

RESEARCH REPORT

# Youth Court Research:

Experiences and views of young people, their families and professionals



MINISTRY OF  
**JUSTICE**  
*Tāhū o te Ture*



# **Youth Court Research**

**Experiences and views of young people, their families and  
professionals**

**Research Team**

**Justice Sector Strategy**

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# Table of Contents

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<b>Executive Summary</b>	<b>11</b>
<b>1 Introduction to the Youth Court research</b>	<b>15</b>
1.1 Background to the research	15
1.2 Background to the youth justice system	15
1.3 Youth Court	16
1.4 Research objective and scope	18
1.5 Method	18
1.6 Report structure	19
<b>Young people and their families' experiences and views of the Youth Court</b>	<b>21</b>
<b>2 Introduction</b>	<b>23</b>
2.1 Objectives and research questions	23
2.2 Structure	23
<b>3 Context behind the Youth Court experience</b>	<b>25</b>
3.1 Capacity and capability	25
3.2 Familiarity and prior exposure to the justice system	25
3.3 Pathways through the youth justice system	26
<b>4 Before Youth Court</b>	<b>27</b>
4.1 Summary of findings	27
4.2 Expectations and perceptions of Youth Court	27
4.3 Information	31
4.4 Waiting for court	34
<b>5 During Youth Court</b>	<b>37</b>
5.1 Summary of findings	37
5.2 Courtroom environment	37
5.3 People in court	39
5.4 Family attendance at court	48
5.5 Timeframes for cases	51

<b>6</b>	<b>The impact of Youth Court</b>	<b>55</b>
6.1	Summary of findings	55
6.2	Impact on young people	55
6.3	Impact on school attendance	59
6.4	Impact on families	60
<b>7</b>	<b>What does it all mean?</b>	<b>61</b>
7.1	Variation in young people's Youth Court experience	61
7.2	Expectations	61
7.3	People in court	62
7.4	Young people's understanding of what happens in court	62
7.5	Family attendance in court	62
7.6	The impact of the Youth Court	63
	<b>Experiences and views of professionals in the Youth Court</b>	<b>65</b>
<b>8</b>	<b>Introduction</b>	<b>67</b>
8.1	Objectives and research questions	67
8.2	Structure	67
<b>9</b>	<b>How the Youth Court is meeting the principles of the CYPF Act</b>	<b>69</b>
9.1	Summary of findings	69
9.2	Family and whānau involvement in the Youth Court	69
9.3	Accountability	71
9.4	Appropriate timeframes	73
<b>10</b>	<b>Which parts of the Youth Court process are working well?</b>	<b>75</b>
10.1	Summary of findings	75
10.2	Communication among the professionals	75
10.3	Professionalism of people working in the Youth Court	76
10.4	Willingness to innovate	76
<b>11</b>	<b>Which parts of the Youth Court system are not working so well?</b>	<b>79</b>
11.1	Summary of findings	79
11.2	Resources	79



11.3	Communication with the young person	80
11.4	Access to information across agencies	81
11.5	Scheduling of cases and waiting times	82
11.6	Court facilities	84
<b>12</b>	<b>What does it all mean?</b>	<b>87</b>
12.1	Principles of the Children, Young Person and Their Families Act	87
12.2	What's working well and what's not working so well	88
	<b>References</b>	<b>89</b>
	<b>Appendix A: Method</b>	<b>91</b>



# Executive Summary

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This report presents the findings from the Youth Court research project. The research was an exploratory project aimed at providing insights into the experiences and views of young people going through the court, their families/whānau, and the experiences of Youth Court professionals.

The research was conducted in the Waitakere, New Plymouth, Christchurch and Porirua Youth Courts. Including young people and families in the research allowed their experiences to be heard and added valuable firsthand insights into the variety of court users' perceptions and experiences.

The research findings in this report are presented in two parts:

- Experiences and views of young people and their families/whānau going through the Youth Court, based on young people and families' own accounts, and the perceptions of Youth Court professionals of the young people's and families experiences.
- Professionals' own experiences and views of the Youth Court.

This executive summary provides a high level overview of the main findings from the research.

## Context behind the range of experiences

Young people experienced and perceived different aspects of the Youth Court in a variety of ways. This was influenced by the differences in young people's interactions and contact with the justice system and the diversity of the people appearing. The following three contextual factors help to explain the variation:

- differences in young people's capacity and capability
- different pathways through the youth justice system
- the level of familiarity and prior exposure to the system.

## Before Youth Court

Most young people and families did not know what to expect or understand what might happen in court prior to their first ever court appearance, which led to many young people feeling anxious and scared. Those who had some expectations later reflected that they were inaccurate compared to their experience (for example, expecting there to be a jury). Some families were concerned about the lack of information they received prior to the first appearance, which they felt hindered their ability to support their young person. Most young people and families felt differently at subsequent appearances, as they became familiar with the court and knew what to expect.

Professionals acknowledged improvements in waiting times before court from the implementation of innovative appointment systems. However, there were still concerns from professionals and families that waiting times increased the opportunity for young people to associate with other offenders. There were also concerns about privacy for professionals to discuss case matters with young people, particularly with limited interview rooms available.

These concerns were not shared by the majority of young people, who were more likely to report feeling bored and frustrated at having to wait. However, most families reported feeling intimidated and uncomfortable in the waiting rooms.

### **During Youth Court**

Young people encountered a number of representatives from youth justice and social agencies in the courtroom, including Police, Child Youth and Family (CYF), health, and sometimes education. Most young people reported knowing some, but not all people in the courtroom. They could usually identify the judge, youth advocate, police officer, and social worker (if they had one in court), but did not often know other people in court or why they were there.

There were some concerns about the use of jargon and interaction between the professionals, which young people did not understand and were not involved in, and which may result in disengagement from the court.

Judges were central to young people and families' experiences of court, and key to involving young people in the process. Judges generally encouraged participation by asking young people to introduce their family, or asked questions about their Family Group Conference (FGC) plans. Most young people and families understood the judge, but at times there were issues with understanding the language used.

When discussing the principles of the Children, Young Persons and Their Families Act (the Act), professionals commonly identified the importance of family involvement. Family involvement at court was considered by young people and professionals to be important for providing support to the young person. Good family support was thought by some professionals to be linked to good outcomes for the young person, such as successful completion of their FGC plans and compliance with bail conditions. This may be because families received information from the court first hand, which they could use to remind the young person of their restrictions when at home.

There were clear attempts to include families in court hearings and families reported feeling involved in the court process as they were acknowledged by the judge and some were encouraged to participate. However, some professionals suggested families have more opportunity, and feel more comfortable, participating at the FGC.

## **Impact of Youth Court**

Professionals identified the importance of the timeliness of cases going through the court for young people to connect their offending with the consequences imposed from the court.

Professionals felt that a timely process is followed in most cases, which was often facilitated by professionals' informal networking and good communication. However, delays in cases can occur when the requirements of the FGC plan were not completed, because of complications with the case, or because of delays in things such as disclosure and specialist reports.

Where cases do have delays, the effects on the young person can include:

- stress and frustration as a result of ongoing uncertainty about the case outcomes
- a long period living on bail conditions
- loss of impact as the court becomes detached from the offending
- an increased focus on conditions, and a reduced focus on the impact on the victim.

Professionals reported that it was not always apparent whether a young person accepted responsibility for their actions, as some young people were thought to simply 'go through the motions'. The potential for impact was considered greatest for newcomers with no prior familiarity or exposure to the justice system.

The Youth Court was thought to affect the majority of young people, but to varying degrees. For most young people there was an immediate impact from the restrictions of bail conditions. However, some professionals and young people suggested that a lack of repercussions for bail breaches could signal to young people that they would not be held accountable for breaches.

A few young people reported more significant effects, such as reflecting on their behaviour and how it affected others, gaining a job, or enjoying a programme placement. These impacts may be related to factors outside of the court, as well as bail conditions. Professionals considered young people to be held to account by meeting the victim at their FGC, attending specialised programmes, and the imposition of conditions placed upon them.

## **Identifying what works well and what needs improvement**

Professionals identified aspects of the Youth Court they thought were working well, and aspects they thought were not working so well. Aspects identified as working well included:

- communication between Youth Court professionals
- the professionalism and dedication of the Youth Court professionals
- willingness to share ideas and develop new initiatives to improve the operation of the court (such as expediting the bail process and identifying ways to reduce wait times and unnecessary appearances).

In general, professionals considered the Youth Court to be working well, but some areas identified for improvement included:

- court facilities, including responding to issues with waiting areas and offender association
- scheduling of cases as, although improvements had been made, prioritised cases such as new arrests in custody, could create delays
- the approach for providing information to young people, to ensure they all receive the information they need and at a level appropriate to the individual's ability
- providing reports between professionals in a timely manner.

# 1 Introduction to the Youth Court research

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## 1.1 Background to the research

This research was undertaken to inform future Youth Court service design work. The research was conducted by the Ministry of Justice's Research Team.

The research comprised two parts. The first part investigated the perceptions and experiences of young people and families/whānau who appear in the Youth Court. Professionals also provided their perceptions of young people and families' experiences. The second part investigated professionals' own experiences of the Youth Court.

Including young people and families in the research allowed for their direct accounts of their experiences to be heard. This provides valuable insights into the variation in how court users actually perceive and experience the court, adding a deeper understanding of the complexities of the users' experiences.

## 1.2 Background to the youth justice system

The Youth Court was established in New Zealand under the Children, Young Persons, and Their Families Act 1989 (the Act), and is a division of the District Court. Youth Courts deal with young people aged 12 to 16 years charged with serious offending which can only be dealt with by bringing the young person to court. The youth justice system encourages diversion away from court and custody for less serious offences, and incorporates a restorative justice approach.

The Youth Court is guided by the following principles of the Act (Part 4, Section 208)<sup>1</sup>:

- criminal proceedings should not be used if there is an alternative means of dealing with the matter
- criminal proceedings should not be used for welfare purposes
- any measures for dealing with offending by young people should strengthen the family and encourage their development of skills to deal with the offending by their young person
- the young person should be kept in the community so far as practicable
- the young person's age is a mitigating factor in determining whether or not to impose sanctions and the nature of any sanctions
- any sanctions imposed should be as least restrictive as possible and promote the development of the young person within their family
- any measures should address the causes underlying the young person's offending

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<sup>1</sup> <http://www.legislation.govt.nz/act/public/1989/0024/latest/DLM147088.html>

- consideration should be given to the interests and views of victims by encouraging victims to participate in the process and considering the impact of the offending on victims
- young people are entitled to special protection during any investigation or proceedings.

### 1.3 Youth Court

As the youth justice system encourages diversion away from court and custody, in accordance with the principles of the Act, it is not uncommon for a young person appearing in the Youth Court for the first time to have some prior involvement with the youth justice system. Some young people may have previously been directed to Youth Aid, given warnings, or directed to Family Group conferences before their first appearance.

The cases heard in the Youth Court are those that are deemed too serious to be dealt with by alternative means, either because of the seriousness of the offence, or the persistence of offending by the young person.

The Youth Court hears all cases involving young people, except for non-imprisonable traffic charges and murder or manslaughter charges and some indictable offences where the potential penalty is over three months imprisonment.

There are a number of features that make the Youth Court different to the District Court. Some of the main differences are:

- Youth Court is a closed court
- offenders do not plead guilty/not guilty; they either deny or not deny the charges
- victims need the permission of the judge to attend court
- young people are allowed to talk to the judge and may be asked questions by the judge
- parents and families of young people are encouraged to attend hearings
- at the FGC the young person, their family and the victim are involved in determining how the young person should be made responsible for their offending. The FGC plan is then presented to the court for consideration.

#### 1.3.1 The process through the Youth Court

This section outlines the general process a young person goes through in the Youth Court for summary offences.

The young person may deny or not deny the charges. If the young person denies the charges, the case will go to a defended hearing, where the charges will be either proved or not proved.

For not denied charges, and cases where charges had been denied and proved, the Court directs that a FGC be held. The FGC formulates a plan to address the causes and consequences of the offending. The plan is presented to the court for consideration. The case is then adjourned for the young person to complete the actions detailed in the plan. If the



young person completes the plan, the court will often discharge the young person under s282 of the Act, which effectively means that the charges were never laid.

Sometimes there are orders included in the plan, or a judge may impose orders on the young person under s283 of the Act. Orders may include restitution or forfeiture, reparation, fine, supervision, community work, supervision with activity, and supervision with residence. As at 1 October 2010, new orders available were: intensive supervision, parenting education programmes (for the young person or for their parents), mentoring programmes and drug and alcohol programmes.

This research focuses on cases proceeding through the Youth Court; it does not investigate the process for indictable and purely indictable charges.

### **1.3.2 The national picture of the Youth Court**

During 2010, 3,639 young people were prosecuted in court, as reported in the Ministry of Justice report *Child and Youth Offending Statistical Bulletin: An overview of child and youth offending statistics in New Zealand: 2001 to 2010*.<sup>2</sup> During 2001-2010, on average 81% of these young people were male and 19% were female.

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<sup>2</sup> People were identified by an identifier issued by the Police or the courts. A person is counted once each year. Within a calendar year, the most serious charge (with the most serious outcome or penalty) is used to denote the person. The count includes charges eligible to be heard before the Youth Court (including those later transferred to the District and High Courts), for all people who were 10 to 13 years old and charged with murder or manslaughter offences or 14 to 16 years old at the time of the alleged offences (and under 18 years old at the time their charges were laid; and under 25 when charges were finalised).

## 1.4 Research objective and scope

The objective of this exploratory research was to provide information on how people experience the Youth Court. In particular, insights into the experiences and perceptions of young people and their families appearing in the Youth Court were sought along with the experiences and perceptions of professionals working in the Youth Court. The intention of the research was to develop the Ministry's understanding of these experiences to inform future service design in the Youth Court.

The research is focused on the experiences of the Youth Court and does not investigate aspects of the wider youth justice system, such as Family Group Conferences.

The research is a qualitative exploratory study. The findings cannot be generalised to all young people, families and professionals, or all Youth Courts.

## 1.5 Method

The research was a qualitative study based on four Youth Courts in New Zealand:

- Waitakere
- New Plymouth
- Christchurch
- Porirua.

The fieldwork was conducted during 2010, with some final interviews in early 2011. Data for both parts of the research was collected in the same fieldwork trips, but using different data collection approaches.

### 1.5.1 Data collection for young people and families' experiences

To collect information on the experiences and views of young people and families going through the Youth Court, semi-structured interviews were held with three groups of people:

- young people who had appeared in the Youth Court<sup>3</sup> (43 interviews)
- family/whānau of a young person (22 interviews)
- Youth Court professionals, such as judges, court staff, police prosecutors, youth advocates, Child, Youth, and Family (CYF) and other specialist services at each court, such as forensic services (46 interviews).

Young people gave direct accounts of their own experiences, and families provided their perceptions of young people's experiences and also gave direct accounts of their own experiences. Professionals provided their perceptions of both young people's and families' experiences.

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<sup>3</sup> A detailed description of the composition of the young people interviewed is in Appendix A 2.1

### **1.5.2 Data collection for professionals' experiences**

To collect information on the experiences and views of professionals, focus groups and interviews were held with Youth Court professionals.

One focus group was undertaken in each of the four Youth Court sites with professionals who work in the Youth Court, excluding the court staff and judges. Each focus group was intended to consist of at least one person from the following roles:

- Police Youth Aid prosecutors
- CYF youth justice coordinators, supervisors and/or social workers
- Forensic services/mental health
- Youth advocates

Groups of approximately six to eight people were planned for the focus groups, but this number was not achieved in all instances. There were two focus groups of six people, one group of five and one group of three. The group of three was too small for a proper focus group, but because of time constraints a group interview was held with the three available people (this group did not include a police prosecutor, which limited the discussion of the group).

Interviews with court staff were held after the focus groups and included Youth Court registry officers, and Criminal and Youth Team Leaders/Managers. Themes emerging from the focus group discussions were incorporated into the interview schedules for the face-to-face interviews with court staff.

### **1.5.3 Participant selection**

Youth Court staff were contacted through Court Managers. All other professionals were contacted through details provided by court staff. In some courts, a number of people held the same professional role. In these situations, only some professionals were included and were randomly selected from the list provided. Where there were only one or two people in a role, they were included in the data collection for the experiences of young people and families, and experiences of professionals.

See Appendix A for more information on the selection of court sites and participants.

## **1.6 Report structure**

The remainder of the report presents the findings from the research in two parts:

- Findings on the range of experiences and perceptions of young people and families going through the Youth Court, which is based on young people and families own accounts and the perceptions of professionals.
- Findings on professionals' own experiences of working in the Youth Court.



## Young people and their families' experiences and views of the Youth Court



## 2 Introduction

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### 2.1 Objectives and research questions

The objective of this part of the research was to analyse and report on the experiences and perceptions of young people and family/whānau who support young people appearing in the Youth Court. The research questions underlying this objective were:

- How do young people and their families/whānau view the Youth Court prior to attending?
- What are their experiences when they appearing in the Youth Court?
- How do young people and families/whānau view the Youth Court after they have been through the process?
- Why did family/whānau attend/not attend the Youth Court?
- To what extent does involvement with the Youth Court impact on other aspects of young people's lives?
- How do family/whānau perceive young people's experiences in the Youth Court?
- How do Youth Court professionals view young people's experiences in the Youth Court?

The information was collected from semi-structured<sup>4</sup> interviews with young people who appeared in the Youth Court, family/whānau who supported these young people, and also from Youth Court professionals.

### 2.2 Structure

This section of the report is divided into seven chapters.

Chapter 3 identifies the three key contextual factors which underlie the range of experiences of the Youth Court: the young person's capacity and capability, the young person's familiarity or prior exposure to the justice system, and their pathway through the youth justice system. These factors are referred to throughout this part of the report to explain the range of experiences.

Chapter 4 explores expectations and feelings prior to going to Youth Court, and examines experiences of waiting for court.

Chapter 5 presents the experiences in the courtroom, including views on the courtroom environment, interaction with professionals (including youth advocates and judges), family attendance and overall timeframes of a case.

Chapter 6 discusses the impact of the Youth Court on young people and their families' lives.

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<sup>4</sup>Semi structured interviews typically have a framework of themes to be explored. However, they usually allow a degree of flexibility enabling new questions to be brought up during the interview as a result of interviewee responses.

Chapter 7 summarises the main messages from this section of the report, and provides some insights into how the findings can be interpreted.



## 3 Context behind the Youth Court experience

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This chapter provides the contextual information required to understand the range of experiences young people have with the Youth Court.

Not all young people and their families experience the Youth Court in the same way. Their experiences are conditioned by the differences in young people's interactions and contact with the justice system and the diversity of the individuals appearing before the court.

Three main themes have been identified from the interviews that provide the context in which specific parts of the court were experienced and understood. The following three themes are referred to throughout the report.

### 3.1 Capacity and capability

There are different capability levels among young people appearing in court. For example, some young people may have learning difficulties, low levels of education, or issues with mental health, drugs or alcohol, which may impact on their experiences in the Youth Court.

*Some would have an absolutely clear picture of who is who and what is happening. Some would have absolutely no idea. They struggle to read and write. Their communication skills are poor. (Professional)*

Capacity and capability can also refer to the limited attention span of some young people, and that some young people are living very chaotic lives, of which going to court is just one part. For these young people attending court may not have their full attention.

*...anybody who's dealt with teenagers knows you're dealing with people with butterfly minds ... They've got an awful lot of stuff going on, they've got all their mates sitting in the waiting room and the people who've been giving them a hard time on the street and they're not always in the best place to take that information in. Sometimes they're still [intoxicated] ... from the night before... (Professional)*

### 3.2 Familiarity and prior exposure to the justice system

This refers to the degree to which the young person is familiar with the court, as a result of their own prior appearances in the youth justice system, awareness of their friends or family's involvement in the Youth Court, or exposure to the criminal justice system through their family's involvement.

The theme of familiarity and prior contact with the court is relevant for both the young people's experiences and families' own experiences of the Youth Court.

*...there's two different groups of young people ... there's the ... first time offenders and it's their first experience in a Youth Court and it's quite a shock to them and they think oh my god I don't want to be doing this again ...they see the whole situation as quite a big experience for them and really take notice of what it is and do their stuff and get out. There's other young people ... [who think] this is sort of a joke ... and they know how to play the system ... or [they see court as] a bit of good time [as] they see all their friends down at court. Those are the kind of recidivist offenders that are appearing in court all the time so they sort of become a little bit desensitised to it ... it's not such a big deal for them to be appearing in court all the time. (Professional)*

*...unfortunately a number of kids who come to Youth Court are kids who, as toddlers and pre-schoolers and little kids, were in the back of the District Court watching their fathers go to jail, sometimes their mothers. So the top end offenders, that's where they grew up. So for many of these kids it's just what you do. (Professional)*

### **3.3 Pathways through the youth justice system**

The pathway through the Youth Court is not the same for every young person. The type of interaction a person has with the system may frame their (and their family's) court experience. For example, there is variation in the complexity of cases (cases with purely indictable charges or cases with some charges being denied and others not denied), whether the person enters court from the waiting area or from the police cells, and whether they had been through an Intention to Charge FGC before getting to court.

*...there's two ways of getting to court ... attending a Family Group Conference first; in those circumstances if the outcome is that prosecution's recommended, presumably the young person would have some understanding of what's gonna happen. For a young person who's arrested and hasn't been through the system before that may be a different kettle of fish... (Professional)*

*...some of the more complicated charges where people are indictably charged ... the system is quite difficult to work through then. That becomes hard explaining those sorts of things often to the young people and even to families, in terms of the options. (Professional)*

## 4 Before Youth Court

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This chapter covers findings on young people's and families' expectations, perceptions and feelings about going to court, the information they received, and their experiences of waiting in the waiting room before court hearings. Professionals' perceptions of families and young people's experiences are also covered.

### 4.1 Summary of findings

- Most young people and families did not know what to expect from the Youth Court prior to their first court experience. This commonly led to young people feeling scared and anxious about their appearance. Some family members were concerned about the lack of information received prior to the first ever appearance.
- Most young people and families reported feeling less anxious and scared at subsequent appearances, as they became more familiar with the court.
- The uncertainty at the first appearance was particularly relevant for those unfamiliar with the justice system and with no prior exposure to the justice system from friends or family involvement. Those who had been to an Intention to Charge FGC were thought to have a better understanding of what to expect from the Youth Court prior to their first ever court appearance.
- Young people and families experienced what they felt were lengthy wait times at court. The waiting times and environment led to increased feelings of nervousness and frustration. It also led to offender association, and created issues with privacy for young people and families, however, young people did not consider these to be a concern.

### 4.2 Expectations and perceptions of Youth Court

Families and young people were asked to provide accounts of their own expectations prior to attending Youth Court and their experiences. Professionals were asked about their perceptions of young people and families' expectations and experiences of attending court.

#### 4.2.1 Expectations for the first ever court appearance

The majority of young people and families reported a lack of understanding about what to expect or what was going to happen prior to their, or their young person's, first ever court appearance.

*I didn't know what to expect, I didn't know the procedure. I just had no idea.  
(Family member)*

*I actually had no clue. Like 'cause Youth Court, you don't hear much about it and you don't really see it on TV or anything, so I had no idea what to expect. (Young person)*

A minority of young people reported having some idea of what to expect, and only one young person was confident in their knowledge of what would happen. However, this person's expectation, shown below, suggests some degree of familiarity with the courts.

*I pretty much knew straight away that I was going to get bail ... 'cause I was going up on like jack really, like not much. (Young person)*

A few young people reflected that while they may have had expectations of what they thought the Youth Court would be like, their expectations were inaccurate compared to what they experienced. For example, expecting the court to look like those shown in movies - very formal and with a jury, and that the penalties would be harsher. Some noted that prior to their first ever appearance they were not aware that they would have to appear in court more than once for the same case.

*I actually thought it was going to be different than what it was. I thought that I had to stand there in front of a jury or something." (Young person)*

*I thought it would be real harsh aye ... Like it would be harsher, like strict like bail conditions and that but no. (Young person)*

Similarly, some families assumed Youth Court would be like the District Court. For some of these families, but not all, this assumption was reflective of their own experience in the District Court.

*I had been to court myself so I kind of thought that it would go that way. But I knew nothing at all about the Youth Court. (Family member)*

#### **4.2.2 Feelings about the first appearance**

It was clear from young people's and families' comments that young people's lack of understanding impacted on how they felt prior to their first ever court appearance. Because a lot of young people did not have an understanding (or had an inaccurate understanding) of the Youth Court, young people reported feeling very scared, nervous, anxious and worried prior to their first ever court appearance. Added to this strain was a fear of going to prison.

A minority of young people and families reported some young people being unconcerned about their first ever court appearance. This was because they were aware of other people appearing who had committed what they perceived to be worse offences or they had a belief that as a person under 17 years any penalties would be minimal or because they felt a degree of social status from appearing in court.

*I wasn't really bothered. I was too young. I knew nothing was going to happen. I didn't really give a xxxx eh, because I was young, wanted to be gangster. (Young person)*

For some families not knowing what to expect or what was going to happen was of less concern to them than the offending behaviour itself, as they were still focused on the offence and for some, how this reflected on them.

*I didn't really know what to expect ... I was just stunned that I was actually there. That was not about the court itself. That was about the fact that I was there with my son. (Family member)*

*I felt embarrassed because being a mother that's the last place you want to be especially by your children... (Family member)*

#### **4.2.3 Possible explanations for young people's expectations**

Professionals provided some insights into why some young people may or may not have an understanding of court prior to their first ever court appearance.

While some professionals thought that young people would have an understanding of what to expect prior to their first appearance (as the young person would have had contact with police, youth advocate, CYF, and had access to the Youth Court brochures), the consensus was that a young person's understanding and knowledge of what to expect was dependent on all three contextual factors identified in Chapter three.

#### **Pathway through the system**

Many professionals thought that young people who were new to court but who had been to an Intention to Charge FGC would have some understanding of court prior to their first ever court appearance, as it is explained to them during the FGC process.

*If they have ended up in the court following an intention to charge FGC, where the Police have decided to proceed to court, then at that FGC we will have told them what will happen in the court and who will be there. If it is an arrest and it is like a first time for them, they will have no idea. (Professional)*

#### **Capacity and capability**

There was awareness that some young people appearing at court have limited education and may have mental health issues which would inhibit their ability to easily comprehend information. Some professionals also commented that some young people appearing in court are living very chaotic lives and attending court may not have their full attention.

*I try to make that quite clear but some kids haven't been in school for years and there is just not that intellectual capacity there to understand that. (Professional)*

*Even if you tell them prior to it what is going to be happening, a lot of our young people don't have the language skills or the cognitive skills to kind of comprehend. (Professional)*

Some professionals questioned how much of the information, given after arrest and before court, young people are able to comprehend, due to the stress of being arrested and the effects of alcohol and drugs.

#### **Familiarity with the justice system**

Some young people new to the Youth Court may have some understanding of court from prior experience with other parts of the youth justice system, for example, Police Youth Aid. Young people who heard about Youth Court from friends or siblings were also thought to have some prior expectations.

*Young people who haven't been through it before and perhaps don't have the experience of it or haven't heard of other people around them talking about it very much, they don't really understand it at all. (Professional)*

#### **4.2.4 Expectations and feelings about subsequent appearances**

All three groups (young people, families, and professionals) identified a difference between young people's expectations and understanding prior to their first ever court appearance and their subsequent appearances.

While there was a reasonably obvious lack of understanding prior to the first experience, the majority of young people reported understanding why they had to reappear for subsequent court appearances within the same case. Others reported having some idea, but were not completely sure. A very small minority reported an ongoing lack of understanding prior to subsequent appearances.

*The first time I didn't know what was going to happen, but the second time I knew. I was more prepared for it. (Young person)*

*I have to go back to go and review my plan. I am on bail too so I have to go and see if I am going to get on 7 to 7 curfew, and about my community work hours and stuff like that. (Young person)*

A few families attending court had previously participated in Youth Court with older children. They reported having had an understanding of what to expect, suggesting expectations of court can develop through prior Youth Court experiences.

*Yeah I knew it would be like that because I went through this process with my other son in the courts ... so I've been down this road before. (Family member)*

The majority of young people and families reported that while young people and some families felt scared or nervous prior to their first ever court appearance, they no longer felt this way for subsequent appearances as they became familiar with the court environment, the process, and had an idea of what to expect. For other young people, their feelings about appearing were dependent on why they were reappearing, whether it was more monitoring or breaching bail, and whether they have been working on their FGC plan.

*The first time she was quite scared. But the more times she went, I just think she got used to it. It didn't really worry her. (Family member)*

*To start with it was highly daunting and scary for me and my partner as well. But as time went on, by the second to last time my stomach had settled down. So as time goes on it does get a little bit easier because you are more familiar of the environment and what is going to happen. (Family member)*

For some young people, attending court appeared to become normalised. One young person, who was nervous on the first appearance, reported feeling annoyed at subsequent appearances and then felt indifferent at having to reappear at court for subsequent offending. This suggests that the impact of going to court had worn off over time and over multiple offences with the increasing familiarity with the justice system.

A minority of young people were reported by families to still feel worried and scared at subsequent appearances, as they still felt uncertain about what was going to happen. These feelings may be due to complications in these particular cases.

*I think it might have stayed the same because the outcome you still didn't know where it was going to end up ... We still had no idea of whether it was going to go to trial or go to a hearing, because there were older boys who were adults that were involved as well. So there was the case that we might have had to go to the big people's court. (Family member)*

### **4.3 Information**

The main concern held by families prior to the first ever court appearance was about a lack of information. About half of the families who reported having limited understanding of what to expect from Youth Court, expressed their concern about the lack of information they received prior to the first appearance and the lack of obvious sources of information.



For some families, the lack of information was in the period between arrest and the first court appearance. The lack of information was reported to hinder their ability to help and support their young people, and made them feel they were not in control.

*I actually rang because I hadn't heard from anybody for probably a couple of weeks after he had been at the Police cell s... I am such an organised person, I need to know what to expect. (Family member)*

*It's scary 'cause as a parent, he's asking questions I can't answer. (Family member)*

Other families reported a lack of information once they arrived at court for the first appearance. Some families commented that they knew when to arrive at court, but had no information or understanding of what they needed to do when they got there.

*Nobody really gives you any information. You just go and pick up the pamphlet and that doesn't tell you anything. (Family member)*

*I would have liked to have known what the process was and what was going to happen or what could happen. Just to be sort of given a rough sort of outline. But to get there and not know anything... (Family member)*

*There is no real sort of navigation as to where you need to be on this day, and this could be the possible outcome. I think you just figure it out as you go. For a lot of families it is really quite scary. (Family member)*

Some professionals emphasised the importance of providing information to young people and families before they arrive at court, particularly for those new to Youth Court. It was thought that this would enable a better understanding of the process and also relieve some of the anxiety experienced.

*I do think a lot of young people are quite anxious before they come to court. So for those who haven't been here before I think getting a reasonable explanation ... I don't think it even needs to be that detailed ... an explanation of what is expected of them and what is going to happen is useful ... and to have that little bit beforehand is better ... before the day of actual getting up to court. (Professional)*

#### **4.3.1 Information sources**

Four information sources were identified for young people and families: youth advocates, family and friends, CYF, and pamphlets.



## Youth advocates

Youth advocates were the most commonly cited information source for young people and families by all three groups.

For the minority of young people who had an understanding of what to expect prior to their first ever court appearance, families reported that this was because of information they received from their youth advocates.

*I thought that was pretty good actually, 'cause Daniel sort of walked straight up to the dock ... The lawyer had already said, 'Daniel will go to the dock there. There'll be policemen over there. There'll be a judge. There'll be someone sitting down taking notes over there.' And she said, 'And you, being mum, you'll just slip up the side there and sit in those seats'. (Family member)*

Professionals suggested there was a variation in how much information youth advocates were providing to young people, particularly prior to the first court appearance. Prior to the first appearance, the information ranged from a brief chat about the summary of facts, to a more detailed conversation including the summary of facts, courtroom etiquette, who was going to be in the court, what they may be asked, and the overall process.

*[The] lawyer will take them into a little interview room and they will go through the summary of facts, what they are going to be charged with. Then they will tell them to wait in the waiting room until their name is called. That is it. They don't get told what is going to happen in the courtroom. They don't get told about FGC really ... there are a couple of good youth advocates ... [who] will go past just reading the summary of facts, and talking about whether they did it or didn't ... [and explain] what is going to happen once you say you did do it. (Professional)*

## Family and friends

Young people and families commonly identified family and friends as a source of information about Youth Court. Reports on the usefulness of this information varied from friends simply saying they had been to Youth Court, to giving their opinion of how they found it, to advice based on their own experience. Some families also gave advice on how to behave in the courtroom.

*[My friends] were just saying that it was best to just stand and listen, because then you get out of there faster. They just told me that it didn't really last long and stuff. (Young person)*

## Child Youth and Family

Professionals and families commonly identified CYF as an information source, but they were not commonly identified by young people. CYF provided information to young people where a social worker had already been appointed before they were at court, when the young person was coming from an Intention to Charge FGC, or when young people are held in cells after arrest.

## Pamphlets

Pamphlets were not considered to be a main information source for young people or families. Only a minority of young people and families recalled receiving a pamphlet. Those who did, did not read it or could not remember what it said. Some families received a pamphlet after the first appearance, which was not considered helpful as they felt they needed the information beforehand. Only one family member and one young person said they found the pamphlet useful.

Some professionals reported that due to young people's capacity and capability limitations, pamphlets on their own would be unlikely to be a useful information source for young people, unless someone goes through the pamphlet with them.

*If you've got a brochure, just giving it to a kid to read isn't enough ... they'd need like a brochure and someone sitting down and going through it.*  
(Professional)

## 4.4 Waiting for court

Professionals gave their perceptions of the young people and their families' experiences of waiting in the waiting room before court hearings. Families and young people also commented on their own experiences of waiting. Issues such as lengths of time spent waiting, and the effects of waiting, in terms of feelings, offender association and privacy issues, are discussed below.

### 4.4.1 Lengths of waits

All groups acknowledged there were frequently lengthy waits at court. Some professionals suggested that young people may have experienced waits ranging from 30 minutes to four hours. Young people and their families reported having experienced waits ranging from five minutes up to six hours (for a small minority). Most commonly, young people reported waits of around one to two hours.

Only two young people had not experienced any waits and two others suggested they had not experienced long waits because they purposely showed up later than the appointment time they were given.

Professionals suggested that the length of time young people and their families had to wait was dependent on the following factors, which were, to some extent, thought to be beyond the control of the court:

- the number of people being called to appear (with a bigger list increasing the likelihood and length of waiting times)
- whether the young people arrived late or early
- the amount of interaction between the respective participants in each court hearing.

Waits were endured regardless of each court's appointment system. Some family members and professionals credited a change from all young people being required to arrive at 10am to the implementation of an appointment system, with reducing waiting times.

*We have had a lot of good feedback, from parents especially, saying it is so good coming in knowing you are going to be dealt with around about that time and walking away... (Professional)*

#### **4.4.2 Waiting in cells**

Only a handful of young people interviewed reported having experienced waiting in the cells. They preferred waiting in the waiting area over waiting in the cells because of the smell of the cells and there being more freedom in the waiting areas.

For families inexperienced with the court system and particularly for those few whose children were appearing from the cells, a lack of information about what was to happen was also a concern.

*And it's just like, what's going on? Where's the lawyer? Where are we meant to be standing? Who am I meant to talk to? (Family member)*

#### **4.4.3 Effects of waits: feelings, offender association and privacy issues**

Some professionals suggested that the effect of long waits for families and young people ranged from boredom and frustration to, at the more extreme end, confrontations in the waiting areas.

Young people reported feelings that ranged from shame to frustration and anger at having to wait, but most young people simply reported being bored. A few suggested they did not have a problem with waiting.

Many families noted feeling intimidated, stressed or uncomfortable in the waiting room. These feelings were frequently attributed to the waiting room environment itself as it presented an opportunity for the young people to congregate with other young offenders, or in the case of some courts with mixed waiting areas, also adult offenders. Professionals also noted this as a major concern.

*... there's all these little xxxxx around quite frankly and if you've got one you are trying to keep on the straight and narrow you don't want them mixing with a whole pile of little xxxxx... (Family member)*

*So you are getting a young group of people, some of which are repeat and well known trouble makers or difficulties, they are coming together and waiting in a combined area for a long time. So trouble can emerge. (Professional)*

*...I think it can be terribly embarrassing for some families and quite distressing, and then others, of course, are very familiar with the process and so they just go in there as if they have been there every other day or so. (Professional)*

Some professionals recognised that the effect of offender association on the young people and their family would depend on their familiarity with the youth justice system. Young people who viewed the waiting area as an opportunity to socialise or catch up with others were not newcomers to the Youth Court, and many viewed this as a social opportunity or opportunity to plan future events.

*...when I wait in the waiting room it's normally when I make friends, more friends and those friends are criminals... (Young person)*

Professionals and some families also commonly cited a lack of privacy for some young people when discussing their cases with their youth advocate before their court appearance. If interview rooms were not available at the court, youth advocates would sometimes discuss cases with young people in the waiting rooms. Young people did not suggest this was an issue for them.

*In the waiting area there's no privacy and so... you'll find the lawyers down at the end of the corridor... with a young person. (Professional)*

*...you have to be careful about privacy sometimes and again sometimes people out there if you know them don't mind just sitting down and talking to others. It's very important to make sure you bring them here like we are now but it's a ... shortage of rooms. That would be the case in most courts... (Professional)*

## 5 During Youth Court

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This chapter covers findings on young people and their families' experiences and views of court hearings. It includes findings on the courtroom environment, awareness of courtroom participants, and family participation in court. It is based on young people and families' own experiences in court and on professionals' perceptions of the general experiences of young people and families.

### 5.1 Summary of findings

- The judge was central to the young people's experience of the Youth Court, as young people were aware of the authority of the judge in determining outcomes. The judge was also pivotal in involving the young person in the court process.
- There were some concerns regarding the use of jargon in the courtroom and the interaction that occurs between professionals that does not involve the young person, which can result in young people disengaging from the court.
- Despite this, young people generally had a good understanding of what happened in court, especially of their bail conditions. This understanding was either from the explanations given by the judge, or from the information provided by the youth advocate or social workers after the hearing. Young people's understanding was reliant on professionals using language they could understand.
- Young people continuing through the Youth Court for a long period tended to forget why they were appearing, and the imposition of bail conditions dominated their experiences. For these young people the court process became detached from the offending.
- Family attendance at court was considered very important. It had an immediate impact of giving the young person support and a familiar face in the courtroom. Professionals also reported that good family support was linked to young people successfully completing their FGC plans and compliance with bail conditions. However, there were some reports of a decline in family attendance for recidivist offenders.

### 5.2 Courtroom environment

Issues such as courtroom layout and knowledge of people in the courtroom are discussed in this section.

#### 5.2.1 Courtroom layout

Professionals' comments frequently focused on how the physical layout of the courtroom influenced the formality of the Youth Court. Most professionals suggested it was important to strike the right balance of formality and informality so the young person was comfortable, but not too relaxed.

*I don't know how you strike the balance between making a young person feel comfortable while not making them too comfortable because they are in a setting where there is a case that's being heard against you.*  
(Professional)

Some professionals suggested that the typical Youth Court U-shaped seating arrangement was better than a standard District Court setting because it was more informal or because it allowed the young person to see the other people in the room.

Professionals also commented about the effect of the judge's physical location in the courtroom on the young person. Some suggested that having the judge elevated dehumanised the young person, and the young person may be more likely to engage if the judge was on the same level as them. Others suggested that the elevation of the judge was suitable as it gave a greater impression of formality.

*...the judge to me should always be up the front and up high, aloof from the rest of us. He is the judge. He is the boss. It is a formal process. I believe it should be conducted as such...* (Professional)

Most young people did not report concerns about the physical courtroom layout. Of those who did, some suggested that they did not like standing in the courtroom and a few suggested the room was small or claustrophobic.

*...I just didn't like standing...* (Young person)

*...I didn't really like it because I don't like small spaces with heaps of people...* (Young person)

### **5.2.2 Knowledge of people in the courtroom**

Most young people knew some, but not all, of the people in the courtroom and why they were there. They usually knew the judge, youth advocate, police officer and occasionally CYF (where known, this was usually when their social worker was in attendance, rather than the other CYF roles in court). Most young people also did not mind the number of people in the room. Those who did suggested that it was because they felt uncomfortable with strangers watching them, they felt stared at, or they felt it was an invasion of privacy.

*... so many people were in there listening to stuff that had nothing to do with them, like my life's to do with me...* (Young person)

*It just felt real weird everybody just looking at you. It would be better if only the judge was looking at you because then you wouldn't feel as scared...*  
(Young person)

Some professionals suggested that not knowing the people in the courtroom could confuse the young person and make the experience more daunting, particularly for those unfamiliar with the court.

*Different if you've been arrested and it's your first time and you step out of a cell into the courtroom and there's people that you don't know; that could be a bit daunting... (Professional)*

## 5.3 People in court

This section focuses on the interaction between young people or families and the judge, youth advocate and social worker, as these are the roles that young people and families have most interaction with. It also covers the perceptions of police and other CYF people at court, and responses to the interaction between the professionals in the courtroom.

### 5.3.1 Professionals' interaction at court

Young people, families and some professionals noted that sometimes there would be a lot of talking in the courtroom between the professionals, which may not be understood by families and young people.

*Sometimes there is a lot of talking amongst the professionals, particularly if there is a hard case ... or a really bad charge... (Professional)*

Young people commonly reported that the professionals talked amongst themselves, particularly the judge, lawyer and police officer. When this occurred the young person was usually aware the conversation was about them, but did not understand what they were talking about. Often this lack of understanding was thought to be due to being excluded from the discussion and because of the language used.

*Well, sometimes it just feels like they're having this big conversation in between them all ... you learn that when that's happening you just tune out. You focus on one spot and you just try and look still ... [I] really don't know what's going on ... every now and again they will ask questions... (Young person)*

*When he is talking to the cops that are in there, I don't know what they are talking about. (Young person)*

While many young people did not understand what professionals were talking about during these discussions, this did not necessarily mean that they did not get information about the decisions made at court. Some young people reported that their youth advocates explained things to them after court, as discussed in section 5.3.3. However, this environment may have

contributed to some young people's lack of involvement in the process and understanding of what is happening in court.

*I just stand there and they do all the talking. (Young person)*

About half of the young people interviewed thought that they usually understood what was happening in court, the other half reported they did not understand or only understood on some occasions.

*I don't understand what they are saying ... they start talking about something that I don't even know what they are talking about. I don't even know what the words are. (Young person)*

### 5.3.2 Judges

It was clear from professionals, young people, and families' comments that the judge was central to young people's experience of the Youth Court. According to many young people and professionals, young people's main involvement in the court appearance was interacting with the judge and responding to their questions. The questions asked by the judge are explored in more detail below. Young people were aware of who the judge was and that the judge makes the final decisions.

*The children don't usually speak either, unless the judge asks them to, but the counsel does all the talking. (Professional)*

Some professionals reported that the interaction between the judge and the young person is the most useful or helpful part of the Youth Court process, as it shows the young person that someone is taking an interest in them and that someone is holding them to account. Asking young people to address the judge directly to explain why they have not complied with their plan or other conditions was considered important.

*But their dealing with the judge has a really big impact. I mean, most kids ... tend to think judges are a bit important. So what the judge says and does is important. (Professional)*

*I think it's really important, like if they haven't done something they were meant to do, that they have to answer to the judge themselves ... it's easy to spin a story to your advocate ... it's kind of that responsibility accountability stuff. (Professional)*

The interaction with the judge was also thought to be helpful for young people who are doing well, as the judge gives praise and positive reinforcement.

*They have completed their plan and they come back to court and they are really proud of what they have done. That is often really affirming for them,*



*and the judge will be really encouraging them, give them lots of positive remarks about what they have done ... It doesn't matter to all of them, but some of them you can really tell it is kind of good for their self-esteem.*  
(Professional)

### **Encouraged to participate**

Most young people, families and professionals reported that judges generally encourage young people to participate in court. All three groups commonly reported that judges asked young people to introduce their family and asked questions about progress with their FGC plan, particularly when there had been issues with not completing or complying with the plan. Asking young people to introduce their family was thought to make young people feel more comfortable in the courtroom and more involved in the process.

Families and professionals reported that families generally felt included in the court process as the judge acknowledged them when they were introduced. Most families and professionals also reported that families were encouraged to participate in the court hearing; they were asked questions about how things were at home, for input into changes to bail conditions, and may have been asked if they had any questions.

*Well at least he sort of wants to know my opinion... (Family member)*

*He had asked me if there was anything I wanted to say. (Family member)*

*I have heard the judge often ask, particularly around bail condition ... and I think that's important as well ... empowering the parents to feel like they're part of the process, but also for the young person to know that actually your parents are going to be part of this... (Professional)*

Some professionals noted that young people's and families' participation was dependent on the judge and the time available. A few young people reported that they did not interact with the judge and were not asked any questions. Despite this, most family members reported feeling included in the court process.

*The judge didn't even look at me. I was expecting to get some big long lecture, but they just blabbered on about some court mumbo-jumbo and then bailed to my address... (Young person)*

*They just do their own little thing. Like I don't even have to be in court. It's like I shouldn't even be there, you know, like they can do it all without me. I don't even need to be there. I don't even get spoken to. (Young person)*

*To be honest, I felt that at any stage if I needed or wanted to say something I would have. (Family member)*

## Feelings about participating in court

While young people were often encouraged to participate, there seemed to be variation in their feelings about participating and their degree of involvement. Some young people found the experience very nerve wracking, or felt unable to answer some of the questions. Similarly, professionals thought some young people lacked the confidence to speak in court, required prompts, or were simply stunned at being asked questions. This seemed to mostly apply to those who were new to the court.

*There are some young people who it is like blood from a stone. They are just not comfortable in that forum. (Professional)*

*I don't think young people talk with ease in the court setting ... even if they have done something positive in their plan ... They may be buzzing from having gone to one of the Start programmes or doing something that they have really excelled in, but in that environment it does seem a bit stifled maybe. (Professional)*

*Some will just about die of shock if a judge actually asks them something because they just think 'oh here is just another process and I will just go through it and everyone else tells me what is happening'. So they might be quite reluctant to even do that or just surprised at being asked. (Professional)*

Consistent with professionals' observations, some young people reported that while they were asked questions in court, this did not necessarily mean they felt encouraged to participate or felt involved in the court process.

*The judge goes 'blah blah blah blah blah, do you agree' and then you go 'yes' and then I get on curfew. (Young person)*

## Understanding the judge

According to all three groups, most but not all, families and young people understood the judge.

Professionals and families generally thought judges tried to explain things to young people in a manner which they could understand, with some families saying the judge 'spoke on their level'.

*It was quite plain, basic. It was easy to understand. We knew what we were meant to be doing. We knew we had to come back on the 17<sup>th</sup> ... (Family member)*

However it was clear that some young people did not always understand the judge. Some young people identified issues with not understanding the language used.

*Sometimes I do, but they use like real big words sometimes and I don't know what they mean. (Young person)*

*I don't know actually. That is the thing, I don't even listen to the judge, what he says or anything. Sometimes I will just go into a daydream and just stare at him. I have no idea what he is saying anymore. (Young person)*

Some professionals also acknowledged that despite the attempts made, young people may not understand or take in what is being said to them in court.

*They sit there and they're sort of like ... possums in headlights and then it's reliant on the lawyer going out and explaining it to them when it's finished. (Professional)*

Professionals identified the following as factors associated with a lack of understanding in court:

- the young person's capacity and capability – including whether they are still affected by drugs or alcohol after an arrest, and the attention span of the young person
- the formality of the court environment
- the language used by judges and other people in court – for some young people, the use of technical language meant that they disengaged from the process in the courtroom
- familiarity of court – if young person is new to the Youth Court, but is familiar with the justice system from family involvement, they may come to court with an attitude that they do not care and do not want to get involved.

*With a lot of our kids their comprehension levels are quite low I think ... the judge ... does his best to put that into kid language but I think, also the daunting nature of standing in a courtroom, knowing you're about to be sentenced or whatever ... I am not sure how much of that they take in. (Professional)*

*So you're dealing with kids who've got vastly different expectations and experiences ... [some] listen intently to everything I say, they understand what I'm saying; they care. Other kids, they've been in the back of the Number One District Court all their lives. (Professional)*

### **5.3.3 Youth advocate**

Young people's and families' perceptions of the youth advocate were generally very positive. Young people thought their youth advocates were trying to help them, and frequently reported that it was good to have someone talking for them in court. Youth advocates were also viewed

positively as they explained what was going on to the young person, often using 'layman's' terms. Many family members also highlighted the importance of these explanations.

*Our lawyer was really good. He told us everything that was going to happen before we got in there. (Family member)*

*She pretty much does everything. Like she explains everything. She will like talk for me. She will do anything. (Young person)*

A few young people and family members were unhappy with their advocates. This was usually because they felt they had not had enough contact with their advocate, or because the advocate was not able to talk using language that was easy to understand.

*He is useless ... Because I don't always get to talk to him before my court. (Young person)*

*It would be better if he could explain it in a way that a 16 year old could understand. (Young person)*

### **Contact with youth advocates**

Consistent with many professionals' perceptions, most young people and their families' first contact with their youth advocate was once they had arrived at court on the day of the hearing, or for some young people, in the cells. Professionals suggested that some young people and their families may receive phone calls or letters from their advocate prior to their hearings, but only a few young people reported receiving these.

Many young people reported having contact with their advocates after the hearings. A few youth advocates were reported to have kept updating the youths on their case progression via phone calls or visits.

One advocate who attempted to contact their clients before their court day highlighted that often the first contact could only be possible on the hearing day due to receiving limited client contact details.

Another factor that could influence the advocate's availability for contact was their own time constraints. A few young people recognised they had not had contact with the advocates after their court hearing because their advocate was busy. Two professionals also noted that if a youth advocate had a series of cases scheduled to be heard consecutively they would have little contact time to explain everything to each individual youth.

*It's also difficult for them because ... they often call the cases for the advocate one after the other. So they can't go out and explain it. So they have to stay in the court basically. (Professional)*

Some young people had experienced changes in their assigned advocate within a case. A few of these felt this had led to inadequate contact time with the replacement advocates.

*It is kind of annoying because my lawyer knows me and knows what I want. I get given this random lawyer that doesn't know anything about me ... I only meet them five minutes before I have to go to court and it's really annoying. (Young person)*

### Information

Most young people and their families reported their advocates had explained what to expect in terms of the court procedure and possible outcomes at their first contact. A few young people said this information concerned only the charges against them, while others said this covered charges, likely outcomes and what kind of information was likely to be discussed in court.

*We always talked before we went in. We went over what was going to be said and asked us if we had any more input on what has happened in that time from the last appearance and all that. (Family member)*

Some young people who had contact with their advocates after their hearing reported that their advocates explained the outcomes (especially in terms of bail conditions) to them. A few young people mentioned that while they did not understand conversations between the advocate and the judges at their hearing, their advocate had explained or summarised what they needed to know from these discussions afterwards.

*...And just in case you don't understand what the judge has said they will explain it in English, not in that legal blah, blah... (Young person)*

*The lawyer comes and talks to me about what happened and stuff and what I have to do, go downstairs and sign the bail bond. (Young person)*

Some professionals suggested that the pathway a young person had taken through the Youth Court would influence the nature and amount of information a youth advocate would provide. That is, if the young person had already been through an Intention to Charge FGC they will already have been given information about the court prior to their hearing.

*If they have ended up in court following an intention to charge FGC where the Police have decided to proceed to court, then at that FGC we will have told them what will happen in court and who will be there. (Professional)*

A few professionals also suggested that even after a youth advocate had discussed the required information with young people, the young people's own capacity and capability influenced how much they retained from these discussions and sometimes even an awareness of who their advocate was.

*But then sometimes that comes down to the youth themselves. Because I have had questions at the counter 'who is my youth advocate?' and they get appointed that on their first day. So they are not listening. (Professional)*

#### **5.3.4 Child Youth and Family**

In general, most professionals felt that CYF had a very important role for the young people and often also the families in court. They suggested their role was especially important to help explain what was happening/had happened in court, to be someone to talk to and for general support, and to translate what was said, especially given the legal terminology used in the courtroom.

*People do refer to a section of the Act as if everybody was familiar with the core Acts. It gets very confusing ... they just need that interpreting for them. (Professional)*

*I've seen a social worker at times go up to the youth and just go through it ... even while the judge is talking, and go and sit with the parent or the guardian or caregiver and go through what's to happen. (Professional)*

Many family members and young people who had experienced these types of interactions, had positive views of their social worker. Some suggested they would approach their social worker if they were unsure of what was going on.

*Honestly [the social worker] ... has been brilliant. He comes over once a week and he rings up [young person] ... and sees how he is doing ... Yet his lawyer has not had one contact with [the young person]. (Family member)*

*I actually talked to CYF a lot ... she was ... very good on it all ... like absolutely anything you could think of. She answered all our questions... (Young person)*

A few family members were unhappy with their social worker because they felt they had not had enough contact with them, did not trust them or because of a frequent change in social workers for their case.

*I have had to ring him up quite a few times and have left a message. He never rings back. When we see him at court and I bring it up with him 'Did you get my phone call? And he is 'Oh, yeah I have just been busy'. I replied 'it would be awesome if you just replied, throw me a text' but they don't. (Family member)*

One young person suggested that how involved a young person would be with their social worker would depend to a large extent on how much they wanted help.

*...depends really, whether they want help or not and I wanted it...I hated CYF at first...absolutely hated them, and best friends now. (Young person)*

There was sometimes confusion about the purpose or role of other CYF people in the court. This is perhaps not surprising given that the role CYF plays depends upon the circumstances of each case. Some young people were unsure of why CYF were involved in their cases or were unhappy with them because of a lack of contact or because they were not felt to interact directly with them in court.

*I think their job was meant to let the judge know how we're going, but no, I've never seen that. So I'm not sure what they do... (Young person)*

### 5.3.5 Police

Most family members who commented about the police prosecution felt they knew what they were going to say in the courtroom. However, young people had more mixed views on their knowledge of what the police were going to say. The majority of young people suggested that they usually understood what the police said in court, although there was sometimes confusion when they talked amongst the other professionals (as discussed in section 5.3.1).

A few young people and family members expressed negative views about the police. These particular family members suggested the police were working against the family/young person rather than with them.

*They need to work with the families more and not be this controlling the whole system ... They are sick of all this crime, but if they can see that they came from a good family, you know this is his first offence, I just felt that they were just real harsh... (Family member)*

Young people suggested the police were condescending towards them in attitude or interacted more with the judge than with them. Some of these young people felt this was unfair or felt excluded.

*The police don't have the xxxxx to say it out loud, so they will write it down and take the paper up to the judge ... I just hate it that they can't say it out loud... (Young person)*

One professional suggested that those young people who had a bad attitude toward police, may have been through the system before.



*The more repeat offenders ... have particular attitudes to police which come through regularly ... they see themselves as always being picked on by the police... (Professional)*

## 5.4 Family attendance at court

Nearly all the young people interviewed had a support person, usually a family member, with them for at least some of their court appearances. This was consistent with the perceptions of the majority of professionals.

Family attendance at court was usually the young person's mother, sometimes with an extended family member or older sibling. Professionals reported that fathers rarely attended and having both parents was quite uncommon.

*Dads would be the rarest creatures turning up in a Youth Court. (Professional)*

A small number of young people talked about being in cells prior to appearing in court. They reported being unsure if their family would be in the courtroom before they entered the courtroom, with some entering and looking around the room for a familiar face.

Professionals and young people reported that a social worker would attend court if the young person did not have family support, so they would not appear in court on their own.

*...[Social workers] are there to support you, so it is alright. But then I wonder why my mum is not there. Like she is my mother. She is my blood and I am her child. I think oh yeah my social worker is here. It is cool, she is supporting me. (Young person)*

Support outside of family and social workers was generally uncommon, but programme providers may attend with a young person to give support and also give reports to the judge. Young people and professionals also identified friends and boy/girl friends as a source of support at court, but this may have been in the waiting area rather than in the courtroom.

### 5.4.1 Consistency of family attendance

Some professionals and young people identified inconsistencies with family attendance at court. Some young people interviewed had family attend on some occasions and not others, or had different family members attend court with them.

Professionals commonly identified a drop off in family attendance for recidivist offenders. While there was often family attendance for the first offence, family attendance declined over subsequent offences, until gradually a young person may appear in court without any family support. Some professionals also suggested this pattern could occur throughout a single case, with more family support at the initial appearance(s) and less or no family support for later



appearances, such as reviewing progress with the FGC plan or appearances for bail breaches.

*If there has been good family support early on, often that does drop off if the young person keeps coming to notice. (Professional)*

*Unfortunately sometimes as they come in young and keep going and keep going, the support drops off. Rightly or wrongly. At some point family members will [say] ... 'we have come along so many times now. We just feel 'no', bugger you'. (Professional)*

*I think probably kids on their first and second appearance would definitely be more likely to have parents there than as we're getting further down the track. (Professional)*

In contrast, a few professionals felt family support was consistent throughout a case, though the responsibility may be delegated to one family member. Some reported that families may miss the first appearance after arrest, but will consistently attend after that.

*If they're going, they generally go regularly ... If they're not coming ... they don't come at all. You don't get a lot of spasmodic attendance. (Professional)*

#### **5.4.2 Feelings about family attendance at court**

Young people generally liked having their family with them at court. There was some trepidation for some young people who felt embarrassed at their family hearing about their offending or other negative reports about them. Others felt their family attendance added strain to their appearance and made them feel worse. In these cases, while it was thought to be harder having family present, there was still a general view that family support was preferable than no support.

*...good at least I've got support. Some people don't have support. (Young person)*

*...otherwise I would've thought that they didn't care. (Young person)*

*Sort of embarrassing. Because like when they find out what you have done. (Young person)*

*I felt real stink when I saw my mum there, just wanted to cry. (Young person)*

According to some young people and professionals there are a small minority of cases where family attendance was not welcomed. This was usually because the relationship between the family and young person had broken down.

*I think some of them would rather their family weren't there, because there is already I suppose that sort of fracture within the family anyway and they think that they are old enough to be out on their own anyway. Often they are living away from home anyway. There has been that breakdown ... That wouldn't be the norm though, where they don't like the family there. (Professional)*

#### **5.4.3 Benefits of family attendance**

Both young people and professionals considered family attendance to be a source of support for the young person and showed them someone cares for, and believes in, them. Professionals added that it can be an opportunity for young people to hear their family say positive things about them, and make young people feel more confident in the courtroom. Family attendance was also thought to send a message that going to court is a serious and important event.

*The more family, the better I think ... You can often almost see the attitude of the young person differ if there is lots of family compared to no family. Well if there is lots of family I think they generally are a bit more confident, they have a little bit more pride or shame sometimes ... But you can kind of tell that they think it is important. (Professional)*

Professionals also identified benefits for the family, which included getting information directly from the court, and hearing reports on the young person (either positive or negative). It is also an opportunity for families to talk to the judge and have input into changes to bail conditions.

Professionals commonly thought young people were less likely to re-offend and more likely to complete their plan if they had good family support. Families who attend know what the young person is required to do and are therefore able to reiterate and remind the young person of these requirements at home.

*It's almost impossible to engage a kid at anything if their parents aren't there... because the judge has gone to the kid 'right, you need to do this, this and this' ... Then, they'll leave and they'll firstly not remember, secondly have no-one telling them what they need to do, and for a plan to be successful you've got to have a parent's buy in ... They're monitoring the curfew and they're doing everything. (Professional)*

#### **5.4.4 Barriers to family attendance at court**

Professionals identified practical barriers to family attendance and other barriers regarding the families' commitment to their young person. Practical barriers identified were:

- child care and associated costs for other children

- transport and associated costs – especially if the family do not live locally
- work commitments, including not wanting to tell employers about their young person's offending, an inability to take multiple days off, and to afford time off without pay.

These were thought to be significant challenges for some families. However, some professionals reported that such barriers can be used as excuses. These professionals reported that the real barrier to family attendance is with their commitment to their young person. Families may not be attending court because they do not care or do not have a relationship with their young person. Other families may not attend because they themselves are in trouble with the justice system.

*So there is a cluster of reasons I think, some of which are understandable and have good reasons, to those which just don't give a toss about what happens to their kids. (Professional)*

The barriers to appearing are more evident for families of young people who re-offend. This relates to comments made in section 5.4.1 about the consistency of family attendance for recidivist offenders. It appears that it becomes increasingly difficult for families to attend multiple court appearances as the barriers become more pronounced.

## 5.5 Timeframes for cases

Some of the professionals, young people and families interviewed raised comments about the length of time between the offence and the last court appearance. A few of the young people and families made comments that the case took a long time to be dealt with, or that the case was dragging on. The length of time that some of these people mentioned ranged from five months to ten months.

Some professionals also acknowledged that some cases can be prolonged, and this was largely thought to be due to the young person's lack of compliance with their FGC plan, or because the case is not straightforward with, for example, denied matters or issues with jurisdiction. This is consistent with the families and young people who indicated concern over the length of case at court, as they seemed to be involved with more complicated cases. Other, less prominent factors mentioned by professionals included the time required for mental health assessments, young people being given too long to complete their plans, when disclosure is not prepared in time and the case is remanded to the next Youth Court day, and when the young person has their first court appearance on a non-Youth Court day and is remanded to appear on the next available Youth Court day.

### 5.5.1 Impact on the young person

Where a case was prolonged, for whatever the reason, there seemed to be a number of effects on the young person. Some families and professionals reported that the length of time

can create a lot of stress and be frustrating for the young person, as there is a long period with no outcome and a lot of uncertainty about what is going to happen. They also mentioned that the young person was living with bail conditions, especially curfews, for a very long period.

*... stressing him out, because it was just hanging over him. It just took so long to be dealt with. (Family member)*

*Some of them can understand that that is just the way it is, and others really, really, struggle with that component ... [they] find that quite difficult because there is no resolution to it. They are not sure where they are going to go or what is going to happen. (Professional)*

Families and professionals also reported that over time the court loses its impact on the young person, as they move on from the offence quickly and the court appearances become detached from their offending.

*You know from the time XX offended ... there was months before he even got to the judge, and then there was another month on the end of that before you get an FGC. Then since then it has been a couple of months .... I found that period between the time he offended and the consequences really hit him was just way too long. He just had that attitude... 'that was ages ago and I haven't been in trouble' ... They needed those consequences straight away. (Family member)*

In addition to these impacts, some professionals also reported that the longer the case the more likely young people are to forget about the victim and why they are at court and focus more on how the appearances and conditions imposed are impacting on them. Where the length of time is related to complexities in the case, professionals also reported that young people may get lost in the complications of the process, and may not have an understanding of why they have to wait or what they are waiting for.

### **5.5.2 Appearances within a case**

In addition to discussing the length of cases going through Youth Court, some professionals also raised discussion on the type and number of court appearances required.

Some professionals were concerned about young people being required to appear in court and continually getting remanded to reappear at a later date (which was thought to be more likely to occur in cases with serious charges). This was thought to be confusing for young people and unnecessary.

*Maybe not helpful is when there has to be a number of remands. Where they are effectively just appearing, remanded off, appearing, remanded off ... That would be confusing in itself. (Professional)*

Comments suggested young people commonly attended court for a review appearance after their FGC plan is approved, to monitor progress. At this point the judge may ask the young person to attend additional review appearances.

Professionals generally felt these additional review appearances held the young person to account if they were not complying with their FGC plan.

*If they're not sticking to their plan then it's good that they come in for an interim review because then the judge can sort of hold them up a bit.  
(Professional)*

However, some professionals reported that young people who complied with their FGC plan were also required to return for a second review. They felt that these repeated court appearances normalised going to court, resulting in a loss of impact of the court on the young person. They suggested additional review appearances should be restricted to those not complying with their FGC plan.

*If Jack or Jill don't do what they agreed to do, and it's not working for them, then ... [they're] brought back to court ... but bringing them back week after week is not a good thing for young people. Some judges think it's good because I can keep my finger on the pulse. To me, that normalises going to court for that young person and they get used to it, and the awe of being there just goes, and there's no fear. (Professional)*



## 6 The impact of Youth Court

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This chapter covers the impact of the Youth Court on young people and their families.

### 6.1 Summary of findings

- The Youth Court had an impact on the majority of young people interviewed, but to varying degrees. Most young people were focused on the immediate impact that the restrictions of their bail conditions placed on them (particularly curfews and to a lesser extent non-association orders).
- A few young people indicated that the Youth Court had a more substantial impact as they reported no longer thinking the Youth Court was cool, that Youth Court gave them a chance to reflect on what they had done, or that they gained something positive from their experience, such as a job or a placement in a programme they enjoyed.
- The Youth Court had a negligible impact on a minority of young people, including in some circumstances, a lack of impact from conditions imposed.
- The impact on a young person was influenced by their familiarity with the justice system, especially for newcomers to the Youth Court and with no prior familiarity or exposure to the justice system. The more familiar a young person was with the Youth Court the less impact the court had; the impact was thought to decrease as people reappear for subsequent offences.
- Some young people were concerned about not being able to attend school on court days, whilst others felt this was not an issue as they returned to school after their appearance or because they were a regular truant. The court makes an effort to limit the impact on school attendance.

### 6.2 Impact on young people

Professionals, young people and family members identified a range of impacts of the Youth Court on young people. The range of impacts is discussed in this section, as are issues related to bail conditions and the perception of leniency. The following two sections address the impact on school attendance and the impact on families.

#### 6.2.1 Positive impact

Professionals suggested the court had a positive impact on the majority of young people as they did not reappear in the Youth Court or move on to the District Court. The impact was thought to be most significant on young people who are aware they had made a mistake, who want to complete their FGC plans, and who were involved in the court process.

*With some of them, it has a massive impact. You know that this is probably going to be the one and only time you're going to see that kid and you're never going to see that one again. (Professional)*

*These are the youth that genuinely take it in, and take it all on board. We don't generally see them back in the Youth Court. (Professional)*

Similarly, most family members reported that their young person thought attending court was a significant event, they took their appearances seriously, and they took responsibility and accepted the consequences imposed.

*I think that he realised that it all boiled down to him and that he was there because of his own behaviour. (Family member)*

Young people found it difficult to report on whether and how the Youth Court had impacted on their lives. However, some young people indicated that the court had a positive impact as they:

- used their Youth Court experience to reflect on their behaviour
- began to question the idea that some young people had that it was cool to go to Youth Court
- talked to other young people about the court experience and why it was not cool
- identified positive interaction or outcomes from courses/programmes attended as part of their FGC plan.

*It has calmed me down a lot. It has brought me real down to earth. I am not so much a rebel as I used to be. Going through the courts it makes you think why did you do it and it brings another perspective into life, like what people think of you... (Young person)*

*It was a negative at first, but it's more a positive now, 'cause I find myself influencing other people ... that sort of think it's cool ... it's influenced me with everything actually. (Young person)*

*I was getting hours done pretty quick and I managed to get a job out of it, so that was alright. (Young person)*

There was also acknowledgement from some professionals that it was difficult to tell exactly what aspects of the court impacted on young people.

*You're kind of talking about the great unknown really ... Kids who are receptive to the process probably don't come back, but why don't they come back? Do they not come back because of the sanctions that were imposed by the Youth Court or because they don't want to upset mum and dad .... I don't think you can sort of quantify what affects them. (Professional)*



### 6.2.2 Limited impact

All three groups commented that for a minority of young people, the Youth Court had a limited impact. A few families reported that their young people did not appear to be effected from their Youth Court involvement, as their behaviour had not changed and they continued to be friends with 'the wrong people'. Professionals also questioned the impact the Youth Court had on some young people who:

- had prior Youth Court experience and were reappearing for new offences
- were not complying with their FGC plans and prolonging its completion
- believed there was kudos associated with attending Youth Court.

*... another young person who was in court yesterday facing about 25 active charges, and was released on bail. I saw him last night in breach of his curfew. I spoke to him and four hours later he had been arrested for doing another burglary ... It had just no impact, he couldn't care less.  
(Professional)*

A minority of young people indicated that the court had only a negligible impact on them. Some claimed to have been affected by their court experience, but other comments they made suggested that they did not appreciate the seriousness of attending court.

*It's actually quite a big effect ... 'cause I've got heaps of xxxx to do and I like didn't even want to come to court today ... I've got to go shopping and like buy myself some new shoes ... Trying to have a quiet drink, man, and the next thing, boom, oh, I got court. (Young person)*

Others reported that they were unconcerned about the conditions imposed, felt bored being at court, considered attending court to be a waste of their time, and that their involvement in the process extended to simply showing up.

*I didn't care what happened at that time. Either I was getting locked up or whatever... (Young person)*

*I don't think anyone walks away from Youth Court feeling like ... they're never going to do anything horrible again. So I think the Youth Court is just there, it's not really doing anything. (Young person)*

### Leniency

Some professionals reported that the fear of going to District Court did impact on young people who were nearing the District Court age.

*I think lots of them do know that ... they're going to be seventeen and a half and they're not going to go to Youth Court any more ... a lot of our kids*

*don't offend after their seventeenth birthday because they know damn well they'll end up in the adult court next. (Professional)*

Similarly, some young people reported that they would be more concerned if they were going to District Court as the penalties would be harsher and that in comparison, they thought the Youth Court penalties were 'soft'. Some family members either shared or were aware of these young people's perceptions of leniency with the Youth Court.

*They always let you off and they're soft on you. (Young person)*

*These kids have too much leniency. It is not hard enough. That is why they keep reoffending ... it is too easy. (Family member)*

Some professionals and a few family members suggested that this perception of leniency may result in some young people having a blasé attitude toward the Youth Court. It was suggested that this attitude may be influenced by the young person's familiarity with the system because for young people who had been through the system the court and the conditions become a normal part of their lives.

*I think with [young person] it is just like another day. (Family member)*

*They just know what is going to happen. You can see it in their attitudes sometimes ... They know exactly that not much is going to happen. They have gathered quite quickly that we don't have a lot of teeth in the youth justice system, and they use that to their advantage. (Professional)*

*It obviously depends on the individual. These kids have often been around a bit, been in a bit of mischief, that is why they are there. Often their mates are there. They know what it is about. They are not intimidated by it. (Professional)*

*...normalises going to court for that young person and they get used to it, and the awe of being there just goes and there's no fear ... they have no fear of court. (Professional)*

While professionals and young people acknowledged that there were some young people who demonstrate bravado and brag about attending court, they suggested there were occasions where this was for show, and not a true reflection of the impact on the young person.

### **6.2.3 Impact of bail and other conditions**

Although it was difficult for young people to report on whether their appearance at the Youth Court had impacted on their lives, the majority reported that the consequences or outcomes of their court case, particularly their bail conditions, had impacted on their lives. This was consistent with many professionals' perceptions. Some professionals thought the non-

association orders were having an impact, as well as the court telling young people what they can and cannot do.

*Now I am regretting that I have done it because it has affected me harder. I am not allowed to ... see my mates. I have got curfew and none of my mates can come over because they are scared that the police are going to be there. (Young person)*

*...having a lot more people involved in their life telling them what they need to do and they're not really used to that. (Professional)*

In contrast, one professional recognised that some young offenders would be unconcerned about bail and another further suggested that the perception of a lack of consequences could lead to bail breaches. Correspondingly, a few young people who had been through the Youth Court admitted repeatedly breaching, or being tempted to breach, their bail conditions.

*...amongst some young people ... repeatedly breaching bail won't result in any consequences. Sometimes that's because remanding in custody is not an option, because there aren't any beds nationwide and judges are very reluctant to keep kids in cells ... Firstly, because it's not desirable ... But also because they have to keep coming back, like they would have to come back every day for a review until there was a bed available, which uses up resources. (Professional)*

*I don't really listen. I usually breach my bail. (Young person)*

### **6.3 Impact on school attendance**

Many young people reported they were not in school. Some had been attending school at their first court appearance, but had since been expelled or were no longer attending. This is consistent with professionals' views of young people's attendance at school.

For those attending school for at least some of their court appearances, some reported no impact on their school attendance because they would return to school after court, or because they were a regular truant. Some were concerned about taking time off to attend court, or about the school or their peers knowing about their court appearance. One young person reported telling the school he was sick on his court appearance days to avoid people knowing.

Professionals were aware of these potential impacts and noted that the court tries to limit any impact and encourage participation in school by:

- excusing young people's attendance for review appearances when they were complying with their plan. This was evidenced by a young person's comment that his school attendance was unaffected as he was excused from attending court.

*No, not really. I don't think so. Just if I am at school then my lawyer can just go without me and I don't have to be there. (Young person)*

- arranging appearances around school hours to minimise the time off required
- changing bail conditions for young people to attend school trips
- including school attendance as part of their FGC plans, for example, reducing community hours if the young person is doing well at school.

*...we try to accommodate their education to continue ... you build in exceptions for their education. So it might be 24 hours curfew unless specifically at course or at school or something along those lines ... I think generally speaking we do try and encourage them to keep those positive things in their life. (Professional)*

## 6.4 Impact on families

Some families reported the court experience was very stressful. For some of these families this feeling was due to the young person's offending behaviour and how it reflected on them, rather than the court appearance itself.

*Not the court process itself but more the bigger issues have been around the whole him being there and the offending and all of that. It is not actually going to court. (Family member)*

*It's my name that's being dragged through the gutter. (Family member)*

However, some families were affected by the practical difficulties of getting to court (see section 5.4.4 on barriers to family attendance). Professionals commented that attending multiple court hearings was often more difficult for families than young people, as they may have other commitments (see section 5.5 on timeframes of cases). Families were also affected by young people's curfews, as some felt that it was a curfew for the whole family, particularly when there were late night curfew checks.

*...knocking on the windows of the house ... I found it quite difficult because if [young person] wasn't here when they came to check on him they'd start questioning me like I was a criminal ... they were asking me where I was on the Sunday night or early hours, 2 in the morning ... just because my son's breaking the law, doesn't say all of us are in cahoots. (Family member)*

## 7 What does it all mean?

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This chapter presents a summary of the main messages drawn from young people's and families' accounts of their own experiences and perceptions of the Youth Court, and the perceptions of professionals working in the court. It also provides some insights into what these findings mean.

### 7.1 Variation in young people's Youth Court experience

It is clear from the findings presented in this report that there is variation in how young people experience and perceive the different components of the Youth Court. This variation is conditioned by three contextual factors:

- capacity and capability – the young person's level of education, mental health, and drug and alcohol issues that may impact on their comprehension
- familiarity and prior exposure to the justice system – the young person's own prior involvement as well as exposure to the justice system from the involvement of families and friends
- pathway through the youth justice system – including the complexity of the case and whether they had been to an Intention to Charge FGC prior to going to court.

Because of the variation in experiences and perceptions of court, the services the court provides need to be sufficiently flexible to suit the variety of young people who appear.

### 7.2 Expectations

The three contextual themes of familiarity, capacity and capability and particularly the pathway they had taken through the system, influenced young people's and families understanding and expectations about court prior to their first appearance. If a young person had been through an Intention to Charge FGC, they were thought to have a good understanding prior to their first court appearance, as they had received information at the FGC.

Prior to the first ever court appearance, most families and young people did not know what to expect or what was going to happen in court. This uncertainty led to young people feeling anxious and scared about going to court. Families felt unable to help their young people and uncertain about what to do when they arrived at court. Most young people and families reported feeling less anxious and scared at the subsequent appearances, as they became more familiar with the court.

The difference in expectations, understanding and feelings about court between the first and subsequent appearances, as evidenced by many families, suggests there may be a lack of information getting to the families and young people about what they can expect prior to going

to court. However, information does seem to get to young people and families before any subsequent appearances.

While it is fair to assume there will always be some level of trepidation for a person's first court experience, it is possible that ensuring young people and their families have some idea about what to expect may help alleviate the stress and anxiety felt at the early stages of the court process.

### **7.3 People in court**

The physical layout of the courtroom was not a significant concern for young people, suggesting either the layout was not a priority relative to their experience of court, or they did not have an issue with the layout.

Although most young people knew some of the people in court, it was uncommon for young people to be able to identify all the people in the room or know why they were there. Knowing who all the people are may help address some young people's concerns about privacy in the court, and may create a more involved and engaging environment.

The judge was central to young people's experience of court as they were aware that it is the judge who makes the final decisions. It was generally reported that judges do encourage young people to participate in the hearing. Such encouragement was thought to be a useful way of including young people in the hearing.

### **7.4 Young people's understanding of what happens in court**

There were some concerns raised regarding the use of jargon in the courtroom and the interaction that occurs between professionals that does not involve the young person. While conversations between professionals will be necessary, they can result in young people disengaging from the court. An explanation to the young person that there is going to be a conversation between professionals, which will later be explained (by, for example, the judge, their youth advocate, or CYF after the hearing), may ease the young person's anxiety and confusion.

The youth advocate's role is central to young people's understanding of what is happening. Adequate contact time is important to enable explanations of what has happened or is going to happen in court, as is the ability to explain things clearly. If youth advocates have back-to-back cases going to court they do not have the time at court to talk to their clients after their hearings and explain what happened in court.

### **7.5 Family attendance in court**

Family attendance at the hearings was considered important and viewed positively by most professionals and young people. It was a source of support for young people and made them

feel more comfortable in the court environment. It also meant that families were aware of what the young person had to do (or not do). This could be important in helping the young person to complete their plan and comply with bail conditions.

## **7.6 The impact of the Youth Court**

The impact of the Youth Court on young people varies considerably. Many family members thought their young person had taken the experience seriously. Many professionals suggested that court would have a significant impact for those who had made a mistake, acknowledge it, and get involved in the process. Some young people also felt court had a positive impact, however it is unknown if this will translate to no subsequent offending, as the impact is relative to their views at that point in time only.

A minority of young people suggested the court was a waste of time, whilst others suggested the penalties were 'too soft' and had more of a blasé attitude toward court. It seems that the impact on young people is influenced by their familiarity with the system; and court appearances may be a normal part of life for those who have been through the court repeatedly.

The biggest impact on most young people was the restrictions imposed through bail conditions, suggesting that the Youth Court had an immediate impact for most young people. However, some young people were unconcerned about bail conditions and a few had breached their conditions. This was thought to be due to a perceived lack of consequences for breaches, again suggesting an element of familiarity with the Youth Court.

Some families were more concerned about their child's offending behaviour, and how it reflected on them, rather than on the court appearance itself. Others were affected by the practical difficulties of getting to the court or by the impact of the late night curfew checks.





## Experiences and views of professionals in the Youth Court



## 8 Introduction

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### 8.1 Objectives and research questions

The objective of this part of the research was to provide an understanding of Youth Court professionals' own experiences of the court. The research questions underlying this objective were:

- Is the Youth Court meeting the overarching principles of The Children, Young Persons and Their Families Act 1989 (the Act)?
- Which parts of the Youth Court process are working well?
- What is not working well?

The findings in this section of the report are based on information from focus groups and interviews with Youth Court professionals.

### 8.2 Structure

The rest of this report is divided into four chapters.

Chapter 9 examines professionals' perceptions of how the Youth Court meets the principles of the Act and discusses issues of family and whānau involvement, accountability of the young person and timeframes.

Chapter 10 explores the parts of the Youth Court process that professionals thought were working well, including communication between professionals, professionalism and innovation.

Chapter 11 presents the parts of the system that professionals thought were not working so well and covers resources, communication with the young people, access to information, scheduling and court facilities.

Chapter 12 summarises the main findings from this part of the report, and provides some insights into how these can be interpreted.



## 9 How the Youth Court is meeting the principles of the CYPF Act

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This chapter examines professionals' perceptions of how the Youth Court meets the principles of the Children, Young Persons and Their Families Act 1989 (the Act). Issues of family/whānau involvement, accountability of the young person and timeframes are discussed.

### 9.1 Summary of findings

- Professionals acknowledged the importance of family/whānau involvement in the Youth Court. The opportunity to participate was seen as mainly occurring at the Family Group Conference (FGC) whereas at the Youth Court their involvement was perceived more as a support role, and in being party to the enforcement of the plan for the young person.
- Professionals suggested that every practical effort was made to include the family, especially by judges, although the court surroundings and limited time in the courtroom may not make family/whānau feel comfortable participating in court.
- Professionals suggested it was not always apparent whether a young person had taken accountability for their actions. Accountability was said to be demonstrated through changed attitudes, acknowledgement of offending, realisation of impact on the victim and completion of their plans. Some young people were thought to be 'going through the motions' rather than achieving a sense of accountability. Accountability was thought to be more evident when the young person had met the victim at the FGC.
- The Youth Court sought to make the young person accountable through placing the young person on a specialised programme or by using bail conditions. Some professionals suggested that a lack of repercussions for bail breaches signalled to the young person that they would not be held accountable for breaches.
- Professionals acknowledged that timeframes need to be kept short for young people to connect offending with consequences. Challenges to timeframes came through delays in resources or inputs (including reports by external agencies), managing case flows or unavailability of suitable programmes.
- In most cases timeliness was achieved, often facilitated by professionals' use of informal networking and good communication.

### 9.2 Family and whānau involvement in the Youth Court

Family/whānau involvement was commonly identified when professionals were asked about the principles of the Act operating in the Youth Court. This involvement was seen as needing to start right at the beginning of the young person's journey through the Youth Court. Youth advocates sought to make early contact with parents, and this could be facilitated if contact

details, not just a name and offences, were supplied to them. They reported that this was often not straightforward, as young people and their families could be difficult to track down, because, for example, of changing cell phones or lack of credit on their phones.

There was also a challenge with parents' availability to attend court, as the Youth Court took place during work hours and parents could not always take time off. Some mentioned a need to consider later sittings.

*You have some parents having shifts, and that could be taken into consideration. Work timings. School, if kids really go to school, their timings. It is not practical from the court's point of view, but it could be considered I feel.*

The main opportunity for family involvement in a case was seen as being at the FGC level. The court was thought to be more intimidating and that many families would struggle to feel part of the process. The courtroom itself was seen as needing a certain degree of seriousness in order to impact on the young person. Further, that families' involvement at the Youth Court (compared with the FGC) was limited by the time available for judges to spend on encouraging them to feel able to be articulate in the courtroom setting. Each family was only in court a short time, only for the typically ten minute duration of their own young person's appearance.

*In the actual court proceedings the family whānau doesn't really have that much involvement. It is probably the processes that lead up to the Youth Court appearance.*

*In the Family Group Conference arena we tend to have the involvement. When we get into the actual chambers, into the court arena, it tends to be very much justice led.*

*It is still a court and it is still intimidating for a lot of people. A mother or a father isn't just going to speak up suddenly in that environment, in that situation.*

Professionals also identified a lack of meeting and waiting areas separate from other court clients as a concern. Some professionals noted the unease of families at being with their young persons in waiting areas alongside adult offenders. Discussion around scheduling of cases and lack of time to meet and shortages of interview rooms, reflected concern around how this shared use of court space impacted on families. It was seen as understandable that family/whānau would find court stressful.

Some professionals commented that encouraging the family to have input if an FGC had already been held can have mixed benefits and drawbacks. Family members are more likely to provide real answers instead of nervous responses, which can be helpful in making the right

decisions and for getting to know the young person's situation better. However, it could also undermine the agreed plan as it can give the family the opportunity to ask for things, such as tougher bail conditions, which were not agreed in the FGC because professionals felt that the young person would be likely to breach these and re-offend.

On the other hand, if the judge did not revisit the FGC plan, s/he was seen as 'rubber stamping'. However, the professionals respected the judge making the final decision and basing this on the FGC report, while letting the family feel they had been heard. And it was acknowledged that sometimes, such as a young person's first appearance, the judge needed to seek information from the family. The judge might want to engage the family to encourage them to take more accountability for the young person's offending. In this respect, the professionals suggested that sometimes an order against a parent for reparation payments would bring their responsibility home to them.

The demonstrable interest of the judge in the young person and engagement with the family was seen by many professionals as a key element in affecting the young person's thinking around offending.

The consensus was that in the Youth Court, families were heard and included, but whether they were 'involved' depended on the family as much as any Youth Court process.

## 9.3 Accountability

For the professionals, evaluating whether genuine accountability had occurred was not always easy. Accountability was said to be expressed through a changed attitude, acknowledgement of offending, realisation of the impact on the victim(s) and acceptance and completion of the FCG plan.

### 9.3.1 FGCs and compliance with the FGC plans

Curfewed/curtailed lifestyles and community work were seen as being the most frequent outcomes of FCG plans. Both these outcomes (and their monitoring requirements) impacted on the efficiency of the Youth Court and on the level of accountability achieved.

Early compliance with the FGC plan was often a signal of accountability. However, professionals made comments about some young people paying 'lip service' to completing their plans in order to get out of the system, which tend to indicate that at times they were acting out of self interest rather than empathy and accountability. This may be linked to many professionals' comments about some young people's intellectual ability making it difficult to understand what was happening in the Youth Court.

*If they are enthusiastic and complete their plans there is really no argument against it. But it is when they drag their feet and just go through the motions...*

## Victim involved at FGC

Professionals commented that when a young person coming into the Youth Court had an FGC at which they had met the victim(s), accountability seemed to be more evident. Where the victim(s) were also young people, their presence and portrayal of the impacts on them were believed to be particularly effective in making the young person realise the full extent of what they had done, as they could identify with the victims.

## Programmes

Where it was not possible, or appropriate, to place the young person on a specialised programme to address the causes of the offending and increase their sense of accountability, bail conditions were said to provide a framework of behaviour and association that might achieve accountability. A perceived lack of programmes and also of options in community work was considered as limiting the ability to target the underlying causes of offending, and hence there was greater reliance on modifying the young person's lifestyle through curfews and bail checks.

## Monitoring

Intensive judicial monitoring tended to be welcomed by youth advocates (although some CYF staff saw monitoring as their role). Judicial monitoring allowed more focus on addressing the young person's needs.

*If people aren't doing their plans or are repeatedly breaching bail conditions, we've been made aware of it and then we are looking at well why, what's causing this?*

### 9.3.2 Bail conditions

There was some ambivalence around the use of bail to achieve accountability. Some professionals saw the number of bail breaches that could occur before the young person was brought into court again as a signal to the young person that they would not be made accountable, even though at the time of the plan they were told they would be arrested if they breached bail.

*from a psychological perspective it's really important for the court to be a big stick behind the kid sticking to their bail ... if they're monitored in court, then the big stick is waved and it's easier for the whole family whereas if they were to go on for weeks and weeks with no consequences for their bail being breached, which often happens, then there's not much point in Youth Court really. They just think it's a joke and the parents can't deal with it ... you start to lose that [accountability].*



Others saw the inevitability of bail breaches as setting the young people up to become re-offenders. There was a belief that bail breaches could occur for a number of reasons (including lack of understanding of the conditions). There was concern about the risks to a young person who has breached in regards to any stays in cells that were not carefully managed. Professionals said breaches could be handled by Police who were not Youth Aid, and by District rather than Youth Court Judges, depending on when the young person was brought before the court, and this might lead to the young person being at risk.

### 9.3.3 Reparations

Reparations were thought to increase accountability. They impacted on the young person directly, as they might have to sell items, or work to pay off the agreed amount. But the professionals also referred to situations where family tensions seemed to have been increased. Some parents were unhappy at having a financial liability imposed on them because of the young person's offending. These reparations and fines could also be difficult administratively to handle. Youth advocates did not have accounts to hold money, and could not assist Collections when there were queries about unpaid amounts.

### 9.3.4 Long-term effectiveness

When a case had been completed, unless a young person reoffended at the Youth Court level, and in the same location, the professionals were often unsure whether any sense of accountability achieved by a young person had a long-term impact of reduced re-offending.

## 9.4 Appropriate timeframes

The professionals working in the Youth Court perceived the young people as often having quite short attention spans and focus. Hence the professionals appreciated the likelihood that timeliness would increase accountability and help reduce re-offending. They indicated they were mindful of timeliness at every stage.

Each role and step was dependent upon the completion of a prior step, such as a report being available to inform a decision at a court appearance. Timely disclosure and reporting, including specialist reports, were often reliant on the efforts of staff not working directly in the Youth Court.

However, aspects within the professionals control were managed in a timely manner, even if this was achieved by informal networking and communication, rather than by formal processes. Timeliness was achieved in most cases. There was concern for the few young persons who had to wait longer, particularly if they were in placements outside of their families.

*In their minds, the delay between the incident and the consequences is so drawn out that it is starting to be watered down a bit.*

The steps in the Youth Court process often involve information being available – disclosure, specialist reports, reports on plan achievement. The supply of these documents tended to be from people who did not work directly in the Youth Court. They were perceived as possibly valuing the Youth Court less than other work which was their main activity. Frontline police officers, some CYF staff, education and health people not in dedicated Youth Court roles, were considered to lack understanding of the importance of Youth Court work in contributing to reducing adult offending. The focus group participants said that professionals working in the Youth Court did their best to overcome any lack of ‘buy in’ by building relationships and constantly communicating with this wider network, to achieve minimum delays in progressing cases through the Youth Court.

There was an inevitable slower progression for a small minority of cases, simply because resourcing, whether staff or availability of programme placements, could not always respond to the fluctuating and unpredictable numbers and levels of young people offending in any given period.

*I think the outline is there. The structure is there to do it. It is just that the structure is inhibited by its lack of resources. Social workers have too big a caseload. Lawyers don't, but social workers do. There is not enough court time. Fixtures are way too far out.*

The current system of established timeframes for completion of each step was felt to be useful to set the expectations of what everyone should be working toward. Further, a strong informal network of communication was in place among the professionals in each court in an attempt to progress cases in a timely way.

## 10 Which parts of the Youth Court process are working well?

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This chapter explores the parts of the Youth Court process that professionals thought were working well. Issues of communication between professionals, professionalism and innovation are discussed.

### 10.1 Summary of findings

- Professionals suggested that communication and networking between professionals were key to the success of the Youth Court and thought these aspects were working well, as was the professionals' willingness to innovate and make improvements with the court.
- Initiatives such as expediting bail processing, scheduling appearances and increased input from the education sector were also viewed as having improved the Youth Court process.
- Professionals viewed themselves as being part of a dedicated team focused on successful outcomes for young people, focusing less on the case technicalities and not using an adversarial approach. Maintaining the same judge within each of the courts was believed to help consistency and the importance of more training for youth advocates was also highlighted.

### 10.2 Communication among the professionals

Communication and networking between professionals working in the Youth Court in different roles and in different agencies, was agreed to be the main contributor to the perceived success of the Youth Court. For cases to flow smoothly through the system, the professionals needed to be proactive in their communication with each other to ensure they knew who was appearing when, and that the paperwork, information, reports etc would be available in time to support the appearance. Some mentioned that more use of electronic means of sharing information would be welcomed. In some situations, sharing information electronically across agencies would go a long way towards linking parts of the Youth Court together. Professionals were positive about their networking and communication, as these examples illustrate.

*Working well from my point of view would be the communication at court.  
Excellent communication.*

*I find it positive, the Youth Court. I think the advocates and the police get on well. We work things out. I think we look at it holistically. There's no 'us' and 'them' syndrome.*

*One of the most positive things for me is that I think there's a good relationship between all participants in the Youth Court. Everybody readily communicates and that's one of the most important things for me.*

### 10.3 Professionalism of people working in the Youth Court

The professionals prided themselves as being part of a dedicated team of people who were committed to successful outcomes for the young person.

*There's probably quite a high calibre of professionals within Youth Court. A lot of experience, good judges, professionals working together really appropriately when needed.*

*...to a large degree we are all on the same track, we want to get our young people involved to stop offending, to get help where they need it to get out of the system as quickly as possible ... and not turn up again. So in that sense we're all working on the same page.*

It was important to them that any new youth advocates appointed were compatible with the existing team. There were comments by several youth advocates that more training would be welcomed.

Both the youth advocates and the professionals in other roles, interpreted 'professionalism' in the youth advocate role as an adherence to the Youth Court principles. This meant that compared with other courts, it was believed they should be less focused on the offence technicalities, and display a less adversarial approach. This was achieved after an initial learning period working alongside experienced Youth Court professionals, through which, most came to place more emphasis on the young person being set on a restorative path of acknowledging offences and fulfilling a plan that was aimed at reducing re-offending.

Consistency of judges, that is maintaining the same judge within each of the courts who were familiar with their respective communities, was also believed to benefit the court, as the expected professional standards became well understood by the team.

*"It can have a big impact if you've got a very able sort of judiciary and we've got three or four judges here all active or ex-family court judges. They've all been lawyers for children which says a lot, if you act for kids yourself, and they're all family people. So out of all of that there's a lot of common sense and wisdom, ability to deal with issues relating to adolescents and so on.*

### 10.4 Willingness to innovate

There was a willingness to share ideas across Youth Courts and innovate.

*I've always been curious as to what other Youth Courts are like ... I might be able to pick up something that someone else is doing that I could maybe adopt. It's helping the Youth Court system run smoothly ... I wouldn't like to*

*think that I had it down pat, I'd like an opportunity to observe someone else and see how they run Youth Court and other courts.*

Within the different courts there had been initiatives to improve scheduling of cases and paperwork flow. Examples of these, as discussed by the professionals, are outlined below.

#### **10.4.1 Expediting bail processing**

In one court, staff were on duty in the immediate area outside the court to process bail papers immediately without requiring the young person to wait in the general area among adult offenders being bailed. In another court, a second Youth Court registry officer processed the bail papers in court so the young person collected them as they went out.

#### **10.4.2 Avoiding unnecessary appearances**

To avoid unnecessary appearances, one court implemented a registrar's list. Professionals could complete a form asking the judge to excuse a young person from appearing on a specific day if the case was to be adjourned. This was used for cases where, for example, a young person was actively working on completing their FGC plan, but required an additional one to two weeks to complete their requirements.

*We have a formatted a form to put in writing whether the next appearance is necessary for the young person to attend. Say, for example, something in the plan has not been completed and they are just seeking an adjournment. They can do that on the papers rather than an actual appearance, and then that will free up a space.*

#### **10.4.3 Scheduling appearances**

Several courts operate a ten minute appointment system and this was believed to work well. Opinions were divided on whether it was better to cluster all of a particular youth advocate's clients' ten minute appointments into an hour slot for convenience, or to scatter youth advocates' cases so that they would have time to talk to one client before s/he appeared, while another youth advocate was in court.

*I think the process ... that is working well, is the appointments that are being done on court list days. So we are having a structured Youth Court list day with specific times being given to young people. It accommodates the advocates, puts their clients all in one group, but it also has the effect of trying to negate that social day out at Court and everyone hanging around in the foyer. The best bit about it is it doesn't inconvenience families. Some families ... used to get awfully frustrated in sitting in the foyer from 10am, and finally getting their matter called at 12.30pm when they have taken time off work and stuff.*

#### 10.4.4 Education and other specialist reporting

Recent improvements in input from the education sector were welcomed. They gave a fuller picture of what the young person's needs were. This highlighted that not just school attendance but also other issues (that are potential factors in managing the risk of re-offending) were important to discuss openly and address.

*Someone's been suspended from school and you've got the reason [recorded], and it could be drugs and it could be alcohol, and again families will have denied there are any issues.*

*[also] special education, cognitive abilities, all that kind of stuff.*

# 11 Which parts of the Youth Court system are not working so well?

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This chapter presents the parts of the Youth Court that professionals thought were not working so well. This section discusses resources, communication with the young people, access to information, scheduling and court facilities.

## 11.1 Summary of findings

- In general professionals thought the Youth Court was working well. A range of operational improvements were suggested, but none were of widespread concern.
- It was suggested there was a lack of appropriate programmes or placements available for the young people. Community work, bail conditions and intensive judicial monitoring tended to be used to hold young people to account where programmes were unavailable. Many professionals considered these methods to be less effective than intensive programmes and place a greater workload on the courts.
- Information provided to young people, and who it was provided by, appeared to be ad hoc. Challenges were also noted in communicating with many young people, due to capability and capacity issues, and often information needed to be repeated.
- Information sharing across agencies could be made more timely and systematic. In particular, the delivery of disclosure and personal details of the young person to the youth advocate, so they are aware who they are representing and have sufficient time to prepare with them. Inadequate preparation time may impact on the quality and timeliness of the Youth Court experience for young people.
- Although improvements had been made to scheduling of cases, some cases prioritised as urgent, including new cases from arrests in custody, could create delays in waiting times and frustration for young people and their families. This was particularly an issue when Youth Court facilities were shared with other courts.
- Other environmental issues included a lack of privacy for discussing hearings matters and offender association in the waiting rooms (especially in shared District Court buildings).

## 11.2 Resources

A lack of programmes for young people was of concern to youth advocates who wanted to be able to present appropriate options for their young people. An example was given of male and female young people involved in the same offending, but receiving different outcomes because of a lack of programmes, for what was believed to be the growing number of female offenders. One youth advocate suggested that a directory of local resources would be useful

for youth advocates. A forensic nurse suggested that to get young people on the right side of the law and reduce the risk of future re-offending only simple solutions were needed.

*Get their licence so that they are not driving outside the terms of the law. Actually finding financial resources for that, as opposed to just spending heaps of money flying them around the country just to fit them into beds and things. Placements are hopeless [to obtain]. Programmes are hopeless [to obtain].*

Community work, bail conditions, and intensive judicial monitoring tended to be used as tools for accountability, particularly if there was not a place available for the young person on a more targeted programme. This frustrated some professionals. The management of these alternatives, such as bail, posed a greater workload on already busy courts. They were considered less effective than intensive programmes in which external agencies can work directly with the young person to strengthen accountability and address their causes of offending.

### 11.3 Communication with the young person

To effectively communicate with the young people required using more than one method and at more than one point in time. Youth advocates had to ascertain how much the young person had been told, what information they had seen and understood, and at what level they were capable of understanding. Comments indicated that they sometimes had to plug gaps in understanding as the young person appeared not to know what was happening when or where. There appeared to be a rather ad hoc approach dependent on the effort of the professionals around them.

*I don't always think the young people understand what is going on or what has happened in court. I know it is difficult for the youth advocates when especially you have got lots of cases in a row and you don't have much time to explain after the hearing what has happened.*

*Sometimes I will write to them and explain it all with great detail. I imagine that I am this person that has never come to court. Sometimes I think it is better in writing. Because you can talk to them and it goes over their head, but they get a letter saying 'look this is what happened in court today'.*

*(a) If they can read and (b) if they are still at the address.*

*Then a family member can (explain). That is what I do sometimes is just write to them.*



There was further emphasis on the challenges of communicating with the young people.

*They always participate in the sense that they are never excluded. Nothing is done without their involvement...*

*Not all the young people are quite capable of fully understanding, and I suppose you have to fully understand to fully participate don't you? And they're just not. And some are, of course, totally anti, but I think the majority both understand and participate.*

*You've got young people that are at different ends of the spectrum; some are like scared rabbits and others have got a huge chip on their shoulder and are very angry and don't want to participate and all they want to do is get out that door.*

*And some people have limitations, mental health for ADHD or can't stand still, sit for long enough to take on board all of the...*

*The ability to concentrate and understand what's happening around them.*

#### **11.4 Access to information across agencies**

There were two main interlinked issues over information: timeliness and a systematic process for making information available between agencies. Timely paperwork and reports was identified in some courts as the main things not working. Some youth advocates were frustrated over not being clear who exactly the young person assigned to them was, as there was no birth date supplied. Systems were not shared between all agencies. One example of was that a youth justice co-ordinator would have to be in court to note from the court proceedings what the outcome was, whereas other professionals would receive this information through the court system. One youth advocate noted that a total sharing of information between Police and Courts might not be appropriate but it could be useful if CYF had more information directly, for example, the summary of facts to complete their files. A youth advocate who talked about scanning documents pointed out the technology was available to facilitate information sharing.

*(It would provide) a process that really flows well.*

*What would be ideal in terms of helping us would be having the information shared electronically ... that it can just easily be transferred automatically to our computers...*

*The information, that paper information, none of us get that hardly ever. Eventually this ... [CYF coordinator] might send them out six weeks later in a big pile. Yes. She sometimes gives them to us on the day*

Disclosure was perceived by many youth advocates to be slow and impacted on the quality and timeliness of the Youth Court experience for the young person. A number expressed frustration at having to seek a repeat appearance simply because they did not have adequate information in time to properly assess their young person's situation and communicate with them.

*I don't like seeing youth on the day. I think that you are trying to gain a rapport; you are trying to teach them the process. I would almost say our role as advocates is pretty superficial I think. So that is why I like to get the disclosure and have a meeting in the office. It is a one-on-one. Kick the parents out. Have a chat. Get the parents in. Tell them about the process. I think that is our role. Doing it on the day I think is often a bit casual.*

## 11.5 Scheduling of cases and waiting times

Whilst innovations in scheduling cases are regarded as improving the flow of ordinary cases through the Youth Court, it was reported that there were still delays caused by cases which were given greater urgency. These cases included young people in care who had travel arrangements to be considered, new cases, defended cases, and indictable cases. These special cases had an impact on the flow of regular cases in the Youth Court.

In busy courts separate Youth Court days for defended hearings were preferred (provided these were not too infrequent for example, less often than once a month), which meant there was no interruption of the operation of the regular Youth Court cases. In other courts defended hearings were scheduled in the afternoon of a list court day.

When young persons were in residences, their appearances could impact on other cases due to travel arrangements. However there were mixed views as to whether video conferencing should be used. Actual appearances gave the young person a chance to see their family, and conveyed the seriousness of the Youth Court.

*Physical presence makes a big difference ... it signals to you as an offender that they have taken that seriously, whereas if you just sit there with a social work supervisor in the residence ... you can probably just twiddle your thumbs...*

When special cases impacted on the timing of scheduled cases, this had two effects. One was the general frustration among professionals around delays in the court. The other was their significant concern around the increased waiting time for young persons and family. The nature of the clients and the need to share court facilities with other courts exacerbated the concern.

*The parents get pissed off with waiting around here. Sometimes things just turn to custard for some reason and you end up with parents that have come in the morning and they are still here at mid afternoon. Particularly if something gets stood down. But a number of times it is just because we haven't got to them yet as urgent things have come in or there are kids who are in custody who have to be dealt with because they have got to catch a plane back somewhere. Usually if they are at that point in catching a plane back, normally they are complicated difficult cases. They are only in Youth Justice for a reason.*

*You've got a lot of kids that have got ADHD and all that – they're out there spinning around cause it's delayed.*

### **11.5.1 New cases**

New arrests in custody come to the court the morning following arrest. Finding time for youth advocates to meet with them was challenging. Youth advocates tried to get as up to date a list as possible so they had some time to meet with new cases and knew what to expect for the day.

There was also mention of new cases not in custody being assigned by Police to any date, not just a Youth Court day, requiring an extra appearance unless the FGC could be directed at the first appearance.

*When a youth appears for the first time, they are put into the system by the Police and they are just given a nominal date. Whether that falls on a Youth Court day or not, is something we can't control here at Courts. If it falls on a non-Youth Court day, it will still be called on that day, just in a general District Court, but that courtroom is closed to the public while that matter is being dealt with. Then it is given an appointment in an available Youth Court list...*

For new arrests, not held in custody, Police were telling young people to appear for Court at 10am. However, with the appointment system used in courts there was a perceived need to communicate to Police that appointments could be scheduled.

### **11.5.2 Management of changes**

Clear information on any changes to court processes was welcomed by court staff. A Youth Court flow chart with a timeline for indictable and summary cases had previously been an important planning tool. A court staff member asked for this chart to be updated. Further, recent changes in indictable cases were impacting on the court processes. Such information

being made available at the time changes were introduced was seen as useful in removing uncertainty around both the actual changes and their anticipated flow-on impacts.

*What is not working well? Probably we just need more time. Our lists are getting bigger with the Youth Court committal process in general ... the process is changing ... I used to love that thing ... I think we are getting there. It would be really good basically to have some type of plan.*

## 11.6 Court facilities

The courtroom itself was seen as appropriately serious, but there was concern, as previously mentioned, about shared waiting areas and a shortage of meeting rooms.

Court facilities were believed to have improved, but pressures on use meant that Youth Court tended to be held in an environment of crowded facilities. There had also been improvements to systems so that, for example, young people did not have to wait in the same bail areas as older offenders. However, shared waiting areas prior to court were a concern. Youth Advocates also had difficulties obtaining interview rooms to meet with their young persons and have confidential discussions with them, and manage the presence of parents.

*"It is definitely a lot quieter when you open the door because there was a massive issue a couple of years ago when the kids would all congregate outside. It was like a party. They would come to court to meet each other. Every time someone would come through that door you would hear a roar of children offering tips to each other.*

Many concerns were expressed by the professionals about the young people being in a Court building that was used as a District Court at the same time, thus exposing them to adult offenders including gang members. While ten minute scheduling of cases had helped minimise the numbers of young people waiting around the courts, some were still believed to come early to meet with friends, including co-offenders, and sometimes even take them into court as 'relatives' or supporters. Sharing the day with other courts, including the Family Violence Court, was not seen as ideal.

The professionals recognised the pressure on facilities from the overload of cases that were being managed through the courts. They favoured separate session times for Youth Court, but this was not always possible.

The professionals emphasised that some parents did not like their young person being exposed to other people around the court buildings, and that the parents themselves seemed uncomfortable in the court surroundings.

In regards to the courtroom, some welcomed move away from informality. In some courts, staff had been required to move furniture, including heavy tables, to change the room into

more of a 'u' shape. It was mentioned that some judges were now going back to sitting in a more formal position. The professionals endorsed this as they believed a certain level of formality was required as part of the accountability process for the young person.

*I think it is good. It has got that level of formality in it. If you walked in there you would be scared. To a degree I think that is good if half the kids aren't going to come back because they don't want to go through it again. At FGC, that is when you sit in a circle and discuss things. I think the courtroom should be formal and have that level of fright.*



## 12 What does it all mean?

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Youth Court professionals included in this part of the research were mainly positive about the Youth Court and the general way in which it operated.

The overriding perception was one of a court system which was working as well as it could, given the unpredictable fluctuations of numbers and categories of young person cases, and the diversity of young people appearing in court. Youth Court systems and processes need to be flexible to respond to the varied caseloads and differing needs of young people. The current court system appeared to have enough structure to set expectations and standards across the Youth Court.

### 12.1 Principles of the Children, Young Person and Their Families Act

Professionals identified and discussed the principles of the Children, Young Person and Their Families Act (the Act). Three principles were commonly identified as being important to the Youth Court: family attendance, accountability, and timeliness.

#### **Accountability**

Professionals reported that whether or not a young person accepted responsibility was not always apparent, as some young people were believed to be simply going through the motions. The Youth Court sought to hold young offenders to account by placing them on specialised programmes, requiring them to do community work, and applying restrictions through bail conditions.

#### **Timeliness**

Professionals suggested that a fast and timely process is key to ensuring young people link their offending with the restrictions and orders imposed by the court.

Processes under the control of the Youth Court professionals were thought to be performed in a timely manner for the majority of cases. However, there was awareness that due to the linear nature of the processes, a delay in one step would also delay subsequent steps.

#### **Family attendance**

Most professionals thought families were heard and included in the Youth Court, but the degree of involvement was dependent on the families themselves and the court environment. Professionals said some families find the court environment intimidating, which may restrict their involvement. However, a formal environment was considered necessary to have an impact on the young person.

## 12.2 What's working well and what's not working so well

The 'people' resource was viewed as the biggest strength of the Youth Court. There were often reports of good communication and informal networking between professionals. Good communication is likely to be supported by the continuity of people working in such roles and a shared understanding of what the court is trying to achieve.

Another positive feature of the Youth Court and the professionals in this study was their willingness to innovate. For example, while there were known issues with scheduling and court houses, attempts had been made to address these issues. Pressures on staff, space, resources and facilities resulting from unpredictable case flows were believed to be overcome to a large degree by the professionalism of the people working directly in the Youth Court.

While professionals generally considered the Youth Court to be working well, some areas for improvement were identified. In particular, waiting times, which could lead to offender association, and the approach for providing information to young people to ensure they all receive the information they need in a manner which they can understand, were highlighted. In the professionals' own work, improvements in the timeliness of information sharing between professionals, such as in providing disclosure and reports were identified.



## References

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Ministry of Justice (2011). Child Youth Offending Statistical Bulletin: An Overview of Child and Youth Offending Statistics in New Zealand: 2001 to 2010. Ministry of Justice, Wellington.



## Appendix A: Method

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This section provides a detailed description of the research method. It specifies how the court sites and participants were selected. The limitations of the techniques for selecting young people are also discussed.

### A1. Selection of sites

Fieldwork was undertaken in four Youth Courts:

- Waitakere
- New Plymouth
- Christchurch
- Porirua.

The court sites were selected from the 20 Youth Courts with the highest numbers of young people appearing (known as the 'top 20'). These courts account for around three-quarters of all national youth appearances. Within the 'top 20', four variables were considered to ensure a range of courts were selected:

- level of urbanisation
- both North and South Island represented
- ethnic mix in the court area
- volume of cases going through the court.

Attempts were made to exclude courts with localised initiatives that varied significantly from other courts, as findings from such courts may reflect the specific initiative. However, many Youth Courts do have specific initiatives, so courts were included where the initiative was either well established and/or had a minimal impact on the functioning of the court due to only small numbers of young people being involved.

Fieldwork was split in two stages to assess the extent to which methods used to contact young people were successful, and whether information gathered during the first stage was meeting the research sponsor's information needs. Stage one was undertaken in Waitakere and New Plymouth during March and April 2010. Stage two was undertaken in Christchurch and Porirua during October to December 2010 with a few interviews completed early 2011.

## **A2. Data collection methods**

The information on the experiences of young people and families was collected from semi-structured interviews with three groups of people:

- young people who had appeared in the Youth Court (43 interviews)
- family/whānau of a young person (22 interviews)
- Youth Court professionals (46 interviews).

The information on the experiences of Youth Court professionals was collected from one focus group discussion with professionals in each court (Youth advocates, police, forensic services, and CYF coordinators, social workers or supervisors) and semi-structured interviews with court staff.

### **A.2.1 Description of participants**

Forty-three young people who had been through or were currently going through the Youth Court at Christchurch, Waitakere, Porirua, or New Plymouth participated in the research. A description of the range of young people interviewed follows:

- 33 were male and 9 were female
- 10 young people were going through the Christchurch Youth Court, 11 in New Plymouth, 10 in Porirua, and 12 in Waitakere
- at the time of the interview, the number of court appearances ranged from 1 to 20
- 23 had previously gone through the Youth Court for different cases
- 13 were going through their first ever case in the Youth Court
- 20 had been held in cells, 12 had not had any experience in the cells, and for the remaining 11 young people cell experience was unknown.

The professional interviews were held with people in the following roles:

- Youth Court judges
- court staff
- Police Youth Aid prosecutors
- Youth advocates
- CYF (including Youth Justice Coordinators, supervisors and social workers)
- other specialist roles such as forensic services.

### **A.2.2 Selecting professionals**

Youth Court judges and court staff were contacted through Court Managers. All other professionals were contacted through details provided by court staff. In some courts, a number of people held the same professional role. In these situations, only some professionals were interviewed and were randomly selected from the list provided.

### **A.2.3 Selecting families/support people**

Families were contacted from details provided by young people who had been interviewed, or from professionals (Youth advocates, CYF Youth Justice Coordinators or social workers, and service providers).

### **A.2.4 Selecting young people as participants**

Because of the age of the young people we were intending to interview (14 to 17years), adults were always approached prior to contacting young people about participating in the research.

Four methods were used to identify and contact young people:

1. Pre-arranging interviews
2. Professionals approaching young people at the Youth Court
3. Using the Youth Court list
4. Approaching parents/caregivers at court.

#### **Pre-arranging interviews**

Youth advocates, CYF Youth Justice Coordinators and social workers, and service providers made contact with their clients and provided them with information about the research. With the young person's agreement, their contact details were passed on to the researchers, who contacted them about the research and if they agreed to an interview, a time and place arranged.

#### **Professionals approaching young people at the Youth Court**

Researchers approached youth advocates and CYF social workers at the court and asked if they would talk to their clients at the court that day about the research. If they agreed, researchers approached the young person at the court and if they agreed to an interview, conducted the interview there or arranged an alternative place and time.

#### **Using the Youth Court list**

The court staff provided researchers with the list of people who were to appear in the Youth Court. Youth advocates were contacted prior to the court day about their clients appearing and were asked to talk to them about the research. If the young person agreed, researchers approached the young person at the court and, if they agreed to an interview, conducted the interview at the court, or arranged an alternative place and time.

#### **Approaching parents/care givers at Youth Court**

This method was introduced for stage two of the research (Christchurch and Porirua). Researchers approached parents/care givers waiting outside the Youth Court and asked for their approval to talk to their young person about the research. Where approval was given,

researchers talked to the young person about the research and, if they agreed, conducted the interview at the court, or arranged an alternative place and time.

#### **A.2.5 Limitations of the participant selection process**

Using professionals to access young people meant that there was a gatekeeper role, where professionals may have selected young people they thought would be 'good to talk to'. It is possible that the less communicative and hard to contact young people may not have been approached by the professionals, particularly under approach 1 and 2. Some hard to reach young people may have been included using approach 3 and 4, where professionals did not have such a gatekeeper role.

Despite the gate keeper role, the sample achieved was large for a qualitative project (43 young people), and encompassed a wide range of young people, as can be seen in the description of participants in section A.2.1.