004; Maxwell & Morris, 1993). Described by these practitioners, this study has highlighted the various facets of the skill-set employed by effective YJ Co-ordinators in

conducting the YJ FGC process. This finding raises important awareness for the Department of the various training elements deemed necessary to ensure good service delivery. In highlighting their strong community focus as other studies have found (Renouf et al., 1990), the Co-ordinators have described in detail the personal qualities of effective practitioners that might aid future recruitment.

Having described features considered to be strengths of the YJ FGC process, the next section in this chapter addresses factors Co-ordinators consider to be current process issues. These factors are now described.

Current process issues

In the previous section, the YJ Co-ordinators outlined in detail their perceptions of process factors considered to constitute best practice in YJ FGC provision. Consistent with a utilisation-focused approach, this study also aimed to identify aspects considered to be weaknesses in the current process, constituting barriers to service provision and best practice. The findings that emerged were: a) a lack of Police buy-in to the YJ FGC process, b) high FGC volumes, c) poor quality information from Police and Courts, d) the current process is not working for recidivist young offenders, e) a lack of programmes for young people offending at the top-tariff, f) poor monitoring of plans, and, g) difficulties in engaging victims.

a) Lack of Police buy-in to the YJ FGC process

As described in the first theme, YJ Co-ordinators believed the integrity of the FGC process was dependent upon professional parties having aligned perspectives as to the interpretation of its principles. In this sub-theme, Co-ordinators described how the negative attitudes of some Police to the legislation manifest within the YJ FGC process, detracting from its effectiveness.

Differing YJ Co-ordinator-Police perspectives influences process inconsistencies

Several YJ Co-ordinators in both Projects One and Two depicted experiencing problematic working relationships with Police, a claim supported by observations of colleagues in other areas. Co-ordinators attributed this to their perception of the *low faith* of some Police in the Act, which many YJ Co-ordinators in Project One witnessed eroding over time. In the consultation phase of the FGC process, this was said to influence the Police's reluctance to explore alternative actions/diversionary options afforded under the Act, widely believed to

be a major factor contributing to typically higher FGC volumes experienced in certain areas. During the conference itself, some Police were noted to adopt a *pre-emptive, pro-prosecution* stance during FGC proceedings. Co-ordinators considered this particularly inhibited the process by contravening the Act's emphasis of promoting family decision-making responsibility. It was also believed to negate the rights of victims to have due input into the process. The regional discrepancies described were attributed to the top-down directives of senior area Police who were considered to be less accommodating of the Act and its principles. In particular areas, some long-serving YJ Co-ordinators believed there had been a reinstatement of the *punitive* situation as existed pre-1989 under the 1974 legislation.

The Police are getting things into FGC, either through arrest or disregarding the quite strict grounds for arrest, and the Court is accommodating that. Or they are just bombarding the Co-ordinator, per (section) 247b, the consultation, and saying, 'Well, I just don't care what you think, I want this to be prosecuted'.

Often Police are pre-emptive. They are given a message from further up their food chain saying, well look, we want this and we want that. And that becomes sometimes problematic in conferences, when they come in with a fixed position. Now that doesn't happen to me with my local Youth Aid, but if I go out of district to do conferences, out of district, then it becomes problematic.

Attitudes of some frontline Police to the YJ FGC deters victims from attending

The right of victims to participate in the FGC process was highly valued by YJ Co-ordinators. Some Co-ordinators believed their attempts to effectively engage victims were often compromised by their local frontline Police, a significant number of whom were believed to hold a negative view of the FGC process. As the first point of contact with victims, many frontline Police were understood to dismiss the FGC process as ineffectual *slap over the wrist with a wet bus ticket*. In the case of re-offending behaviour, victims were deterred from attending by the tendency of some frontline Police to convey prior information about the young people or their families, pre-establishing a negative victim view of the process. Furthermore, a number of Co-ordinators also considered Police were not adequately explaining the conferencing *procedure* to victims during their initial interactions. For example, when subsequently contacted by the Co-ordinator about the FGC during their preparation, many victims had been unaware of the Department's role in

the process. In combination, these factors were perceived to strongly detract from a victim's willingness to attend the FGC, with an associated impact on the preparatory stage of the process for Co-ordinators. Frontline Police actions of this kind were considered to contribute to a poor public perception of the YJ FGC process.

Frontline Police sabotaging, saying (to the victim) "Don't waste your bloody time. He is a shit this kid. Don't go".

With frontline Police, it is appalling. Appalling. Some appalling things happen. And you say to them, what about (section) 208? And they will go, "What about it?" I think things could be improved especially if the Police, especially the frontline, got the Act right.

Summary:

These findings support Maxwell and colleagues' research (Maxwell et al., 2004) in which some Youth Aid Officers and YJ Co-ordinators identified a need for improving Police-Co-ordinator relationships. Moreover, results echo the Police study of YJ Co-ordinators in which a *lack of Police understanding of the Act and of the goals of the FGC* were determined as significant practice issues (NZ Police, 2002). In this study, the poor service provided to victims of frontline Police was generally attributed to an absence of Police training in the Act and the YJ FGC process, notably toward coming to common understandings of its principles. The attitude of more senior Police was also deemed influential. This was linked to a low public perception of the YJ FGC process. This study also emphasised the impact of negative frontline Police and Youth Aid approaches to the Act and the FGC on victims, young people and families, particularly in negating their ability to exercise their rights to participate in the process.

Co-ordinators described the outcome as increased workload volumes, and a concomitant influence on the consultation, preparatory and conference phases of the process. It was observed that Co-ordinators who depicted more contentious relationships with Police also described this to be a source of stress in their work.

b) High FGC volumes

As illustrated above, a lack of Police emphasis on diversion was one factor influencing high FGC volumes and Co-ordinator workloads in certain areas. Depicted more widely,

the majority of YJ Co-ordinators in this study described generally managing high workload volumes in excess of what was deemed optimal for effective practice, certainly beyond the recommended 2.5 per week, with most averaging 4-5 FGCs. The implications for practice are outlined below.

High FGC volumes detract from a quality process

Regardless of youth crime figures, YJ Co-ordinators generally considered that FGC volumes had increased in recent years, with summer the busiest period. An increasing number of higher tariff offences and more complex cases were two factors considered to be currently impacting high workload volumes.

In practical terms, large FGC volumes generally decreased the likelihood of face-to-face consultation, with families and victims regularly contacted by telephone. This also reduced the opportunity for YJ Co-ordinators to locate and contact extended family members who might provide valuable, often essential additional support for the young person. The Co-ordinator's available time for community networking to source vital local plan and programme options was typically the first component of their duties curtailed in busy periods. With reduced local resources, an increased risk for plans defaulting to the standard community service option rather than to the gold standard of being tailored to the young person's individual needs was noted. Overall, the necessity of quantity over quality of the YJ FGC was acknowledged as a current barrier to good practice. This was both professionally and personally unsatisfying for YJ Co-ordinators.

An excessive caseload was widely perceived to reduce the quality of the FGC process and, for many, was described as a source of stress. This was in addition to the ongoing pressure Co-ordinators described from operating within the timeframes specified under the Act, deemed already *tight* for being inclusive of weekends and statutory holidays.

I did nine FGCs last week. It is rubbish. You are just pumping through crap. You are focusing on quantity, not quality.

The thing about running too many conferences is you have just got to go hard at both ends of the day. But you can't do that for too long. The first thing that drops off is your community stuff that provides the resources and the alternatives. All, and I say 'all' contextually, all you are doing is running FGC after FGC after FGC.

And that doesn't recharge people's batteries. So there is a trap there. And I am very much aware of it in terms of longevity of a Co-ordinator.

Summary:

While not the experience of all Co-ordinators in this study, most described managing more numerous conferences than deemed optimal. Maxwell and colleagues previously noted that Co-ordinator numbers had not increased in line with FGC numbers (Maxwell et al., 2004). Already under pressure to meet the Act's timeframes, a negative impact on the quality of the Co-ordinators' preparation, particularly sourcing extended family supports and options for tailored plans were described. The latter was linked to having less opportunity to develop community networks as a result of a need to focus on the conferencing aspect of their role. It is noteworthy that this situation was expected to change under the restructure. Co-ordinator perceptions of how well this will be addressed will be discussed in Chapter Five.

c) Issues with information provided to YJ Co-ordinators from Police and Courts

The quality and timeliness of information received by YJ Co-ordinators from Police and Courts was a factor deemed worthy of exploration by the YJ senior manager serving as our contact at the time of the focus groups. While this issue had been less prevalent as a theme within Project One's individual interviews, the focus group discussions revealed significant problems in many, although not all, locations. Issues related to *inputs* into the YJ FGC process are now outlined below.

Poor quality information from Police adds to the YJ Co-ordinator's workload

The majority of the YJ Co-ordinators in the four focus groups believed their caseload and their ability to meet the Act's timeframes were compromised by regularly receiving poor quality information from Police. Taken from frontline Police records, the data provided to YJ Co-ordinators by Youth Aid was said to include inaccuracies in addresses, phone numbers and missing/wrong contact details for both victims and young people. Some YJ Co-ordinators believed quality checks by Youth Aid Officers in their areas significantly reduced the adverse impact on their workload. For *Intention to Charge* FGCs, two branches had adopted customised practices to ensure Police provided sufficient data during consultation. These included having *allocation days*, or requesting Police use forms such as the Assessment of Risk and Needs Indicators (ARNIs), to ensure referral quality. These

bespoke strategies, employed at a local level, were considered to be varyingly effective. Co-ordinators were mindful of the negative impact of a delay both on a young person and in victim attendance at FGCs resulting from poor procedure between Police and the Department.

The Police files coming through to Youth Aid are diabolically slow.

You would have had a far more robust consultation if you had all the information at the starting point of consultation.

Poor quality Police information impedes the engagement of young people and families in the process

Poor quality information from Police was also understood to impede the YJ Co-ordinator's efforts in engaging participants in the process. In certain areas, some YJ Co-ordinators considered *inaccuracies or pejorative language* contained within the Police Summary of Facts often offended young people and families. When this *disrespectful* practice was encountered, this adversely impacted upon the Co-ordinator's ability to build rapport and encourage engagement in the process. Co-ordinators strongly believed this could often be detrimental to them working effectively with young people, families and victims in the YJ FGC process within the timeframes specified by the Act. While not a unanimous view, many Co-ordinators considered the Police generally did not appreciate the effect of poor quality or misinformation on their workload.

The information isn't good. For example, the (Police) Summary of 'Fiction' we consult on. You hear (the young person's) story about it, and often it is different to what the Police impression is.

Information flow from Courts is also problematic

Also described in the four focus groups, Court-generated data was also a current practice issue for YJ Co-ordinators. As with Police, Co-ordinators considered the information flow between Courts and the Department to be particularly impaired. While selected Co-ordinators attended Court, the majority surveyed in this study were receiving Court-related notifications via the Department's Youth Court Supervisors. Information was said to be conveyed in an ad-hoc fashion, often informally. The delay in Co-ordinators receiving notice significantly cut short the timeframes in which to undertake quality preparatory

work. In certain areas, Co-ordinators identified Court dates being set before timeframes had run out as a recent and concerning trend.

You come with the expectation that you have got time to set the FGC. I checked the date with my youth advocate. I said, 'That is going to be moving'. And it was a matter of scampering round to the family and saying, 'Does this suit you?' And too bad if it doesn't. That is not the way to go. It's rubbish.

Sometimes we have a significant delay...Court might be on a Tuesday and it would be Thursday or Friday when you get the information.

Inaccurate Court-provided information adds to the YJ Co-ordinator's workload

The accuracy of Court-related data was also of concern for many YJ Co-ordinators. For young people with multiple offences, charges that may have been withdrawn were included in data passed to YJ Co-ordinators. While they did not see this as their responsibility, some Co-ordinators often felt compelled to clarify these errors to reduce confusion and streamline the process, adding to their workload.

You will end up with a direction for an FGC listing every single offence, even though three of them may have been withdrawn, allegedly, six months earlier.

Summary:

Whether or not this was their current experience, the YJ Co-ordinators in the focus group component of this study unanimously agreed that poor quality Police and Court inputs into the process had a detrimental effect on the FGC process. In addition to a typically busy workload, poor procedures and practice from these justice system agents impacted the preparatory phase of the Co-ordinators' work, notably their ability to effectively engage participants in the process.

d) The current process is not working for high-risk recidivist young offenders

YJ Co-ordinators considered the FGC process effective and appropriate for the *majority* of young people who entered the YJ system. However, a significant sub-group of young people were recognised to be attending multiple conferences, with the process making little apparent difference to offending behaviour. The perceived *loss of* impact of a normally robust YJ FGC process with recidivist young offenders was described as an ongoing major

practice challenge. This was a particularly salient area of concern for the long-serving YJ Co-ordinators (Project One), who drew on their experiences of working with these young people over time. The main findings are now described below.

Recidivist offenders necessitate attention to complex issues in addition to addressing offending behaviour

The young people attending multiple conferences were illustrated as having a typically different profile compared to many others for whom FGCs were one-off events. The Co-ordinators identified these youth as regularly presenting with complex underlying systemic and interpersonal issues. The features related to such young persons were considered to be broadly similar. Co-ordinators understood them as lacking a *significant other* (particularly a strong parental figure) and to be *estranged from a supportive community* base. *Poor inter-familial communication* patterns were said to often result in a propensity for anger and/or violence, and often aligned with *drug and alcohol abuse*. A lack of basic *literacy and numeracy skills* was a key factor believed to influence the typically *low self-esteem* of many of these young people. Beyond offending behaviour, the myriad of issues young people faced required a more intensive level of inquiry by YJ Co-ordinators, particularly toward identifying supports and sourcing possible plan options/interventions. However, investigating these features within tight timeframes was perceived to place additional pressure on YJ Co-ordinators' already busy caseloads.

Three percent of young people give us eighty percent of our work.

With our recidivist youth offenders, there are things missing. There are gaps.

The effects of multiple FGCs – FGC Fatigue

As a result of attending multiple FGCs, YJ Co-ordinators observed a level of *FGC Fatigue* in participants. In families, this was illustrated by a steady decrease in members attending conferences or through them exhausting available resources to assist young people with plans. With repeated presentations, available 'family' would typically consist of the young person accompanied by their mother. This was appreciated to significantly increase the risk of the FGC itself becoming more professionally-dominated. Following numerous FGCs, the young people themselves were said to often present with a *negative personal attitude*. The effect was considered to be highly unsatisfying for victims, who perceived the FGC process as making little difference. Co-ordinators considered experiences of this

kind helped convey a widely-held negative impression of FGCs, negating other, more positive conference experiences.

You're on your 17th conference for the same kid and it just becomes a sausage factory; you can't see any change.

I am not saying that a young person couldn't have eight conferences and then hear a victim's story that touched them in a way that nothing else had. Maybe they were just in the 'looking zone'. But meantime, from conference three you had a whole lot of people who had come into a process, and were perhaps thinking...Mmmm, there wasn't a lot of point around it.

Encouraging engagement and participation in young people exhibiting recidivist offending behaviour and their families

YJ Co-ordinators unanimously agreed dealing with recidivist young offenders constituted a challenge to their practice, highlighting two particular aspects. The first was *how to effectively engage such young people and their families* in the process. While several Co-ordinators noted low self-esteem, one felt passionately that, particularly with recidivists, the *key* to engagement was *getting (the young person) to feel good about themselves*. This Co-ordinator highlighted an observation shared by several other colleagues that one major influence on offending behaviour generally was that *young people had dropped out of pro-social groups*, such as sports, or had *neglected their interests*. This effect was said to be magnified in recidivist young offenders.

Family support for these young people was deemed the other particularly challenging aspect of Co-ordinators' work. In addition to *low family attendance*, a perception of the *families* of recidivist young offenders to be *under resourced or unable to fully embrace their rights to become empowered* within the process was raised as another key issue. One YJ Co-ordinator used an example of families sometimes unable to come up with a suitable plan and asking to be given one in their private family deliberation time.

Despite these barriers, YJ Co-ordinators appreciated that movement in previously intransigent young people could often happen unexpectedly after multiple FGCs. However, they also stressed that factors facilitating change in recidivist young offenders as a result of the FGC process were, generally, not well understood. To address this, two Co-

ordinators expressly believed more research into this area, in collaboration with other justice agents, would be a valuable and cost-effective endeavour.

We know a lot about recidivist young offenders. The only thing we don't know is how to effectively engage them.

Programmes should be comprehensive and include a family component

For many young people offending repeatedly at top tariff level, effective treatment for such behaviour was believed to be influenced by their struggle with *pervasive, complex personal problems*, notably drug and alcohol abuse. For some young people mandated to attend a rehabilitation programme, many YJ Co-ordinators believed the three month maximum duration afforded under the Act insufficient for an intensive intervention. For this reason, they supported *extending the current length of Supervision Orders* toward increasing the likelihood of an effective behaviour change. A further system weakness was identified by several YJ Co-ordinators, whereby positive treatment work with a young person was sometimes undone by their return to an unsupportive family environment. These Co-ordinators promoted *concurrent systemic intervention* that would assist the rehabilitation of many recidivist young offenders.

You can't turn kids around if you're putting them back in the same environment.

I am of the view that if you are going to be serious about redressing recidivism you have got to engage the family.

Summary:

The findings underscored that how to effectively address the complex needs of recidivist young offenders through the YJ FGC process is not well understood. While change in young people was possible following multiple exposures to the FGC process, the causal mechanisms remained unknown. Early Co-ordinator concerns about the efficacy of the YJ FGC process for recidivist young offenders were raised in the early days of operation (Renouf et al., 1990). Furthermore, similar to the findings of Schmidt (2001), while not advocating for a *three strikes and you're out* approach, some YJ Co-ordinators in this study suggested a different system may be appropriate after a certain number of conferences for the same young person. This study also highlighted the association with complex systemic factors in the presentation of these young people and the need for some

form of family-related intervention. To this end, the Co-ordinators described an increased role for the Department with these families at an earlier level of intervention. This will be further described in the final theme.

e) A lack of programmes for young people offending at top tariff level

As mentioned previously, the YJ Co-ordinators described dealing with more offending of a higher level of seriousness in recent years, such as aggravated robbery and assaults. The YJ Co-ordinators particularly raised the issue of an absence of suitable programmes for the rehabilitation of young people offending at the *higher tariff* level.

Few local options to rehabilitate within the community

Discussed especially in two focus groups, Co-ordinators noted that while Supervision with Residence (SWR) was the only custodial option under the Act, it was technically an equal tariff to Supervision with Activity (SWA). When supported by strong family input and the ongoing monitoring of plans, YJ Co-ordinators firmly believed community-based activities (SWA) could be equally effective as SWR for some young people. The Co-ordinators, however, noted *a distinct lack of suitable resources for SWA in their local area*. This often resulted in an out-of-district custodial (SWR) option.

The current lack of local programmes was a major issue for the Co-ordinators. Many previously well-regarded official programmes had ceased operation and national competition for the remaining available resources was said to be intense. Departmental communication of available programmes was notably absent. Some of the available programmes were deemed to be of an insufficient quality to adequately meet the needs of young people. With the growing number of females presenting at FGC for high-level offending, a need for treatment options was identified. The gradual decline in the number of approved services, such as John da Silva's now defunct Great Barrier Island programme, was attributed to two reasons. Firstly, poor Departmental policy, planning and funding issues and, secondly, the absence of local social worker resource to source formal programme options.

We have had a disintegration of some of the available programmes. Like we had Great Barrier; we don't have that anymore. You are looking out of area now...And you are in competition nationally. It is hit and miss.

We should just be just working on activities, programmes within the area for these kids so that the community know them...I think more of these community placements should be developed. And within our own area.

Summary:

The erosion of local community-based programmes was considered a significant loss to the FGC process and the rehabilitation of young people. Through young people developing practical (work or academic) skills in a supportive yet structured environment, such interventions were believed to have a positive and protective impact on a young person's self-esteem and lowered the risk for recidivism. In rehabilitating the young person within their local community, a restorative element was also described by Co-ordinators. However, it was apparent that current resources for the rehabilitation of young men offending at a higher tariff level were scarce, inadequate or short-term, and effectively absent for young women.

f) Poor monitoring of plans

As previously conveyed (pp. 105-106), for many Co-ordinators, the mark of an effective YJ FGC process was said to be reflected in the quality of the young person's plan. A robust plan was associated with a reduced risk for recidivism. While a solid plan was often established at the FGC, it was let down by poor follow-up. The monitoring of plans, an essential yet often overlooked process component, was highlighted as area of process requiring significant improvement.

Plans need to be followed up to complete the YJ FGC process

A long-standing issue for YJ Co-ordinators was the lack of on-going monitoring of plans as a result of FGC decisions. Follow-up – the last but vital component of the FGC process - was described as being done in an ad-hoc fashion across regions. The various parties engaged in this activity included in-house Social Workers, community agencies, and in some cases, YJ Co-ordinators themselves. Regardless of who conducted this task, while it was clear that ongoing monitoring of plans was essential, it was widely considered a weakness in the current FGC process. The quality of in-house service, and level of reporting, offered by Social Workers was said to be variable. For example, while in residences, young people were typically not visited, and said to be contacted rarely during the course of their placement. Furthermore, discharge plans, known to be regularly

conducted by telephone, did not typically consider the young person's transition back into the community. The lack of suitable arrangements was believed to considerably increase the risk for re-offending. In addition, the disintegration of plans was perceived by some YJ Co-ordinators to be a factor serving to reduce the Police's faith in the YJ FGC process.

I think it has been recognised that (monitoring) is a task we are struggling with nationally. If I put all my time and effort in there, other areas, like preparation, would suffer. But I would be the first to admit that monitoring can be done a heck of a lot better.

It is about Police and our community having confidence in our Social Workers. No disrespect to the Social Workers, it is just their workload and they haven't had the time available. So therefore the whole concept breaks down.

Summary:

Other studies have highlighted both the importance for the FGC process of ensuring plans are monitored, and that this is often a system weakness. Maxwell and colleagues (2004) noted that the responsibility for plan monitoring was undertaken by various parties in the FGC process, for example, Social Workers and Co-ordinators themselves. While this study made a similar finding, a need for one party to take responsibility for this task was clear to ensure a complete and robust process. From the Co-ordinators' perspectives, this should be a Social Worker responsibility. This point is discussed from an organisational perspective in the next theme (Chapter Five).

g) Engaging victims is problematic

As previously outlined, the Co-ordinators' efforts to engage victims were sometimes perceived to be stymied by the attitudes of, particularly, frontline Police. As now described, the engagement of victims in general was problematic for YJ Co-ordinators.

Co-ordinator efforts to engage victims are not well understood by the Department

In appreciation of the restorative value of the process for a victim and a young person fully committed to the FGC process, Co-ordinators endeavoured to secure victim contribution. Whether in person or in written form, Co-ordinators were passionate about their dedication to honour the victim's right to have input into the process. Persuading the victim to attend the FGC was regularly described by YJ Co-ordinators in the study as often time-

consuming, particularly so following a personalised crime, such as assault. Linked to heavy volumes of FGCs, the vast majority of Co-ordinators in this study said the requirement to meet the tight legal timeframes specified under the Act often took precedence over victim liaison. Many Co-ordinators said they were forced to do most of their victim liaison by telephone but found this highly unsatisfactory and considered it impacted negatively on FGC attendance. A minority of YJ Co-ordinators, staunch advocates of face-to-face victim meetings, often conducted this work out of hours, pushing weekly hours well in excess of forty. At the same time, despite the Co-ordinator's time and best efforts to secure victim's commitment to attend, their presentation was never guaranteed. Co-ordinators were measured on numbers of victims attending the YJ FGC, with time spent on victim liaison not reflected in statistics collected by the Department. As discussed previously (pp.110-112), having consulted with victims, many YJ Co-ordinators believed it was important to respect a victim's wish to not take part personally in the process. While they sought to have victim's views represented by letter or personal statement, these were also not represented in Departmental statistics. Most YJ Co-ordinators appreciated that the issue of victim attendance was an outstanding area of improvement for the YJ FGC process, and worthy of attention.

My first question is, 'When can I come and see you'. I actually want to get in the door. Because once you have made a connection, victims feel an obligation to come. But then you are talking TOIL (Time Off in Lieu). And the service doesn't like TOIL. I was told, 'Lower your standards'.

(Getting victims to come) takes a lot of time. And you cannot do that when you are running seven conferences a week.

Summary:

The issue of victim attendance at FGCs appears to have been problematic from the introduction of the process (Maxwell et al., 2004; Maxwell & Morris, 1993). The YJ Co-ordinators currently described facing a number of barriers in seeking to engage victims in the process. While it appeared that face-to-face contact with victims increased the likelihood of victim attendance, this was often difficult to achieve under the heavy FGC volumes described by the majority of YJ Co-ordinators in this study. This was a major source of frustration for Co-ordinators, the vast majority of whom advocated for the right of victims to have due input into the process, preferably in person. Another source of

dissatisfaction in this study was that the effort required by Co-ordinators to engage victims in the process was deemed not well understood by the Department.

The second aspect of this theme has highlighted a number of issues with the current YJ FGC process, many of which appear to be long-standing. The next theme explores Co-ordinator perceptions of working within the Department, highlighting several process issues.

CHAPTER FIVE: THE OFFICE – ORGANISATIONAL FACTORS

This theme concerned YJ Co-ordinator perceptions of working as YJ practitioners within the Department. It is important to note that the research took place at the time of a major Departmental restructure of YJ, which likely had some influence on findings. Furthermore, views on the re-organisation were purposefully sought during the focus groups. However, it appeared that many of the issues Co-ordinators described were long-standing, with some consistent with findings identified in the earlier literature. Aspects from both projects of the study are incorporated within the theme, which focused broadly on (the absence of) YJ leadership and its impact on the YJ FGC process and the Co-ordinator role. The main findings of this major theme are provided below in the three sub-themes, a) management's commitment to YJ is questioned, b) training is the most outstanding issue for the YJ FGC process, and c) perspectives of the restructure for the future of the YJ FGC.

Management's commitment to YJ is questioned

A major issue for YJ Co-ordinators was their perception of a lack of Departmental support at senior management (national office) level to provide leadership and direction for YJ. As will now be described in detail, the absence of Head Office YJ understanding has implications for FGC policy and practice that were concerning to YJ Co-ordinators.

Low management regard for YJ is historical in origin and is an enduring perception

Within the Department, the YJ division was perceived by the Co-ordinators in both focus groups and individual interviews as generally having a lower priority than C&P. Claims of YJ as the *poor cousin* were widely acknowledged. Long-serving YJ Co-ordinators noted this to be an historical perception originating from the introduction of the Act circa 1989 where, despite good intentions and a *sense of optimism* for the Act, a slow in-house transition to the *new model of justice* was recalled. Two pertinent features contributing to this perception were said to be the Department's inherent focus on its *core business of C&P* and its relative inexperience in working *with* (versus *for*) young people in a YJ arena, placing the Department *on the back foot* in respect to its YJ responsibilities. This opinion had endured, with the majority of YJ Co-ordinators in this study either directly or indirectly referring to the generally lower standing of YJ within the Department.

C&P tend to have a bit more status. YJ ones (FGCs) don't have a huge amount of status and I'm not quite sure why.

Management's overall low regard for YJ is reflected in budget allocation

The lower standing of YJ was said to be reflected in policy decisions, such as budget allocation. With YJ and C&P budgets held jointly by region, some YJ Co-ordinators in this study were critical of funding designated for YJ being sometimes co-opted to C&P in response to overspends by that division. It was often a challenge for YJ Co-ordinators to gain Departmental support for funding plans, particularly for inclusion in specialist programmes which they considered may make the difference for a young person's rehabilitation. YJ Co-ordinators described often having to *beg* for resources for young people. As well as being highly detrimental to the provision of effective plan options for young people, it was indicative of the low Departmental prioritisation afforded to YJ matters in comparison to C&P. The situation, overall, was unacceptable to YJ Co-ordinators, causing one to describe this as a *major conflict of interest* for the Department.

The (treatment for sexual offending) programme is a very expensive programme. But the counsellor said the young person needed it badly. And it was from the conference. But it was turned down initially. We shouldn't have to fight for things like that. That's the frustration.

At the end of the day, whether they like it or not, 80% of the business is C&P and 20% is going to be young people who offend. And when the heat comes on and the budget gets tight, always the case has been if there have been resources in YJ, the resources have been plundered and taken into C&P.

An absence of senior Departmental staff with YJ knowledge

While there had been senior managers with responsibility for YJ in the earliest days of the Act, the Co-ordinators in Project One lamented a gradual erosion of YJ expertise at the Department's higher echelons. For YJ Co-ordinators in both Projects of this study identified a distinct lack of current senior Departmental staff with responsibility for YJ at Head Office. They contrasted this against a comparatively stronger C&P division, noting an associated emphasis on Social Work practice. The absence of senior representation for YJ within the Department was perceived to negatively affect its leadership and direction.

There's no-one up there championing the cause of YJ. So decisions are being made by uninformed people. Because everyone up there knows there are not many people around at that level with knowledge and expertise in the YJ sector. They are making management decisions on an uninformed basis rather than an informed basis... That's sad. That's an indictment on our organisation.

As professionals, YJ Co-ordinators feel undervalued within the organisation

In addition to the lower status of YJ, the YJ Co-ordinators also described a perception of the low regard for them as a professional group within the organisation. This contrasted the early days of FGC practice, with original Co-ordinators appreciated to be *senior staff*, at the equivalent level of *supervisor*. Currently, and for some time, the Co-ordinators observed a significant reduction in their professional standing in the Department. This was partly attributed to poor YJ representation at senior level, as reflected in a number of management decisions the Co-ordinators considered to be misguided. For example, management regularly co-opted allied staff such as Social Workers, without training or experience in conducting FGCs, to back-fill YJ Co-ordinator shortages. Co-ordinators considered this managerial practice undervalued their role, accentuating both a view of Co-ordinators as *just facilitators of meetings* and the superior status of Social Workers within the Department. As a result, staff considered unsuited to the role had been able to adopt a Co-ordinator position, a factor considered to influence significant variation observed in FGC practice. Another means by which Co-ordinators derived perceptions of their low in-house value was through minimal formal management consultation on issues directly affecting them as a professional group. The most often cited example was the lack of an 'official' YJ Co-ordinator contribution into the recent review of the Act, ongoing at the time of the study. Overall, management's approach conveyed a strong message to Co-ordinators that the diverse nature of their role and the varied skill-set required were neither recognised nor highly regarded in-house. By association, this was perceived to be indicative of the low value the Department placed on its responsibilities to YJ.

It is about valuing our young people and families and the system. Valuing YJ. Because if you value that, you value us automatically.

It is a feeling of a minimisation of our role. It is no longer the flagship as such. It is just off to the side of the Department. And in some ways it is starting to feel like it is a token service to do conferences.

Summary:

In this sub-theme, Co-ordinators described perceptions of a low Departmental standing of YJ, their own role and the YJ FGC process. They explained how this manifest, for example, in inadequate budget allocation for YJ FGCs, in that (untrained) staff who were not YJ Co-ordinators were expected to conduct FGCs, or that Co-ordinators' input had not been officially and broadly sought on issues vital to the FGC process, such as the review of the Act. This pertained to the overarching and enduring issue of YJ having a lower Departmental standing than C&P, with the latter considered *core business*. In this regard, there were similarities in the early findings of Renouf and colleagues (1990) who identified early issues with staff understanding of YJ principles and the YJ Co-ordinator role, and a higher profile of C&P. However, the situation appeared to have deteriorated over the years, with long-standing practitioners particularly lamenting the loss of professional standing in the Department for Co-ordinators as a professional group, and for YJ as a whole. It was notable that similar organisational issues in Connolly's studies (Connolly, 2006a, 2006b) of C&P Co-ordinators were not described within the themes of those studies. While the tension for the Department in balancing its dual areas of responsibility – C&P and YJ - under the Act was acknowledged, the YJ Co-ordinators firmly believed the Department's priorities lay with the former division.

Training and development

For the Co-ordinators in this study, the absence of training was the most salient issue for the YJ FGC process. It appeared this has been an ongoing issue, with a significant impact on the quality and consistency of the YJ FGC process.

An absence of training

As previously described, the YJ Co-ordinators strongly believed the integrity of the FGC process was upheld by the guardianship of quality, well-trained practitioners. To this end, the Co-ordinators described their training needs, reported earlier in this document (see p. 113). Particularly conveyed through focus groups which contained practitioners with a mix of experience, Co-ordinator training was considered to be the most outstanding current practice issue. However, this was recognised to be an ongoing issue, reported as problematic from the inception of the process.

A number of long-serving YJ Co-ordinators recalled that the Department's training focus circa 1989 had centred on *unpicking the* (complex) *Act*. Less attention had been given to the novel and inherently flexible YJ FGC process, resulting in a great deal of *trial-and-error learning* in the early days of the FGC practice. Much of the early training was described as peer-mediated and, thus, variable. With practice now more established, the available resources to provide guidance for new staff, such as the online manual or video, were considered basic at best. Existing in-service training courses were described as being *all about Social Work*, and not tailored for the YJ Co-ordinator role. Those who described experiencing external training, such as mediation training, found the material non-specific to the unique conferencing environment. Various proposed initiatives for formalising Co-ordinator training, such as the one reportedly developed via Massey University, had not come to fruition. While various forms of bespoke 'official' training were provided in some areas, it was widely acknowledged that many new YJ Co-ordinators continued to receive insufficient training for a process that YJ Co-ordinators appreciated to be highly specialised.

Training is the major practice issue. I think we would agree on that. Across- the-board type of training. Where is it?

When I first came into the job, there was no training for me. You flew by the seat of your pants. You learnt how to make your own decisions. There was no template. You went to Court...you knew the judge was upset because you cocked up. After, you made sure you didn't do that twice (YJ Co-ordinator in Project One).

The way the Co-ordinators are bought on now, we are so lucky that there haven't been complaints, because the poor things are thrown in at the deep end often.

Career development for YJ Co-ordinators is limited

For career-orientated practitioners, development was also noted to be problematic. The Department's perceived emphasis on Social Work and low awareness of the diverse aspects of the YJ FGC role were again factors considered to be detrimental to in-house progression. This was conveyed to the Co-ordinators from management's approach to the restructure, occurring around the time of the research. In both individual interviews and focus groups, despite their knowledge and expertise, at least three practitioners who

considered themselves eligible for an interview decried not being considered for new YJ management positions created by the new restructure, underway at the time of interviewing.

The YJ Managers, YJ Practice Advisors who were given those new positions came from Social Work teams. And Social Work only. And that is telling me that the Department doesn't really have much interest in developing skills from people in the Co-ordinator base and advancing from there.

Summary:

To the Co-ordinators, the absence of training was the ultimate manifestation of their low standing and value within the Department. Several other studies had identified training to be an outstanding area of practice which, if addressed, might improve the consistency of practice to the benefit of the YJ FGC process (Maxwell et al., 2004; Maxwell & Morris, 1993; Renouf et al., 1990). This study provided confirmatory support of those claims. Poor or absent training was recognised as a significant factor influencing the varying level of practitioner expertise acknowledged within the Co-ordinator group. Deficient Co-ordinator training was understood to detract from a robust and consistent YJ FGC process. The study also raised the issue of the lack of career development for Co-ordinators who had managerial ambitions.

Thoughts on the 'new way of working' proposed under the restructure

Perhaps unsurprisingly, Co-ordinator perceptions of the nationwide restructure of YJ, which was underway at the time of the study, were a salient feature of the study. From data emerging in Project One (individual interviews), with management input, specific questions were derived in Project Two using material sourced from the Department's website promoting a 'new way of working' toward the ultimate aim of *addressing recidivism*. The following section captures the opinions of Co-ordinators on this Departmental initiative, highlighting pros and cons.

Mixed views about the purpose of the restructure

The restructure was varyingly received by YJ Co-ordinators. The Department's new emphasis on YJ was broadly welcomed and considered long overdue. However, having been promoted as a measure serving toward redressing recidivism, the reorganisation was perceived mainly as a management response to negative evaluations of the Department in

managing its YJ responsibilities. With the restructure enforced nationally, some Co-ordinators felt resentful that their already efficient local operation was negatively affected, with a preference for the Department to have addressed service issues in other settings known to be problematic. The YJ Co-ordinators were particularly aggrieved by the allocation of YJ Managers at the expense of much-needed Co-ordinators operating at the coalface, and no increase in budget. However, while the linking of YJ teams to sit within their local community was positively viewed, Co-ordinators generally took exception to this being publicly described as the 'new way of working'. Some stated they had made it their priority to maintain strong community networks. At the same time, citing busy workloads, other practitioners acknowledged their struggle to meet timeframes as having curtailed their ability to undertake the community liaison aspect of their role to a level they were satisfied with.

We have agreed that we will reduce serious offending by 30%. In the new model, there has been no increase in budget, no increase in staff. So how is it going to happen?

I think (the website information) is insulting. I just think that is absolutely what we have always done. We have never not done that. I think it is an absolute nonsense to say it is a 'new way of working'.

Concern over a lack of Social Work support for YJ under the restructure

The commitment to the introduction of 'dedicated YJ Social Workers' proposed under the restructure was also favourably received, in the belief that this would provide vital additional community resources for plans, and improve plan monitoring. However, there were strong reservations about whether the Department fully understood the implications of this shift, which was one of the major concerns expressed by YJ Co-ordinators regarding the reorganisation. In particular, the Co-ordinators believed the new role would require Social Workers to take a more active (as opposed to a previously desk-bound, *broker-style*) position within the community, necessitating a significant mindset change for existing Departmental staff and management. Furthermore, in view of the perceived Departmental emphasis on C&P, YJ Co-ordinators also felt current Social Work staff would require significant additional YJ-focused training to bolster skills and knowledge of YJ matters. Of particular concern in the focus group discussions conducted after the announcement and, in some instances, rollout of the restructure was whether Social

Workers would truly be ‘dedicated’ to YJ. Many were sceptical of this claim, with the recent experiences of some YJ Co-ordinators already working under the new regime causing them to express their disappointment that YJ was once again perceived to be on the *backburner*.

(For the restructure to be effective) You have to have your dedicated YJ social workers. I was in a meeting this week with a supervisor and that YJ supervisor was saying still their priority would be for C&P over YJ. So I am thinking, Oh, it is doomed before it even starts if people are thinking that way.

They (the Department) have sabotaged that before it has even started. They are still going to do C&P stuff, even more C&P.

Addressing recidivism with early intervention – a role for the Department

With the restructure proposed to specifically address recidivism, the YJ Co-ordinators were unanimous in acknowledging this issue as a major challenge for the Department. The implications for young people, families, victims and society in general were also recognised. Whether the restructure was the most appropriate response to address recidivism was a point of contention. Numerous YJ Co-ordinators stated a preference for the Department’s focus to be on *factors related to re-offending behaviour* rather than making a structural organisational change. One way this could be achieved was by improving the interface between the Department’s two divisions, in the knowledge that an ‘*at risk*’ young person and their family had previously been identified by and/or had some prior contact with the Department or other agencies. While acknowledging the issues were complex, the YJ Co-ordinators understood the absence of a supportive family base as a common factor in the majority of young people exhibiting recidivist offending behaviour. Their profile typically featured a history of C&P, sometimes in combination with a pattern of intergenerational offending behaviour. With many recidivist young offenders *known to the Department*, the Co-ordinators felt that earlier, more *intensive and longer-term intervention at a systemic level by the Department’s C&P division* may have circumvented the subsequent YJ presentation for many young people.

I wish the organisation would say, let’s look at the problems and let’s fix the problems without seeing the restructure as a necessary part of making those changes. Rather than saying, ‘Let’s change our structures to reduce offending, let’s

focus on the offenders and look at programmes required.’ A more problem-focused approach over a structural solution would suit me.

In all honesty, what we find is they have grown up in pretty disruptive, dysfunctional families. The time for the big intervention isn’t when they are actively offending, it would have been earlier. All the warning signs have been there.

Research would be helpful in understanding factors related to recidivism

It was also appreciated that a C&P background did not automatically result in a subsequent YJ presentation however factors influencing this differential were not well understood. Two long-serving Co-ordinators felt strongly that the Department’s intention of reducing recidivism might be better achieved by understanding and addressing risk factors through an investment in longitudinal research. Many more believed that due consideration of the findings of previous research endeavours by the Department, such as those by Maxwell and colleagues, would aid the provision of suitable intervention and treatment for a group of clients known to be at risk for offending continuing into adulthood (Maxwell, et al., 2004; Maxwell & Morris, 1993).

One thing I have learnt about this business is that you can't say that there is a silver bullet. You know, this will fix this, this will fix that... But again, this Department has missed an opportunity (due to cost) and that is pretty depressing... You could argue that if we had done (a proposed longitudinal study) in 1995, and we are now in 2007, we might have had some pretty good data, especially with this new system that they have just hooked up, they could say these variables are really pertinent because they have come out of that study. And \$3 million? That is nothing.

Summary:

YJ Co-ordinators highlighted many issues with the new restructure. While they were supportive of the increased focus on recidivism, many felt that the restructure would have little impact on re-offending. Instead, to better understand this behaviour, they advocated for a more strategic approach by the Department, including using the interface with C&P and utilising research. While the provision of YJ Social Work resource was welcomed, many Co-ordinators expressed scepticism as to whether they would be *truly dedicated* to YJ, as claimed. The dialogue underpinning this theme appears to underscore the ongoing

absence of leadership within the YJ division of the Department, which was either directly or covertly expressed in this study.

In the final chapter of this study, the findings from the three themes in chapters three to five will be summarised. These will be presented in relation to the research questions and conferencing literature.

CHAPTER SIX: CONCLUSIONS AND RECOMMENDATIONS

This final chapter reviews the key findings from this study and, consistent with a utilisation-focused evaluation methodology, outlines features of best practice and recommendations for process improvement (Patton, 1997). Reference is made to the relevant literature throughout. This is followed by an examination of the strength and limitations of this study, with suggested avenues for future research. The chapter concludes with personal reflections on the research process.

Overview

In examining practice from the perspectives of YJ Co-ordinators, this process evaluation study aimed to identify factors contributing to process effectiveness and best practice in YJ FGC service provision. It also aimed to identify areas of weakness toward process improvement. This study mirrors two research projects conducted by Connolly (2006a, 2006b) in 2005 as part of the Department's research evaluation strategy for its C&P division. A secondary aim of the study was to consider similarities and differences between YJ & C&P practice by a comparison of findings. The study employed a qualitative research methodology, which enabled a detailed exploration of process operations and dynamics. Data was obtained through semi-structured interviews in two projects. Project One involved individual YJ Co-ordinators with at least twelve years' experience in conducting the FGC process ($n=19$) using questions adapted for YJ from Connolly's original interview schedule. Project Two consisted of four focus groups of Co-ordinators with varying lengths of service ($n=27$), using questions designed to explore process variables.

Key findings

1. Overall effectiveness of the YJ FGC process

The process is effective for the majority of young people: In general, the overall results indicate the YJ Co-ordinators believe New Zealand's YJ FGC process is effective for the *majority* of young people who encounter it. They considered it a culturally appropriate and flexible forum, applicable for addressing a wide range of offending behaviours. From the Co-ordinators' perspectives, the process is most effective when conducted by trained, skilled YJ practitioners, and when in accordance with the principles of the Act.

The process is effective when conducted in accordance with the Act: The YJ Co-ordinators in this study particularly highlighted the Act's emphasis on *diversion* as a key aspect on an effective process, with only the most appropriate cases being referred for a YJ FGC. Drawing on aspects of labelling theory (Lemert, 1951), the Co-ordinators considered that unnecessary engagement in formal justice processes could be stigmatising and increased the risk for recidivism in young people. The Act's principle of *family empowerment* was also highlighted, with the young person and family being supported to embrace their rights to *own the process* considered integral to its success, and consistent with its aim of being family-driven.

The process is most effective for young people when it has personal meaning: For the young people, a passionate sub-set of six Co-ordinators stressed that the YJ FGC was particularly effective when the process had *personal meaning*, building on their personal strengths and talents. A restorative potential was believed to be realised when aspects of these strengths-based plans were incorporated into their local community base. Ongoing support of the young person also increased the likelihood of a favourable outcome.

The process is mostly effective for victims: Also in the *majority* of cases, the Co-ordinators believed the process was effective for victims when they were empowered to embrace their rights to participate through the process. Victim attendance was also important in personalising crime, highlighting to the young person the human impact of their offending behaviour. Facilitating victim attendance and participation in the process was deemed a key facet of the Co-ordinators' role. This was promoted when frontline Police, who made first contact with victims, had a thorough knowledge of the Act and the YJ FGC process.

The process is not working for some recidivist young offenders: As in previous local studies (Renouf et al., 1990; Schmid, 2001) and the international literature (Campbell et al., 2005) many Co-ordinators expressed strong reservations as to whether the FGC process was effective for *recidivist young offenders*. Beyond offending behaviour, the Co-ordinators in this study cited the influence of multifarious personal and family factors as adding a layer of complexity to the process compared to when these variables were otherwise absent. While they acknowledged the FGC *could* be successful in preventing recidivism after multiple conferences, it was not clear which factors influenced a positive change. Meanwhile, victims were often left with a poor impression of the process. The Co-ordinators acknowledged the issue of recidivist young offenders as a significant area of

process weakness, deserving further attention. At a local level, with a C&P background common in the profile of many of these young people, many Co-ordinators in this study also identified an early intervention role for the Department. A more intensive and longer-term level of early systemic Departmental support and monitoring was recommended (see pp. 136-137).

2. Aspects of best practice in YJ FGC service provision

As outlined earlier (pp. 61-62), the previous literature has identified various features of best practice in YJ FGC service provision as it operates from the New Zealand model. While some consistencies have been found, the YJ Co-ordinators have provided additional insights as to *why* these factors are important, and *how* these may be achieved, both important aims of process evaluation research (Bazemore & Stinchcomb, 2000). In particular, these Co-ordinators described best practice for the YJ FGC as incorporating philosophical as well as practical aspects.

a) Aligned professional perspectives on the legislation and the purposes of the YJ FGC process

The YJ Co-ordinators unanimously agreed that for an effective YJ FGC process, all professional parties needed to be *singing from the same song-sheet* in relation to the Act. This philosophical congruence became enacted through FGC practice, positively benefiting the process and its participants. The notably more collaborative approach and superior professional Co-ordinator-Police relationships described in some regions appeared associated with formal and/or informal opportunities for parties to debate practice and issues. These interactions facilitated a more detailed appreciation of the varying roles and responsibilities of each party in the process, toward the attainment of more common perspectives on approaches to, and the practice of, the YJ FGC. A more collegial atmosphere was also described. These findings provide some support to the international conferencing literature suggesting that the commitment of professional parties to a partnership approach, and positive collaboration, facilitates an inclusive and empowering FGC process for participants (Kemp, Whittaker, & Tracy, 2000).

b) The robustness of consultation with Police

Positive Co-ordinator-Police interactions were considered to have a beneficial effect on the consultation process, which Co-ordinators described as being advantageous to young people. Confirming this as a key conference phase (Stewart, 1996), the YJ Co-ordinators

in this study emphasised the *robustness* of consultation with their local Youth Aid to ensure diversionary options were duly considered. This activity ensured young people did not unnecessarily enter the stigmatising YJ system in the knowledge of adverse outcomes, the potential for which has been described in the literature (Maxwell & Morris, 1993). To ensure a robust consultation with their local Youth Aid, the YJ Co-ordinators employed their expertise in the Act, and other legislation pertaining to young people, such as the Crimes Act.

c) Quality pre-conference preparation

The quality of preparation is important: At a local and international level, the literature stresses the importance of the preparatory phase of conferencing (Campbell et al., 2005; Levine et al., 1998; Levine & Wyn, 1991; Maxwell et al., 2004; Maxwell & Morris, 1993; Schmid, 2001). The *quality of preparation* was particularly emphasised by the Co-ordinators in this study. With reference to the local process, Co-ordinators described the following pertinent features.

Accurate information: It was vital for Co-ordinators to have received *good quality information* from other justice agents, and particularly the Police. This included accurate contact details for victims, young people and families. In view of the tight timeframes specified under the Act, the Co-ordinators cited a positive effect on their workloads, with this action also serving their attempts to effectively engage participants in the process.

Personal contact enables the exchange of important information: The existing local literature describes that Co-ordinators making personal contact (Renouf et al., 1990; Schmid, 2001) to *provide* participants with information on the FGC to be a component of best practice (Maxwell et al., 2004). While the YJ Co-ordinators broadly confirmed this, five YJ Co-ordinators in this study also highlighted the *reciprocity of information*, particularly in meetings with young people and families. Not only was personal contact consistent with Māori tikanga and greatly facilitated rapport building toward engagement in the process, witnessing family interactions enabled the YJ Co-ordinator to gather vital information concerning:

- The family's *belief system regarding authority* – indicative of their level of empowerment to embrace their right to drive the process

- The family's availability and access to personal and/or local *resources* – to gather ideas for building a plan tailored to the young person
- The identification of *key family supports* – those whom the young person respected, were active in decision-making and who might provide practical and emotional support for the young person through the process and beyond
- The *attitude of the young person* – indicative of their current level of engagement in the process and potential for taking responsibility for offending behaviour
- The *young person's strengths, interests and talents*, so that these might be incorporated into the plan.

Consideration of these dynamics considerably informed the Co-ordinators' preparatory work. For example, toward sourcing additional extended family or friendship supports for the young person, or whether wider consideration of plan options was needed.

Sourcing a key person: In this study, many Co-ordinators emphasised the crucial need to *identify a key person* during their preparation. This individual was described as one who would take overall responsibility for guiding the young person through the process, and who might provide *continuity of practical and emotional support* beyond the FGC experience. This finding is consistent with the literature on resilience (Davies, 2004) and with the aims of the YJ offending strategy (Ministry of Justice and Ministry of Social Development, 2002).

Incorporating a young person's strengths: In engaging the young person during preparation, a sub-set of YJ Co-ordinators passionately advocated for gathering information on the young person's strengths, interests and talents. This was conducted in the belief that when personal aspects were eventually incorporated into FGC plans, the entire process became more *meaningful* to the young person. This finding provides support to the wider literature promoting collaborative, strengths-based approaches as facilitating a young person's motivation and engagement in conferencing procedures (Kemp et al., 2000). In this study, the personalisation of that action, expressed in a plan tailored to the young person, was emphasised by Co-ordinators who particularly advocated this approach.

Personal contact with victims counters resistance to the process: Recommended as best practice with young people and families, personal Co-ordinator contact with victims was also deemed vital for the process. In explaining the aims of the process, and the roles and responsibilities of each participant, their liaison served to *demystify* or clarify misconceptions of the FGC for the victim. More often than not, this action was considered to counter victim resistance to the process and promoted the likelihood of attendance at the FGC.

d) The FGC meeting

Ensuring a respectful, participatory process: Consistent with the aims of the Act, the YJ Co-ordinators promoted the rights of *all* participants to embrace the process, to adopt an active role at the FGC. That this was achieved through a *respectful, dignified process* was a key aspect of the Co-ordinators' function. While this is crucial for victims, the international literature stresses that this approach is particularly important for a young person's positive experience of the justice process (Daly, 2001). At a local level, this approach has been linked to positive outcomes, including a lower risk for recidivism (Maxwell et al., 2004).

Good preparation serves young people at the FGC: While they fully supported the right of participants to jointly derive conference plans at the FGC, many Co-ordinators highlighted the importance of a young person coming suitably prepared with ideas for plans. In signalling a young person's willingness to take accountability for their offending behaviour, this action could counter resistance from other participants, and limit professional dominance.

Tailoring plans to the young person's strengths: Importantly, plans were said to be more effective when they had the potential to utilise a young person's strengths and interests. Through the creation of *tailored* plans, in which the young person had more of a *personal investment*, a more *meaningful FGC process experience* was described than when plans defaulted to community work, for example. Furthermore, when these bespoke plans were somehow *linked back into the community*, they were considered to facilitate an essentially *restorative function*. Exemplars included building playgrounds or toys for play-centres. Many Co-ordinators believed plan activities of this kind, as sanctioned through the FGC process, often led to new educational or employment opportunities for young people. The narratives of these Co-ordinators provided a practical illustration to support claims that a

young person's *self-esteem* may be enhanced through the FGC process, which has been associated with positive outcomes (Maxwell et al., 2004). This is important in the knowledge of low self-esteem may be a factor in the profile of many young people who offend (Maxwell, 2007).

Victim attendance personalises crime: This study confirmed the view expressed by Co-ordinators in that of Schmidt (2001) in underscoring the importance of the attendance of victims at the FGC. In *personalising crime*, the potential of the dynamic of the victim-young person interactions often inspired an emotional reaction in the young person as witnessed by other researchers (Maxwell et al., 2004). However, as aptly put by one YJ Co-ordinator, this remained an unknown aspect of *conference magic*.

e) Post-FGC follow-up

The Co-ordinators highlighted that the *ongoing monitoring of plans* was vital to ensure the completeness of the FGC process. Co-ordinators recognised that young people needed ongoing support to successfully complete their plans or that sometimes plans needed to be modified. To avoid a sense of failure, Co-ordinators considered it vital that one party took responsibility for this task. Ideally, this was designated as a YJ Social Worker task. While this was identified as best practice, it was widely acknowledged to be a current area of weakness in the process. This is discussed further in the next section.

f) The skill-set and personal qualities of effective Co-ordinators

The essential requirement of trained, skilled facilitators is a salient feature of the conferencing literature (Jackson, 1998). From the early days of the FGC, local studies have constantly highlighted the need for YJ Co-ordinators to be supported by the Department to deliver the process through the provision of training and supervision (Maxwell et al., 2004; Maxwell & Morris, 1993; Renouf et al., 1990). In echoing the position of these researchers, this study has determined the training elements required by these key stakeholders to be effective in the provision of the YJ FGC process. This is important information to aid organisational learning, a major aim of process evaluation research (Patton, 1997).

Skills needed by Co-ordinators: As it operates in the New Zealand context, in addition to strong organisational and relationship-building abilities, the YJ Co-ordinators described their skill-set as including: facilitation, mediation, conflict resolution, negotiating abilities,

motivational interviewing techniques, and navigating group dynamics (including handling strong emotions). Some practitioners utilised their specialist expertise, for example in sexual offending and domestic violence. A comprehensive knowledge of the Act and other pertinent legislation, such as the Crimes Act, was considered essential. Understanding of issues pertaining to young people, including awareness of developmental stages, and particularly adolescence, was also highlighted as essential.

Personal qualities of Co-ordinators: The suitability of persons employed for the YJ Co-ordinator role was also considered important, with YJ Co-ordinators in this study describing some of the attributes of persons they considered most suitable as practitioners. Such persons were described as active in their community and maintained a strong community focus. They were passionate about working with young people, families and victims, and took a positive, hopeful approach in their dealings, particularly with the young people. The ability to hold a positive approach for hopeful change in a young person while holding them accountable for offending behaviour was also acknowledged as a vital skill for a YJ Co-ordinator. It was generally considered that the absence of a qualification should not necessarily deter the Department from recruiting a suitable community-based person who possessed appropriate personal attributes and the potential to develop expertise in the field.

3. Current issues in the YJ FGC process

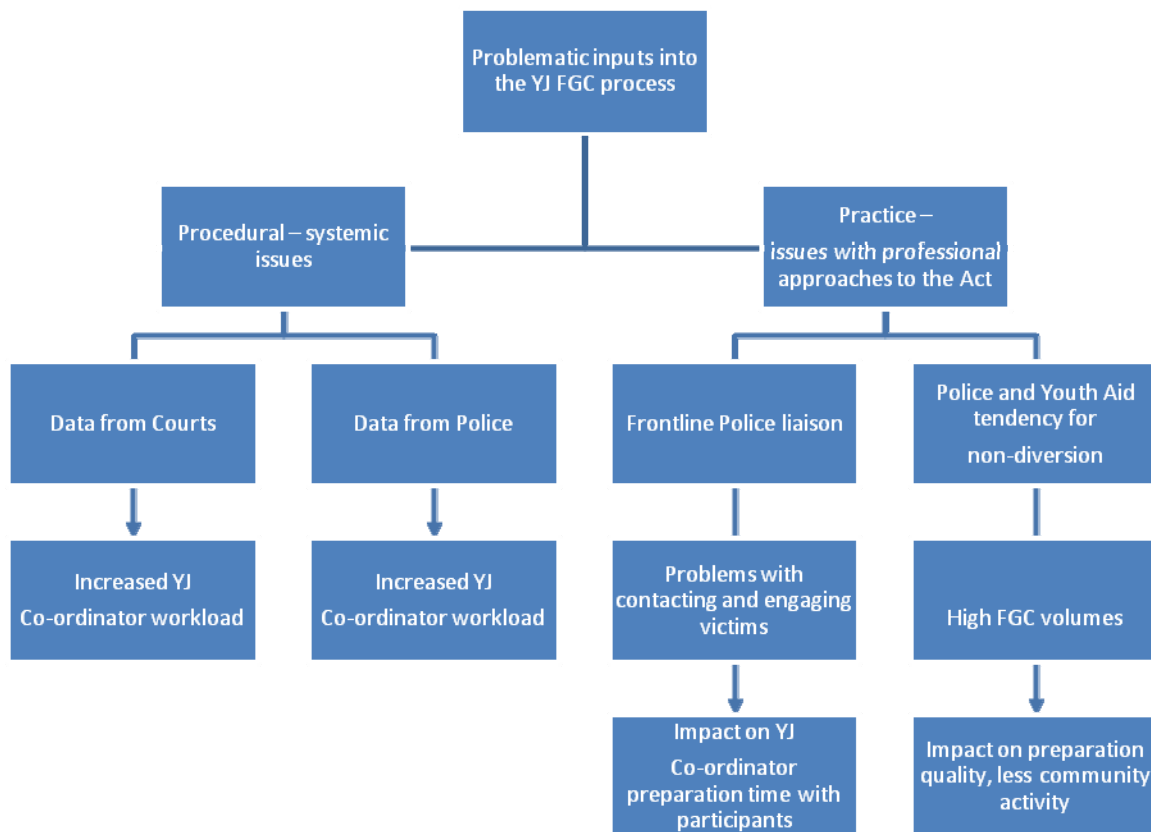
Consistent with a utilisation-focused approach, just as knowledge of best practice may contribute to the development of the YJ FGC, toward process improvement, it is also important to understand issues detracting from process effectiveness. Issues within the various phases of the YJ FGC process were identified by the YJ Co-ordinators. In the next section, these are described and depicted graphically to demonstrate where these occur in the phases of the process, and the impact of these issues. Co-ordinator suggestions for process improvement are also captured.

a) Problems with inputs into the YJ FGC process

Several issues with inputs into the process were identified by Co-ordinators, depicted in Figure 4. Operating to the timeframes specified under the Act, the Co-ordinators' ability to meet this obligation was often compromised by certain procedural and practice factors.

They noted a concomitant impact on the preparatory and community-liaison aspects of their work.

Figure 4. Flow on effects of problematic inputs into the YJ FGC process



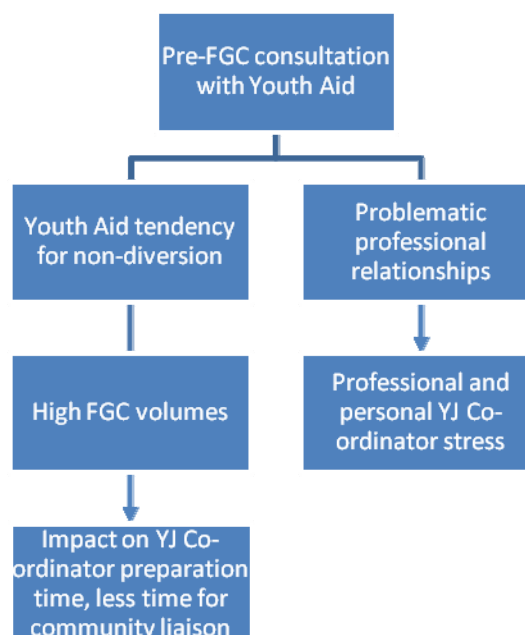
The Co-ordinators suggested the inputs into the YJ FGC process could be improved by:

- Improving external communications received by YJ Co-ordinators from other professional groups, with particular investigation into current information systems to address issues of workflow and accuracy. Such inquiry should be conducted in consultation with the Department, with due consideration of internal system requirements
- Addressing the training of Police, both frontline and Youth Aid, in relation to the aims of the Act and the YJ FGC process, toward improving liaison with victims, young people and families, and to encourage the use of diversionary practices when warranted.

b) Issues with consultation with law enforcement

In certain areas/regions, problems with the consultation phase of the process with local Youth Aid Police Officers were identified, particularly a tendency to discount the option for diversion. Three Co-ordinators stated this was due to the low regard of senior Police staff for the Act and the FGC process. The practice of *geographical justice* was considered one factor influencing an inconsistent approach to managing youth offending. Essentially, there may be variable consequences for a young person stealing a chocolate bar, depending on their location. Depicted in Figure 5, more *pro-prosecution* Police attitudes manifest in the high YJ FGC volumes described by some YJ Co-ordinators in particular areas, with a tendency to discount diversion. In addition to workload stress, in some areas where relationships were particularly contentious, this contributed to an additional source of personal stress for some Co-ordinators.

Figure 5. Flow on effects of difficulties between Co-ordinators and Youth Aid in the Pre-FGC consultation phase of the process



The YJ Co-ordinators suggested improvements could be made to the consultation phase of the FGC process by:

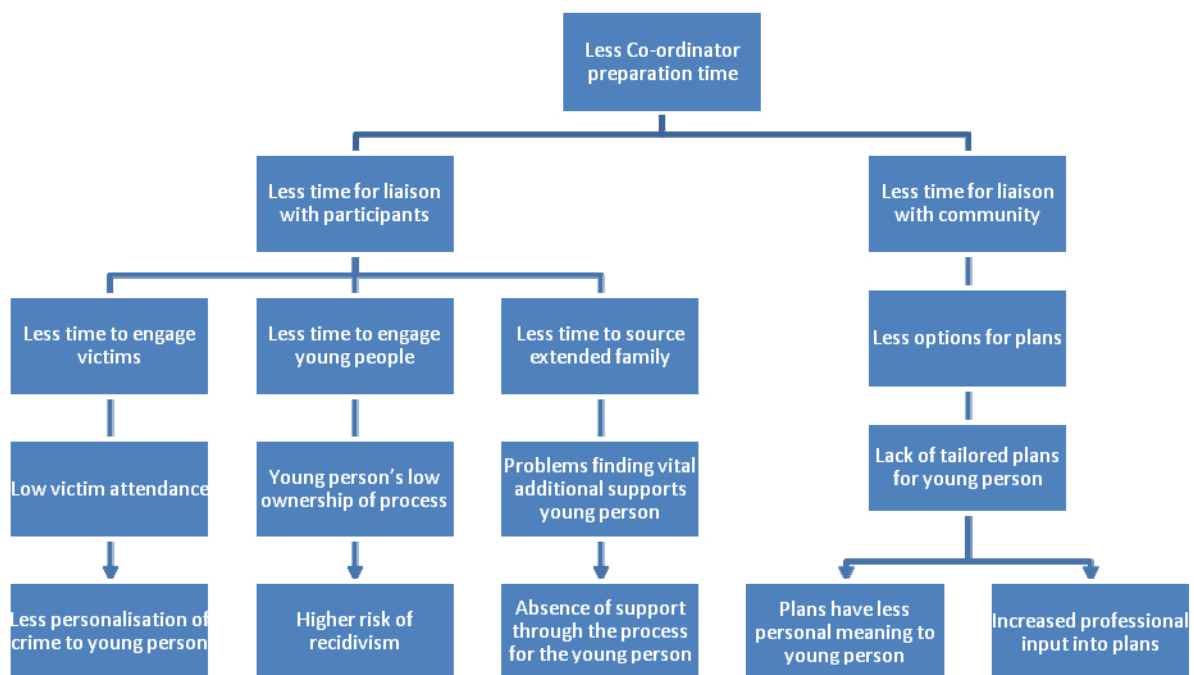
- More regular formal and informal local opportunities for Police and YJ Co-ordinators to debate philosophical and practice issues, facilitating a more consistent professional understanding of the Act and the process

- Reinstate regular joint training opportunities between the Department and Police as occurred in the early days of the Act.

c) Issues with Preparation

As previously described, the crucial importance of the preparation phase of the FGC process was particularly highlighted by the YJ Co-ordinators in this study. Many YJ Co-ordinators described managing high workload volumes. As depicted below in Figure 6, this had an associated negative impact on the quality of their preparatory work with participants. Moreover, the curtailment of their community liaison work meant their ability to source vital options for plans was adversely affected.

Figure 6. Flow on effects of reduced Co-ordinator preparation time



It was suggested:

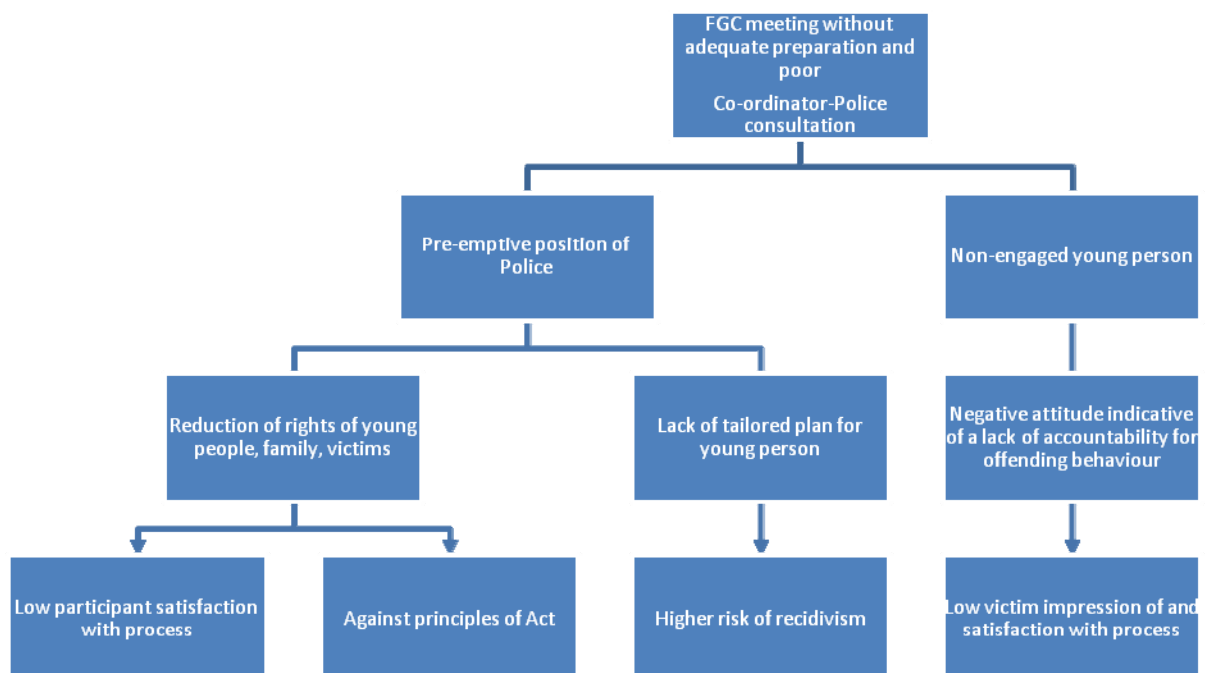
- The Department review staffing by evaluating current Co-ordinator numbers against FGC volumes

- Improve the quality of information received by Co-ordinators from third parties (as previously described)
- Invest in research to improve the engagement of victims
- Bolster training, especially for new Co-ordinators.

d) Issues with the FGC meeting

At the FGC itself, two main issues were identified. Firstly, for a subset of YJ Co-ordinators their local *Police's more proactive or pre-emptive position* was highly problematic in detracting from the right of non-professional stakeholders to fully participate within the process. More generally in this phase, a second issue was identified when the young person was *not fully engaged* in the process. Regardless of whether at their first or fifteenth FGC, a young person's *negative attitude* signalled to other participants their unwillingness to accept responsibility for their offending behaviour. Many YJ Co-ordinators stressed that this could sometimes be shifted during the YJ FGC by the victim's presence and the young person hearing a victim's story. However, for some YJ Co-ordinators, their assessment of the young person during their preparation led some to conclude the FGC may make little difference to offending behaviour at that time-point. Regardless of their position, all YJ Co-ordinators were mindful of the impact on the victim, who was likely to depart with a negative view of the process.

Figure 7. Flow on effects for the FGC meeting without adequate preparation time and poor Co-ordinator-Police consultation



In addition to fortifying Police training and dialogue with local Police Aid as has previously been described, suggestions for improving this phase of the process included:

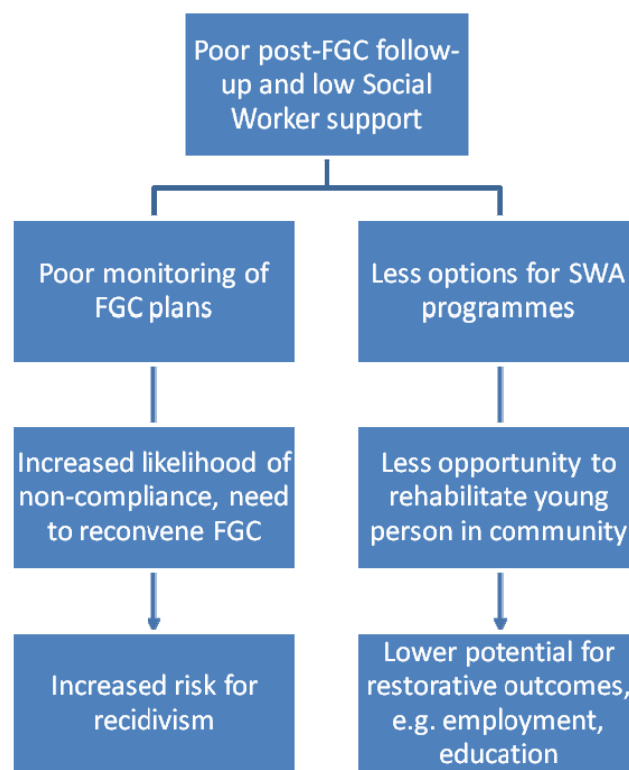
- Conducting research with young people to understand their experience of the YJ FGC process, and what factors influence a *shift in attitude* toward their taking accountability for offending behaviour.

e) Issues with the post-FGC follow-up phase

As depicted below in Figure 8, Co-ordinators raised issues with this final phase of the FGC. The poor monitoring of plans made at the FGC was identified as a major current process issue, detracting from a complete and robust YJ FGC process. Several YJ Co-ordinators believed this to be one factor influencing low Police confidence in the FGC. Inadequate monitoring of plans was considered to be particularly detrimental to the young person, increasing the risk for the young person failing to complete their plan, resulting in a reconvened FGC. *Regular plan monitoring* was considered best practice, and this study found that there was no consistency in who had formal responsibility within the Department for conducting this vital exercise. Ideally, the Co-ordinators considered this should be a Social Worker responsibility, with this resource previously lacking. Most

welcomed the appointment of dedicated YJ Social Workers under the new restructure, in the hope of improving this phase of the FGC. Moreover, it was anticipated such staff would source local SWA options with more young people, including young women, considered to be offending at the top level. This was expressed in the belief that young people were best rehabilitated within their local community, with an increased likelihood of them receiving benefit from accessing opportunities for education, training and employment.

Figure 8. Flow on effects of poor Post-FGC follow-up and low Social Worker support



Suggestions for improvements in this conference phase included:

- YJ Social Workers take responsibility for monitoring FGC plans
- YJ Social Workers investigate local programmes and services for SWA options for young people offending at top tariff levels, including for young women
- That the Department train and develop in-house Social Worker expertise in YJ, and ensure their resources are allocated to YJ under the new restructure.

4. Issues with interagency Co-operation

Teamwork is deemed an essential component in successful FGCs and a key feature of the literature (Hudson & Burford, 2000). This study has highlighted the *interdependency* of the justice agents acting as professional stakeholders in the YJ FGC process, particularly between Co-ordinators and the Police. While many Co-ordinators currently described an effective *partnership approach*, co-operation in some areas was notably absent. Overall, the early collaboration between these two professional parties described in an original study (Renouf et al., 1990) was widely perceived to have eroded over time. The focus of tension appeared to be parties' *differing interpretations* of the Act, notably in relation to diversion and family empowerment. Indeed, a small group of original Co-ordinators questioned whether some of the Police had truly embraced the Act, with their low regard for the legislation particularly detrimental to the FGC process and its participants.

Varying interpretations of the legislation – the lore-law tension: The YJ Co-ordinators described encountering issues with other justice agents throughout the various phases of the conferencing process, as outlined in the above section. Professional tension was largely attributed to parties having differing perspectives on the Act, and the interpretation of its principles. As Connolly (2006a) found in her study of C&P Co-ordinators, this has been described as an ongoing challenge for practitioners in the aligned YJ field. Similarly to C&P colleagues, the YJ Co-ordinators considered that managing the concept of *family empowerment* – a key aspect of *lore* embedded within the legislation – with public obligations (*law*) often proved problematic for YJ professionals. Also in this study, in relation to the current practice issue of assessments for recidivist young offenders, differing interpretations of *family empowerment* emerged within the Co-ordinator group. Differing professional perspectives on the legislation were perceived as a major influence on both the process and practice inconsistencies that were evident in this study.

A need to address Police-Co-ordinator relationships: This study found Co-ordinators perceived the relationship between Police and YJ Co-ordinators as most contentious. While many YJ Co-ordinators reported positive, collegial associations, the relationship with the Police in some areas in particular appeared to be highly problematic, affecting both YJ Co-ordinators and YJ FGC participants in various phases of the process (as described in part 3 of this section pp. 148-153). Attributed by Co-ordinators as stemming from differing professional viewpoints, these findings echo results of a Police study in

which YJ Co-ordinators considered a lack of understanding of the Act and of the goals of the FGC to be significant practice issues (New Zealand Police, 2002). This finding also supports Maxwell and colleagues' research (Maxwell et al., 2004) in which some Youth Officers and YJ Co-ordinators identified a need for improving the Police-Co-ordinator relationship.

A need for improved dialogue and a 'back-to-basics' approach: Despite almost two decades of operation, the YJ Co-ordinators lamented the absence of official opportunities for professional parties to collectively debate the legislation and the YJ FGC process in Aotearoa/New Zealand. In many areas, professional colleagues informally reviewed proceedings at a local level, which appeared to contribute to a more aligned professional position and inspire a more collegial professional relationship. However, many YJ Co-ordinators strongly advocated for a wide-scale review at a broader level than provided by the current revision of the legislation, which would be both appropriate and timely as the twentieth year of FGC operation approaches. The YJ Co-ordinators also felt such a review would benefit from capturing their experiences in conducting YJ FGCs, which they believed had not been fully solicited, to the detriment of the process. Congruent with the *back-to-basics* approach they advocated, a number of senior YJ Co-ordinators believed that *Puao-te-Ata-Tu*, the foundation document that originally guided and for many, *underpinned* the Act, was perhaps the most appropriate starting point for future debate.

In summary, what was abundantly clear in this study was the need for improved dialogue in relation to the Act and, by association, the YJ FGC process. Consistent with Connolly's findings, the YJ Co-ordinators similarly advocated for a need to "rejuvenate" the FGC to recapture its "preciousness" (Connolly, 2006a, p. 531). Many YJ Co-ordinators described a perceived *loss of impact* of the Act over time. However, as enacted through the YJ FGC process, their experiences of working with the legislation had convinced these Co-ordinators that it was an effective piece of legislation for managing youth offending through the empowerment of young people, families, and victims.

The FGC and the Act are inextricably linked. The initial excitement of these revolutions in YJ inspired almost two decades ago necessitated close professional liaison and deliberation to understand the implications of these radical changes. However, the absence of regular formal opportunities for professional agents to debate both the FGC's underpinning philosophy (the Act) and how that is enacted through the FGC process appears to have

been detrimental to a cohesive professional approach. At a local, more informal level, the Co-ordinators who meet regularly with fellow professionals consistently described more aligned positions on the legislation and the FGC process, as well as more collegial relationships.

The international conferencing literature describes that when devising a FGC process, professionals must co-operate to formulate and agree a service framework that guides policies and practice. Once established, both the service's *philosophy and its operation* should be regularly reviewed to evaluate whether that service is meeting its stated objectives. While this exercise performs a necessary pragmatic function of maintaining service integrity, it also encourages a partnership approach to the FGC in its professional stakeholders (Pennell & Weil, 2000). Otherwise, there is a risk that some professionals may simply be adopting "FGCs in name, not substance" (Hudson & Burford, 2000, p. 60).

5. Issues with organisational support

The literature emphasises that the YJ FGC process and staff responsible for conducting the process benefit from strong organisational support (Campbell et al., 2005). To this end, this study raised some significant, and seemingly long-standing, issues with aspects of Departmental leadership in YJ, to the disadvantage of the YJ FGC process and the Co-ordinators as a professional body.

Low regard for the YJ Co-ordinator role: Within the Department, the YJ division was perceived by the YJ Co-ordinators as generally having a lower priority than C&P, with claims of YJ being the *poor cousin* widely acknowledged in-house. The majority of participants felt that they, both as Co-ordinators and as YJ practitioners, were not given adequate support by the Department. No more was this highlighted than with the issue of the YJ Co-ordinator role. Akin to what was described by the YJ Co-ordinators in the study of Renouf and colleagues (1990), current senior Departmental staff were perceived to have little knowledge of the role and function of YJ Co-ordinator and the distinction from a Social Worker role. The YJ Co-ordinator role was also perceived as having a poor profile and status internally, contrasting the early days of the FGC, when the role of Co-ordinator was more highly regarded (Connolly, 2006a).

How low support is demonstrated by the Department: The participants in current study variously described their perception of being unsupported by the Department. This was

demonstrated through *policy matters*, and particularly in the Department's approach to the *training and development of YJ Co-ordinators*. This was described as effectively absent over the almost twenty years of FGC operation. It was considered reflective of the low value the Department placed on the YJ Co-ordinator role and, by association, the YJ FGC process. While they acknowledged many of their own Co-ordinator colleagues were insufficiently trained, the Co-ordinators also believed it highly unsatisfactory that untrained Departmental staff were sometimes drafted in to run FGCs. These factors significantly influenced the variation in YJ FGC practice the Co-ordinators acknowledged as evident throughout New Zealand, to the detriment of the process and its participants.

The Department's low appreciation of the Co-ordinators' role was also illustrated by the lack of understanding of the difficulties Co-ordinators faced in engaging victims in the FGC process. *Budget allocation* was also indicative of the Department's priority of C&P over YJ concerns. With YJ and C&P budgets held jointly by region, some YJ Co-ordinators in this study were critical of funding designated for YJ being sometimes co-opted to C&P in response to overspends by that division. This also sent a negative message regarding the Department's consideration of YJ, with many YJ Co-ordinators describing this as disadvantageous to securing plan options. In such instances, the literature suggests organisations effectively remove the power of conferencing from participants (Nixon, 2000).

An absence of senior Departmental staff with YJ knowledge: The YJ Co-ordinators identified a lack of senior Departmental staff with responsibility for YJ at Head Office to provide leadership and direction for YJ. Under the recent *restructure*, the YJ Co-ordinators welcomed the local focus on managing crime which, for many, was a return to the earliest days of the FGC when there was more of an emphasis on community activity in the Co-ordinators' role. While this was viewed as positive, the absence of Head Office understanding of YJ had implications for policy and practice that was of concern to YJ Co-ordinators. This was illustrated by the appointment of YJ Managers in the restructure, considered at the expense of much needed frontline Co-ordinating staff.

An early intervention role for the Department in understanding recidivism: The intention of reducing recidivism under the re-organisation was considered by some YJ Co-ordinators to perhaps be better achieved by understanding and addressing risk factors as determined by previous research endeavours, notably those of Maxwell and colleagues (Maxwell et al.,

2004; Maxwell & Morris, 1993). In knowledge of a C&P background of many recidivist offenders and its interface with C&P, some Co-ordinators saw a role for the Department toward the early identification and intervention of *at risk young people and families*. However, it was appreciated that more investigation into these factors would aid understanding of the complex issues these young people faced, and the possible influence of systemic issues. Some Co-ordinators considered the Department to be well placed to take a leadership role in understanding these variables, aided by an investment in longitudinal research.

In summary, while this study has identified various organisational matters, these appear underpinned by the overarching issue of the *absence of strong Departmental leadership for YJ*. As described above, this has wide-reaching effects. In particular, this study highlighted the impact of a lack of support on the training and development of Co-ordinators. The literature suggests training is a crucial component in a successful YJ FGC process. Such training should be ongoing, requiring a strategic organisational approach (Jackson, 1998).

A perception of a lack of organisational support can also negatively affect morale (Campbell et al., 2005). The Co-ordinators in this study described a sense of low professional value despite their role in a service that is a pivotal feature of New Zealand's YJ system. Despite this, similarly to the observations of Renouf and colleagues (1990) in their early local study, the enthusiasm of long-serving Co-ordinators appeared not to have waned. On the contrary, in the knowledge that the process was a generally effective, empowering and valid one for managing the majority of young people's offending behaviour, the passionate belief of all Co-ordinators in the YJ FGC process was a salient feature of this study.

Utilisation of research findings

The YJ Co-ordinators described a number of factors considered to be best practice in YJ FGC service provision as it operates in New Zealand, outlined under point 2 of this chapter (pp. 142-147). In accord with a utilisation-focused approach, drawing on the findings of this study and with reference to previous research and literature, a number of recommendations have been made toward improvement and development of the YJ FGC process. These recommendations were included in the report provided to the Department, submitted in December 2008 (Slater & Lambie, 2008).

Recommendations

1. There is a need to address the training of YJ Co-ordinators

Co-ordinators acknowledge considerable practitioner variation in the standard at which YJ FGCs are conducted. Such practice disparities are believed to stem from the Department's poor recruitment and training policies for YJ Co-ordinators. While the YJ FGC is envisaged as fundamentally family-driven, in support of the wider conferencing literature (Campbell et al., 2005; Jackson, 1998) this study has highlighted that the success, or otherwise, of the process is highly reliant on both the skills and personal attributes of the YJ Co-ordinator.

Recommendation:

- For a working party comprised of a cross-section of YJ Co-ordinators and senior Departmental managers be convened to establish best practice YJ Co-ordinator recruitment, training and professional development policies.

2. There is a need to improve Departmental leadership in YJ

There is a strongly held YJ Co-ordinator perception of a lack of Departmental leadership in relation to its YJ responsibilities. The Co-ordinators identified an absence of senior Departmental personnel with responsibility for YJ at both a strategic or operational level. YJ Co-ordinators in this study consider that the effects of such a lack of commitment by the Department to this area of its operation to permeate through to both themselves as a professional group, and the FGC process as it pertains to YJ. There is a clear need to appoint a senior person to the Department with the responsibility for providing leadership and strategic direction for the YJ division.

Recommendations:

- For a Departmental Review of its YJ responsibilities to be conducted in relation to the FGC process and to YJ Co-ordinators
- The appointment of a designated Departmental YJ leader at a senior level.

3. There is a need to review the effectiveness of the current YJ FGC process for recidivist young offenders

The YJ Co-ordinators firmly believed the current YJ FGC process was effective for the majority of young people who come into contact with New Zealand's YJ system. However, many YJ Co-ordinators raised concerns as to whether the FGC process is adequately addressing the needs of recidivist young offenders. Multiple FGCs were perceived to typically result in an unsatisfactory experience for all participants, notably victims. While the complex systemic and personal issues in the profiles of young people presenting with recidivist offending behaviour were acknowledged, strategies for adequately addressing issues related to these factors were considered to be little understood. A lack of appropriate resources for the rehabilitation of this group was also a significant issue YJ Co-ordinators identified, and inter-agency co-operation was also cited as inadequate.

It was not clear from this study whether or how the YJ FGC process impacts on recidivism. This is an ongoing issue for YJ FGCs internationally. In their review of nine studies conducted in the United States and Australia, Bradshaw and Roseborough (2005) found no firm support for the effectiveness of the FGC in reducing recidivism. However, for all participants, their analysis showed the FGC to be a more satisfactory method of addressing youth offending than other criminal justice processes, such as Courts. Those authors called for more focus on process features to identify variables that are linked to lower recidivism and other positive outcomes. To this end, more dialogue with young people would also be valuable. For example, Barry (2006) found that young people in the United Kingdom desisted offending behaviour as a result of opportunities for *social recognition*. Conducted respectfully, and utilising personal strengths as advocated in this study, the potential for social recognition is possible through the YJ FGC process.

Barry's study also highlighted that young people need ongoing support (Barry, 2006). This has been identified as essential for recidivist offending of young people at a *higher*

level of seriousness (Waldgrave, 2005). For these young people, the success or otherwise of the FGC must be considered in the context of the correlation with often lifelong backgrounds of deprivation and disadvantage (Hayes & Daly, 2004). A variant on the current process is worthy of consideration, for example, as with the Intensive Monitoring Group (IMG) Youth Court trial. In this programme, at risk young people with identified drug and alcohol and/or mental health issues receive intensive support. Preliminary results suggest this intervention is effective in reducing recidivism (Ministry of Justice, 2008a). While there are a number of possible avenues, it is clear that further local inquiry into addressing re-offending is required. Considering the interface with C&P issues, with its dual mandate, a key early intervention role for the Department is indicated. This is particularly valuable given the benefits described in the literature on resilience and early intervention (Davies, 2004; Ministry of Justice and Ministry of Social Development, 2002).

Recommendations:

- For further (longitudinal) research to be conducted by the Department to explore factors related to recidivist young offenders, with an emphasis on early identification of *at risk* children, youth and their families
- More detailed inquiry into YJ FGC process features and their links to outcomes including recidivism, necessitating improved Departmental information systems
- Ascertaining from families of recidivist young offenders what level of support they need to assist their young people
- Consideration of investing in qualitative studies exploring young New Zealanders narratives to better understand features influencing their desistance in offending behaviour
- Consider extending IMG trial following results of the evaluation.

4. There is a need to improve collaboration amongst professional parties involved in the FGC process

The YJ Co-ordinators interviewed for this study were proud of the Act as an innovative, world-leading piece of legislation, with the FGC its centrepiece. While YJ Co-ordinators advocated for upholding the principles of the Act (its aspects of *lore*) as they envisaged

them, they perceived significantly less support from other professional groups engaged in the FGC process. This was reflected in claims of varying interpretations of the legislation and reports of Departmental policy and resourcing (for example, the available financial support for programmes such as SWA). These factors, in combination, were considered by YJ Co-ordinators to diminish from a consistent and robust YJ FGC process for participants. YJ Co-ordinators decried the lack of regular opportunities, both formal and informal, for professionals to review and debate aspects of the FGC process. The author shares a view similar to the majority of YJ Co-ordinators; that it would be both timely and prudent to formally review the YJ FGC process, with a focus on understanding current professional views of, and attitudes to, the Act.

Recommendation:

- For a multi-disciplinary ‘think tank’ of professionals, including YJ Co-ordinator representatives, to formally review the YJ FGC process, with a focus on revisiting the Act and its principles.

5. There is a need to improve the flow and quality of information in the YJ FGC process

The YJ Co-ordinators in this study considered the information received by them from other parties as a significant impediment to the current YJ FGC process. In particular, the delay in, and/or the lack of quality/inaccurate information Co-ordinators received from Courts and Police was perceived to detract from a robust and timely FGC process. They believed this serves to compromise the YJ Co-ordinators’ ability to undertake the thorough and in-depth preparation for all participants, which they have identified as essential for best practice in YJ FGC provision. In addition, with many YJ Co-ordinators conducting over the recommended 2.5 FGCs per week, the effort required to clarify or seek even basic information provided by other parties was understood to compound an already busy workload.

This study’s findings also lend support to the recommendations of Maxwell and colleagues, who argued that improving Departmental information systems might aid the measurement of FGC outcomes (Maxwell et al., 2004). This might be practically facilitated by the Department canvassing Co-ordinator views of their data requirements within *each stage of the YJ FGC process*. This exercise would be useful toward

identifying *features of the process* that might contribute to the likelihood of positive outcomes, for example, a tailored versus a generic community-service plan, and the level of follow-up. From a management perspective, quality data might also be useful to the Department, for example, mapping the number of FGCs conducted by Co-ordinators per week against the recommended level (of 2.5 FGCs per week).

Recommendations:

- For a working party of YJ Co-ordinators and representatives from Police and the Courts to review and revise procedures that feed into the first stage of the YJ FGC process
- For the Department to investigate Co-ordinator perspectives on how internal information systems related to the YJ FGC process could be improved, and how this information might be linked to data on FGC outcomes
- For the Department to collect information on the level and/or extent of post-FGC follow-up against the party identified as responsible for this task
- For the Department to collect information on the number of FGCs per week conducted by YJ Co-ordinators, and compare data against the recommended number of FGCs.

6. There is a need to address Police training in relation to the Act and the YJ FGC process

Consistent with other studies (Maxwell et al., 2004; New Zealand Police, 2002), the YJ Co-ordinators in this study strongly advocated for improving Police training in both the Act and YJ FGC process. YJ Co-ordinators believed the poor attitude of some frontline Police toward the process was generally contributing to a poor public perception of the FGC as an ineffectual and a *soft option* for dealing with the offending behaviour of young people. This was considered to detract from the Co-ordinators' ability to successfully engage victims in the process. Beyond deterring victims from exercising their right to participate, YJ Co-ordinators also considered that, for some young people, the face-to-face encounter with victims could often provide the essential catalyst for change.

Recommendations:

- For Police to address training of frontline Police in the Act and the YJ FGC process, in consultation with representatives from the Department, then map effect on victim FGC attendance
- Reinstate joint Police-Co-ordinator training
- Provide regular forum, locally and nationally, for Police and YJ Co-ordinators to discuss procedure, practice and policy matters.

In conclusion, the above recommendations are necessarily broad. This has been suggested in the belief that the most benefit to the YJ FGC process would be derived from discussion and debate at a macro level. It is axiomatic that such dialogue should include the perspectives of YJ Co-ordinators as key stakeholders in the YJ FGC process.

Strengths and limitations of the study

This study has evaluated the YJ FGC process from the perspectives of just one of the key stakeholder groups. Differing stakeholders likely have alternative viewpoints that would have benefited from being addressed in the research. Furthermore, with 70% of the total number of Co-ordinators participating in either project, only a sub-set of Co-ordinator views were captured. While the study cannot be regarded as reflecting the views of all Co-ordinators employed by the Department, with recurring themes in both Projects, it was likely that saturation had been achieved (Morse, 1995). As mentioned, conducted within a period of major organisational change, the timing of the research may have influenced results in relation to perceptions of the Department.

Given that a significant number of Co-ordinators were Māori, the inclusion of a Māori researcher in the study would have been appropriate. For example, some of the Co-ordinators who were Māori described a particularly interactive working with their young people that would have benefited from a greater understanding afforded by a researcher of the same culture. Cultural safety was, however, a key consideration. Cultural support was sought throughout this study, in securing the sanctioning of the research by the University's cultural advisor, and by including Māori YJ Co-ordinators in those Co-ordinators who were co-opted into the research process to conduct stakeholder checking at various stages. One Co-ordinator who was Māori conducted this throughout the entire

research process, including reviewing and approving the official Departmental research report (Slater & Lambie, 2008).

With all Co-ordinators reviewing my initial interpretations of their data, and a sub-set of Co-ordinators approving the themes during analysis, it was also hoped that this participatory methodology with its ongoing process of interpretation might lessen the potential for researcher bias and objectivity inherent in qualitative research (Spencer, Ritchie, Lewis, & Dillon, 2003). Moreover, the inclusion of participants within the research aimed to ensure a democratic process in knowledge of the power differentials that may be evident between the *researcher* and *the researched* in empirical endeavours (Ezzy, 2002).

The findings apply to the YJ FGC process as it operates in Aotearoa/New Zealand. Accordingly, they cannot be generalised in totality to other conferencing systems internationally. Furthermore, the findings cannot be directly associated with FGC outcomes so that cause-effect relationships can be concluded. However, it is possible that aspects of the findings, particularly as they relate to working with young people, may be worthy of further consideration. To this end, the research benefited from a qualitative methodology, which enabled a deeper exploration of process aspects constituting best practice in YJ FGC service provision, and factors inhibiting the effectiveness of the process. From a personal perspective, the timing of interviewing coincided with my clinical training in interviewing, which I believe was opportune to my confidence in questioning.

In focusing on the views of YJ Co-ordinators, and their work at the coalface of the justice system, this research afforded a voice to these key stakeholders. This is important in the knowledge that such stakeholders are often overlooked in matters of justice and often provide valuable insights to aid the provision of justice services (Case, 2007). Furthermore, the specific inquiry on issues related to *process*, the often neglected area in evaluation (Weiss, 1998) was arguably overdue.

Directions for future research

This study's findings suggest several possibilities for future research. Firstly, in the knowledge that evaluations of process should be regularly conducted (Patton, 1997), ongoing evaluation of the YJ FGC process is recommended. With the YJ restructure now

fully operational, one possible exercise would be to conduct a follow-up study with the Co-ordinators to ascertain their views on the impact of the reorganisation for the YJ FGC process.

Secondly, with interagency co-operation a salient feature of this study, evaluating the process from the perspectives of other YJ stakeholders would illuminate similarities and differences in participant experiences of the YJ FGC process, including its strengths and weaknesses. Similarly, views of the process of non-professionals could be more readily captured, for example, through questionnaires or telephone interviews conducted soon after the conclusion of the conference proceedings. When eventually linked to outcomes, assessing what process elements appear to produce the most beneficial results would assist the development of the YJ FGC.

With an emphasis on addressing recidivism, additional research, including investment in longitudinal studies, would be valuable to assess the level of re-offending following the young person's engagement in the YJ FGC process. To assess the link between process and outcomes, current data capture systems would need to be improved.

Concluding remarks

One of the pre-eminent evaluation theorists, Patton (2002), paraphrases Mao Tse-tung in commenting that a system needs to be revolutionised every twenty years. Conducted as the second decade of YJ FGC operation concludes, it is arguable that this study is timely.

It has been personally disappointing that, to date, the Department has made no official comment on the report submitted in late 2008 (Slater & Lambie, 2008). I do hope that this will change. On one hand, this is not surprising; organisational resistance is a common phenomenon encountered by evaluators in process evaluation research, especially when findings relate to areas of perceived organisational weakness (Weiss, 1998). However, the study has likely provided valuable material for organisational learning, especially in relation to Co-ordinator training. While consideration of the findings might benefit both the Department and the Co-ordinator group, this action might ultimately be to the advantage of the many New Zealanders who encounter the YJ FGC - young people, their families and victims.

I have been grateful for the opportunity to conduct the research which, beyond a psychological framework, has required me to investigate aspects of law, sociology,

criminology and organisational management. Most importantly, from hearing the Co-ordinators' stories, I believe I have gained significant personal and professional insights that will be beneficial to my future work with young people and families. The experience has touched me in ways I did not anticipate. At Easter this year during a sabbatical in England to write my dissertation, I attended a church service in which the minister explained the events Jesus encountered at each of the Stations of the Cross. At the third Station, said the minister, Jesus fell for the first time. Many people laughed and derided him. But someone in the crowd lent across to help Jesus up, assisting him along his inevitable journey. The minister then made a parallel with our own journeys; that we all fall or get tripped up somehow, at some point in our lives. What is needed, she advised, is not censure or condemnation but support.

The minister's wisdom made me reflect on the young people the YJ Co-ordinators had described to me. They firmly believed the young people benefited from the *support* afforded by the YJ FGC process, and by the benevolence of other participants who, while holding them accountable for their offending behaviour, took a positive and hopeful approach in their dealings with them. Indeed, everyone deserves a second chance, and especially young people who are still developing and just embarking upon their journeys. For young New Zealanders who offend, this is possible through our unique system of justice and the FGC process. I therefore hope that this study might assist in building awareness of the special resource that is New Zealand's YJ FGC.

APPENDICES

APPENDIX A:
THE CHILDREN, YOUNG PERSONS, AND THEIR FAMILIES ACT 1989

Section 4: Objects

The object of this Act is to promote the wellbeing of children, young persons, and their families and family groups by –

- (a) establishing and promoting, and assisting in the establishment and promotion, of services and facilities within the community that will advance the wellbeing of children, young persons, their families and family groups that are –
 - (i) appropriate having regard to the needs, values, and benefits of particular cultural and ethnic groups; and
 - (ii) accessible to and understood by children and young persons and their families and family groups; and
 - (iii) provided by persons and organisations sensitive to the cultural perspectives and aspirations of different racial groups in the community:
- (b) assisting parents, families, whānau, hapū, iwi and family groups to discharge their responsibilities to prevent their children and young persons suffering harm, ill-treatment, abuse, neglect, or deprivation:
- (c) assisting children and young persons and their parents, family, whānau, hapū, iwi, or family group is disrupted:
- (d) assisting children and young persons in order to prevent them from suffering harm, ill-treatment, abuse, neglect, and deprivation:
- (e) providing for the protection of children and young persons from harm, ill-treatment, abuse, neglect, and deprivation:
- (f) ensuring that where all children or young persons commit offences, -
 - (i) they are held accountable, and encouraged to accept responsibility, for their behaviour; and
 - (ii) they are dealt with in a way that acknowledges their needs and that will give them the opportunity to develop in responsible, beneficial, and socially acceptable ways;
- (g) encouraging and promoting co-operation between organisations engaged in providing services for the benefit of children and young persons and their families and family groups.

APPENDIX B:
INTERVIEW AND FOCUS GROUP QUESTIONS

Project One: Individual Interviews

Appointment as co-ordinator

Tell me about your appointment as a Co-ordinator:

- Knowledge about the FGC Act, its vision, aims?
- Training for role?
- What was it like starting off from the beginning? Office culture, support for the new legislation, colleagues' expectations, community expectations?
- How did you see your role in those early years?

Early conferences

What do you remember about those first conferences?

- Preparation for the conference?
- Venue, timings, resources etc?
- Liaison with other parties (police, legal advocates etc.)
- In the conferences, what went right/wrong? What was the best/worst experience?
- How were the conference plans reviewed?
- What was the most stressful part of your job then?
- Best aspect of your job then?

Modern conferences

Tell me about the modern FGC:

- Preparation for the conference?
- Referrals?
- Venue, timings, resources etc?
- Liaison with other parties (police, legal advocates etc.)?
- The process of the conference itself?
- Reviewing conference plans?

Role as co-ordinator - now

Tell me about your role as a Co-ordinator now:

- Has it changed over the years?
- Office culture, support for legislation, colleagues' expectations, community expectations?
- What is the most stressful part of your job now?
- What is the best part of your job now?

Families - then

Thinking back about the families

- How did they react to the new way of working?
- What do you recall about cross-cultural issues in the conferences?
- What did the early conferences teach you about working with families?

Families - now

What about the families you see now?

- Are they much the same or different from the families you worked with at the beginning?
- How do they respond to the FGC process?
- Have you noticed any changes over time?

Community - then

Thinking back about community aspects

- How did the community react to the new way of working?
- What community issues did you face in those early days?
- What did the early conferences teach you about working with communities?

Communities – now

What about community aspects now?

- Are they much the same or different from the communities you worked with at the beginning?
- How do various communities respond to the FGC process?
- Have you noticed any changes over time?

Restorative Justice

How about the Restorative Justice aspects, said to be aligned with the FGC process:

- What is your experience?

Future of the FGC

The future of the FGC:

- How do you think the legislation has lived up to its youth justice-focused aims?
- Do you think anything needs to be changed?
- What do you think are the issues confronting you now?
- Where do you see yourself going in the next 18 years?

Project Two: Focus Group Questions

Section 249 of the Children, Young Persons and their Families Act 1989 sets out strict timeframes for the holding and convening of FGCs.

1. **What impact does the quality and timeliness of information YJ Co-ordinators receive from the police and/or from the courts have on the FGC process?**
-

2. **How do YJ Co-ordinators manage the conferencing process to ensure:**
 - a. **That alternatives to custodial options are considered?**
 - b. **What factors, if any, block due consideration of alternatives to custodial options?**
-

Although the FGC is a legislated procedure, certain flexibility in conducting the process is afforded under the Act (e.g. section 208)

3. **How do you as a YJ Co-ordinator get the conference to regulate its own process?**
-

From: **Introduction to Youth Justice (CYF Website)**

“The focus of Child, Youth and Family’s Youth Justice work will shift from simply holding young offenders to account to also addressing factors behind the offending. A youth justice plan for a young offender will include both accountability measures and, having addressed the context of their offending, opportunities for an offending-free future. The latter will be developed in collaboration with local communities and the youth justice sector. This collaboration is central to the new way of working in Youth Justice and reflects that young people live and offend in communities and that solutions to offending exist in those same communities.”

<http://youthjustice.cyf.govt.nz/YouthJustice/tabid/341/Default.aspx>

4. The new model emphasises collaborative partnerships with communities and the youth justice sector as a “new way of working” in youth justice.
 - a. **Previously, under the “old” model, how have co-ordinators worked with communities and the youth justice sector to support young people and their families?**
 - b. **Moving forward, what will this “new way of working” mean for your role and practice as a YJ Co-ordinator?**
5. Considering the FGC process and the various parties who may influence a plan (participants, police, courts, the department, community groups/resources etc...as well as YJ Co-ordinators yourselves)

- a. **How were plans agreed upon and implemented under the ‘old model’?**
 - b. **Is the aim of including “opportunities for an offending-free future” a realistic objective?**
 - c. **What factors might facilitate achieving this objective?**
 - d. **What factors might prevent it?**
-

6. Family and victim attendance at FGCs is central to the FGC process. Research suggests family numbers have fluctuated over the years but has recently been going up (to an average of 4 family members in 2004). Research by Maxwell and colleagues revealed that victim attendance at FGCs was 50% but of those who attended, 80% found the experience “positive, cathartic and helpful”. **What factors would improve victim and family attendance at FGCs?**
- a. **Do you work to a minimum standard?**
7. **The Act is currently under revision. What changes, if any, do you recommend?**
8. **What are the major practice issues affecting you in your job?**

APPENDIX C:
INFORMATION SHEETS AND CONSENT FORMS

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EIGHTEEN YEARS OF YOUTH JUSTICE FAMILY GROUP CONFERENCE PRACTICE:

**An exploration of change and development since the introduction of
the Children, Young Persons and their Families Act (1989).**

Information Sheet for Youth Justice FGC Co-ordinators

The Study

My name is Christine Slater. I am currently doing my Doctorate in Clinical Psychology in the Department of Psychology at the University of Auckland. Dr Ian Lambie, Senior Lecturer and the Director of Clinical Psychology at the University of Auckland, is my supervisor. Dr Lambie has been contracted by Child, Youth and Family (CYF), who is funding the research, to evaluate the development of Youth Justice Family Group Conferencing practice since its inception, and has asked me to undertake this work as part of my Doctoral research. CYF's representative for this project is Stewart Bartlett.

The study, which essentially replicates Dr Marie Connolly's study conducted in 2003 for the Care and Protection division of CYF, has the following aims:

- To provide an overview of the development of FGC practice since the introduction of the Children, Young Persons and their Families Act (1989) from the perspectives of the youth justice co-ordinators
- To identify any changes that may have occurred in youth justice FGC practice over time
- To explore differences in practice, and the ways in which youth justice co-ordinators respond to family and community diversity when performing their functions within the youth justice FGC system
- To ascertain regional differences in youth justice FGC practice

By comparing findings with those of Dr Connolly, it will also be possible:

- To evaluate similarities and differences in Youth Justice and Care and Protection practice

How will we achieve this?

The study will be conducted in two stages:

- 1) Face-to-face interviews. These will be conducted with Youth Justice FGC Co-ordinators with 12 years' experience and over.
- 2) Focus groups. These will be conducted in the four regions (Northern, Midland, Central and Southern). To reflect a range of both long-standing and recent experience, all Youth Justice FGC Co-ordinators will be invited to participate in this phase of the study.

Both the interviews and focus groups will be audiotaped as they will be transcribed for accuracy by myself.

Do I have to participate?

Your involvement in the study is entirely voluntary. Anyone who does take part can pull out at anytime. No-one will be named or identified in any publication arising from the study. All information is kept in a manner that will ensure its anonymity. Data will be kept under lock and key in a secure, locked facility at the University of Auckland until 31 December 2009 when it will be destroyed (shredded). Only the researchers will have access to the information that you've given in the study. To safeguard anonymity, each participating co-ordinator will be allocated a code number to avoid identifying any individual practitioner. Hand written interview notes and tapes will be identified only with this number. (Please note that names and codes will be held separately).

What if I have any questions about the study?

If you have any questions, please feel free to ask any of the contacts below, or speak to Stewart Bartlett (04) 918 9226 at CYF before you agree to be involved in helping us with the study.

Please feel free to contact:

Dr Ian Lambie

Email: i.lambie@auckland.ac.nz

Phone: (09) 3737-599 Extn. 85012

Christine Slater

Email: csla002@ec.auckland.ac.nz

Phone: (09) 3737-599 Extn. 84479

Associate Professor Fred Seymour
Head of the Department of Psychology

Email: f.seymour@auckland.ac.nz

Phone: (09) 3737-599 Extn. 88414

Or write to us c/o:

Department of Psychology

University of Auckland

Private Bag, 92019

Auckland

Ethical Questions

For any enquiries about ethical concerns, please contact:

The Chair, The University of Auckland Human Participants Ethics Committee, The University of Auckland, Room 005, Alfred Nathan House, Private Bag 92019, Auckland.
Phone (09) 3737999 Extn. 87830.

Ethical Approval

APPROVED BY THE UNIVERSITY OF AUCKLAND HUMAN PARTICIPANTS ETHICS COMMITTEE ON 16 November 2006 for 3 years, from 16 November 2006 to 16 November 2009. Reference number: 2006/110.

APPROVED BY THE RESEARCH ACCESS COMMITTEE, CHILD YOUTH AND FAMILY ON 21 December 2006.

Consent to take part in the study

EIGHTEEN YEARS OF YOUTH JUSTICE FAMILY GROUP CONFERENCE PRACTICE:

**An exploration of change and development since the introduction of
the Children, Young Persons and their Families Act (1989).**

I _____, have read and understood the description of the above-named study being conducted by the University of Auckland by Christine Slater and Dr Ian Lambie at the University of Auckland on behalf of CYF. On this basis, I agree to taking part in the study, which I understand will be audiotaped. I also consent to the publication of the results of the study with an understanding that anonymity will be preserved.

I understand that my participation is voluntary, and that I can withdraw from the study at any stage if I want to without having to give a reason and without penalty.

Name (please print)

Signature

Youth Justice Co-ordinator for (district)

Date

APPROVED BY THE UNIVERSITY OF AUCKLAND HUMAN PARTICIPANTS
ETHICS COMMITTEE ON 16 November 2006 for 3 years, from 16 November 2006 to 16
November 2009. Reference number: 2006/110.

APPROVED BY THE RESEARCH ACCESS COMMITTEE, CHILD YOUTH AND
FAMILY ON 21 December 2006.

This consent form will be held until 31 December 2009 when it will be destroyed (shredded).

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