



MINISTRY OF SOCIAL DEVELOPMENT

Te Manatū Whakahiato Ora

Achieving Effective Outcomes in Youth Justice

An Overview of Findings

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Preface

The “Achieving Effective Outcomes in Youth Justice” research project was undertaken by researchers associated with the Crime and Justice Research Centre, Victoria University of Wellington, beginning in 2000. The purpose of the research was to identify factors associated with effective outcomes in the youth justice system and to assess the extent to which the goals of the Children, Young Persons and Their Families Act 1989 were being met.

The contract for the research was managed by the Ministry of Social Development (MSD) on behalf of six New Zealand government agencies. The final report of this research was published by MSD (Maxwell et al, 2003) and posted on the Ministry’s website (www.msd.govt.nz). *Achieving Effective Outcomes in Youth Justice: An Overview of Findings* is a summary of the main findings of the final report, and is also available on the MSD website. The research project continues with a follow-up study beginning in 2003.

Acknowledgements

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The views and opinions expressed in this report are those of the authors and not necessarily the Ministry of Social Development.

1 Introduction

The Children, Young Persons and Their Families Act 1989 (the Act) introduced the present youth justice system, including the use of family group conferences, to New Zealand in 1989. The principles and objects of this Act are consistent with modern trends in youth justice. These emphasise the importance of diverting young people from courts and from custodial options; dealing with young people in the community and within their families wherever possible; holding young people accountable for their offending; involving victims, families and young people in processes of decision making; putting in place measures to assist with reducing reoffending; ensuring timely interventions; ensuring the completion of tasks agreed to at the family group conference; and making processes and services culturally appropriate (Maxwell and Morris, 1993). The purpose of this research is to determine the extent to which these principles and objects are being met. It has also been designed to identify the aspects of practice that will achieve effective outcomes, including reducing reoffending, for young offenders.

Shortly after the 1989 Act was passed, Howard Zehr's book, *Changing Lenses*, was published (Zehr, 1990). This book introduced to the international community the idea of a restorative approach to justice in a modern context. It set out values and principles that have, over subsequent years, been translated from theory into processes and practices in many jurisdictions. New Zealand, with its family group conferences, has been seen as the first and most fully developed example of a national system of justice that incorporates restorative justice principles into practice and, as such, it has influenced the development of a variety of different forms of conferencing in other parts of the world.

Morris and Maxwell (1999) describe the critical characteristics of 'restorative conferencing' as follows:

- the inclusion and participation of victims, offenders and communities of care in justice processes, including the making of decisions
- cultural flexibility and the cultural relevance of the system for participants
- increasing the understanding on the part of victims, offenders and communities of care about the offence and the circumstances around it
- respect for all who participate and the avoidance of the stigmatic shaming of the young people and their families
- offenders acknowledging responsibility, for instance, through making amends and apologising to victims
- offenders repairing the harm they have done, for instance, through completing agreed tasks
- the acceptance by offenders, victims and communities of care of the outcomes
- restoring connectedness and reintegration, as evidenced by offenders feeling good about the process, the outcomes, themselves and their life prospects
- reducing reoffending.

One purpose of this research is, therefore, to examine the extent to which these critical restorative characteristics have been put into practice in conferences in New Zealand.

Previous research on conferencing and the New Zealand youth justice system

Research on the impact of conferencing in the context of youth justice has been summarised in previous publications by the principal researchers and others (Maxwell and Morris, 1993; Hudson et al, 1996; Morris et al, 1998; Levine et al, 1998; Maxwell and Morris, 1999; Sherman, 1999a and 1999b; Strang and Braithwaite 2001; Daly, 2000; Daly and Hayes, 2001; Morris and Maxwell, 2001; Daly, 2003). Much of this research has focused on the evaluation of the process against short-term outcome objectives. This research has demonstrated that a variety of methods of conferencing can produce agreement about outcomes that are satisfying to participants (including victims), can be more inclusive than the courts process, and can result in remorse in and reparation by the offender.

Increasingly, research is examining longer-term outcomes such as reoffending, restoration and reintegration (Maxwell and Morris, 2001; Luke and Lind, 2002; Sherman et al, 2000; Daly, 2000; Daly and Hayes, 2001). In New Zealand, Morris and Maxwell (1997), Morris et al (1998) and Maxwell and Morris (1999) produced data that suggests effective conferencing can reduce reoffending and can increase the probability of offenders reintegrating into the community. They identify a number of critical factors that were significant predictors of reoffending including:

- early life events, such as adverse family backgrounds and early experiences
- early negative outcomes for young people, such as running away and truancy, suspension or expulsion, poor school performance and involvement in alcohol and drugs
- the absence of protective factors in early life such as close relationships with family and others, and educational success
- family group conference events such as remorse, making amends and the avoidance of stigmatic shaming, and the completion of tasks in the conference plan
- subsequent life events such as obtaining training, developing close relationships, avoiding criminal associates, and establishing a stable life style.

While some of these factors can only be changed by providing increased support to children and families, or through early intervention and other remedial programmes provided for children and families with unmet needs, the last two sets of factors point to the potential impact of practice within the youth justice system itself. Best practice issues within the Department of Child, Youth and Family Services (CYF) identified by Levine and Wyn (1991) and Levine et al (1998) include: careful family group conference preparation; securing the participation and support of extended family and whānau; involving victims effectively and providing support for them; developing measures of accountability that are appropriate and realistic; resourcing the plans agreed to at the conference; good inter-agency co-operation; opportunities for training and exchange of ideas among co-ordinators; effective responses to care and protection issues; treating all conferences with care and attention, including those involving first-time offenders; and active networking with cultural and community groups.

Best practice in the youth justice system in New Zealand has been discussed by Stewart (in Hudson et al, 1996). Guidelines for co-ordinators are provided in the Youth Justice Handbook (CYF 2000). Morris et al (1997) discuss practice in the Youth Court. Maxwell et al (2002) provide data on Police practice in decision making and in Police youth diversion. The practice of Youth Advocates was researched by Morris et al (1997) and guidelines were subsequently developed by the New Zealand Law Society (1999). More general discussions of practices across the system were held by professionals at a 1998 conference (Morris and Maxwell, 1999). These sources provide a basis for developing measures of practice, processes and outcomes in the youth justice system.

A model for research on effective outcomes

The evidence-based research model of practice developed by Sherman (1999a, 1999b) provides a theoretical context for developing research that identifies effective practice and can provide benchmarks for assessing it. As already indicated, many of the factors that predict reoffending and a lack of positive life outcomes – in particular, those which occur early in the life cycle, such as early negative life experiences, early minor offending, educational difficulties and other negative outcomes – can no longer be addressed later on, when more serious offending becomes evident. However, research on reoffending (Maxwell and Morris, 1999) indicates that family group conferences that achieved the restorative outcomes listed above could, independently of earlier events, contribute to the objectives of reduced reoffending and reintegration into the community. This leads to the next important research goal, which is to examine the practice of both professionals and management in order to identify the practice factors that are associated with the achievement of the goals and objectives of the system.

Purposes of the research

The purpose of this research was to identify factors associated with effective outcomes in the youth justice system and to assess the extent to which the goals of the Children, Young Persons and Their Families Act 1989 were being met. Key factors examined include: the professional practice of the co-ordinator and other members of the youth justice team; the management practice of the CYF office, including resourcing, training and procedures; the family group conference process and outcomes; other criminal justice events including diversionary and Youth Court experiences; the provision of services after the conference; the previous history of the young person; and their experiences after the family group conference.

A full report of the research is published elsewhere (Maxwell et al, 2003). Specific objectives for this report are to summarise:

- the research process
- the characteristics of a sample of young offenders and their experiences of the youth justice system, especially of conferences
- family group conference processes and the views of participants
- life outcomes of a sample of young offenders
- the experiences of different groups
- the extent that the objectives of the Children, Young Persons and Their Families Act (1989) are being met

- effective practice
- policy implications of the findings.

In addition, a summary is provided at the end of this document of the main findings of this research.

It is intended that the results will assist CYF, New Zealand Police, and Department for Courts to develop guidelines for professional and managerial staff; to benchmark the quality of youth justice practice; to implement best practice to limit the future reoffending of those children and young people who attend family group conferences; and to increase understanding of effective practice for the different cultural groups within New Zealand, particularly Māori, Pākehā and Pacific young people.

2 The research process

The process of designing the study began in May 1999 and the final report was completed in June 2003.

Research design

A sample of 24 youth justice co-ordinators, who varied with respect to age, ethnicity, gender and practice, were selected from Whangarei, Auckland, Hamilton, New Plymouth, Wanganui, Palmerston North, Wellington, Christchurch, Dunedin and Otago. A sample of 1,003 young people, whose family group conferences were facilitated by members of the co-ordinator sample, were chosen from CYF files to provide what we have called the 'retrospective sample'. These young people were at least 15 years and nine months of age¹ at the time they had a family group conference facilitated by one of the selected co-ordinators over a period around the calendar year 1998. Over half these young people were tracked and interviewed. Data for the entire sample were obtained on their history in the adult criminal justice system (if any) from the age of 17 years. Except with respect to age, this sample was representative of young offenders nationwide in 1998 and comprised over a third of all the older cases referred for a youth justice family group conference. Around a third were Māori, 15% were Pacific young people and 15% were female.

A second sample of 115 family group conferences was obtained in 2001/2002. The young offenders appearing in these comprise what we call the 'prospective sample'. These conferences were facilitated by 18 of the same 24 co-ordinators whose cases made up the retrospective sample and by an additional Pacific co-ordinator who was especially recruited for the prospective study. Interviews were conducted with at least 100 young people, families and victims after the conclusion of the conference and their appearance in the Youth Court as appropriate. Follow-up interviews with victims were conducted at a later time, when any actions that the young person had promised to perform for the victim should have been completed. The young offenders in the prospective sample will be tracked and interviewed again in 2003/04.

Other data discussed in this report comes from a study of 1,794 cases involving young people apprehended by the police in 2000/01 (Maxwell et al, 2002) and from CYF files on the entire 6,309 cases referred for a family group conference in 1998. The Police, the Ministry of Justice, CYF and the Department for Courts have all supplied additional relevant data from 1987 to the present on young people who have offended.

Interviewing

The task of trying to trace and interview 1,003 young people about their offending history two to four years after their family group conference was an exacting one. The fact that we managed to interview more than half of them (a 52% success rate) is, in our view, creditable. Only 21% of the young offenders refused to be interviewed; the remainder had not been located at the conclusion of data gathering. Our interviewers varied in age from early twenties to mid-sixties. They included men and women, Pākehā, Māori and Pacific people. Experience as an interviewer appeared to be the most important prerequisite for tracking and recruiting young people. An important methodological finding was that neither the age nor the ethnicity of the interviewer appeared to affect response rates for Pākehā, Māori or

¹ This age cut-off was chosen to enable the researchers to obtain follow-up information from official records about any subsequent offending that resulted in a conviction as an adult in the District or High Courts.

Pacific young people. Nor did the sex of those who interviewed the young men matter (all the girls were interviewed by women interviewers).

Almost all those interviewed said they found it interesting and they seemed to us very honest and open about their past and present lives. Many commented that the interview enabled them to talk about a difficult time, and helped them to understand what had happened to them and put matters in perspective. As a result, extraordinarily rich data sets are available.

The strength of the data lies in the large numbers and the representative nature of the samples, and the variety of sources from which they have been drawn. This has enabled a comprehensive account to be given of the youth justice system in New Zealand and enables evidence-based statements to be made about best practice. Nonetheless, there are weaknesses owing to the limits on the data currently kept within Government agencies and the difficulties integrating the records. These problems are elaborated in the section on policy implications and suggestions are made for improving youth justice record systems. A further limitation on the conclusions presented here is that, because of the richness and complexity of the available data, more time is required to completely analyse it and to explore the reasons underlying key findings. However, we do not expect this to be the last report based on these data. The information is available for further analysis depending on the needs of the contracting agencies and the resources available to the research team.

3 The samples of young offenders and their experiences

In this section, we describe the background, offending and experiences during the family group conference and afterwards, of the two samples of young offenders. We also describe factors that predict life outcomes for young offenders in the retrospective sample.

The samples

Boys made up 85% of the retrospective sample and girls made up 15%. Māori and Pākehā both made up a third while Pacific young people made up 17%. Compared with New Zealand's total population of young people, Māori are over-represented in this sample of young offenders but Pacific young people are not. These demographic characteristics of the retrospective sample are very similar to those reported in other studies of young offenders (Maxwell and Morris, 1993; Maxwell and Morris, 2000; Maxwell et al, 2002).

The prospective sample is similar to the retrospective sample in its gender balance, but included more Māori. Unlike the retrospective sample, whose members were all about 16 years of age, it has a wider age range with 43% aged 16 years or older and about a third being 15 years old.

Background factors

The young offenders came from a range of family backgrounds and had a diversity of experiences while growing up. However, the samples were distinguished from more general samples of young people by the extent of disruption in their lives because of the many caregivers they had had, the number of schools they had attended and places in which they had lived, the frequency of their experiences of violence and abuse, and the number of adverse factors in their family backgrounds (cf Fergusson et al, 1994). It is, therefore, not surprising that they often presented a similar picture to that characterising multi-problem children in other studies (Fergusson et al, 1994; Moffitt and Harrington, 1996; Loeber and Farrington, 1998). At the time of the family group conference, the young offenders in these two samples were doing poorly at school (they had often been truants, been suspended or been expelled), had poor relationships with others, were getting on poorly with other members of their family, had run away from home, had frequently used alcohol and cannabis, and had engaged in early and unsafe sex.

Offending that led to the family group conference

The pattern of offending that led to the family group conference in both these samples replicates patterns reported in earlier studies of offending by young people in New Zealand (Maxwell and Morris, 1993 and 2000; Maxwell et al, 2002). Over 60% of the young offenders committed dishonesty offences: burglary, car conversion and other dishonesty offences were reported roughly equally. Offences of violence were committed by about a third, and serious offences of violence or sexual offences were committed by 13%. Most of the remaining offences involved property damage and abuse and offences involving cannabis.

4 Family group conference processes and views of participants

Preparing for the conference

The first step in arranging a family group conference is to identify and contact the participants, inform them about what was likely to happen at the conference and obtain their views on the time and venue of the conference, on the people who should be invited and on how the process should be managed. For about two-thirds of conferences in the prospective sample, the family and the young person were prepared for what would happen by a visit from the co-ordinator. However, for the remaining third, phone calls and letters, usually with pamphlets, were the only form of preparation undertaken. It was not surprising, therefore, to find that one in five of the families and about one in three young people said they felt unprepared for what would occur. The importance of preparation has frequently been emphasised by commentators, including those who have researched co-ordinators' views (Levine et al, 1998), and by co-ordinators' own reports on best practice (Compton, 1999). Victims in the prospective sample had personal contact with the co-ordinator before the conference less often than families and young people, and were more likely to mention their uncertainty about what to expect.

The 1989 Act requires that families and victims be consulted about preferences for the time and place of the conference and the processes to be followed there. The data indicated that this consultation did not always occur. Both families and victims were often informed of, rather than consulted about, the time and venue of the conference. Cultural responsiveness in conferences has often been interpreted as including a mihi (greeting) and karakia (prayer). This may be appropriate for Māori families, who often accepted and responded to the invitation to provide a karakia, but not for other cultural groups. For other cultures, this invitation could be more problematic and it did not appear that this issue had always been discussed during the preparation. Best practice should involve ensuring that participants are asked prior to the conference about their preferences with respect to processes, and these wishes should be responded to whenever possible, taking into account the views of other key participants.

During the conference

The conference can be described with reference to the key components. The first of these is the process of greeting and introducing people. This is an essential component of best practice in all cases. However, several victims in the prospective sample commented on the fact that nobody greeted them on arrival. Arriving at a strange place where one is likely to meet someone who has already offended against you, and who is there with his or her supporters, can be a daunting prospect. The data indicate that it is important that the co-ordinator ensure victims are greeted on arrival and are brought into the room where the meeting will be held and introduced to those present before the conference actually starts. The more formal process of making introductions at the start of the meeting is also important. Observers sometimes noted that this did not happen and, in several cases, families and victims commented that they were not introduced to some of the participants.

The next key stage is that of discussing the offending and ascertaining whether or not it is denied. Normally, this was done by the police officer present reading the summary of facts and the young person being asked about the accuracy of these. This latter step is a key to ensuring that the young person's rights are protected. However, it was omitted in some of the conferences we observed.

Normally, victims were then asked to express their views and to describe the impact that the offence had had on them. In almost all cases, victims felt that this was a

process that enabled them to say what they wanted. Observers often commented on the degree of emotion that could surround this phase of the meeting. Co-ordinators usually recognised and respected the desire of victims to say what they wanted without hindrance. At times, the consequences of this for the family and young person were to cause shame and distress, but most families and young people accepted what was said. In some cases, the young offenders' replies indicated that they were alienated from the process at this point. The co-ordinators' management of this delicate situation is critical. Many co-ordinators were successful in assisting victims to vent their anger, families to accept what the victim was saying and both parties to move on to a constructive approach to repairing the harm. The right balance will not always be found, but training in the management of such transitions using simulated conferences could improve the skills of some co-ordinators in this area. Sometimes these skills will also be necessary to ensure that the professionals themselves do not take over the role of the victim or become a party to making accusations.

Ideally, the next phase allows the young offenders and their families to express their views in ways that are constructive and restorative for the victim. Sometimes the young offenders, and also their families, spontaneously apologised to the victims in response to hearing their story. Allowing space for this to happen, encouraging the young offender to talk and amplify on a simple statement, and enabling a dialogue to develop between the victims, the young offender and their family, is another important skill for co-ordinators. Nevertheless, some of the co-ordinators or police officers present at the conference entered the dialogue at this point in ways that effectively shut out the young offender and his or her family, either by adding their own views to those of the victim, by delivering admonitions or by moving on rapidly to other matters. Of all the points in the conference that need to be 'got right', this seems to be the most critical.

When the victim/offender dialogue has been constructive with the expression of remorse and the acceptance of apologies, the conference tends to proceed naturally to a discussion of the options for reparation and restoration without a great deal of intervention by the professionals, except to ensure that everyone present has an opportunity to be involved. At other times, the intervention of the co-ordinator will be required to encourage discussion by all those present of the options for resolution and to ensure the inclusion of the young person as well as that of other participants. Maintaining a balance that precludes the domination of professionals is a key skill. This balance was not always maintained and conferences were sometimes dominated by one person. The fact that this person was usually a professional, such as a police officer, a lawyer or a social worker, suggests a lack of adequate training of the professionals who participate in family group conferences about their critical values and roles.

Once a full expression of views on the options for a resolution has occurred, most conferences break for the family and the young offender to have private time in which to formulate a plan to present to everyone. However, in the final 'negotiation' phase of the conference when the plan is presented to the entire group, difficulties can again arise. Most commonly, these occurred when other participants, usually the professionals, debated and modified the plan in ways that lessened the involvement of the families, young offenders and victims. The latter two participants were the most likely to be left out of the process at this point. Sometimes police officers would announce that the family's decision was unsatisfactory and that they were not prepared to agree. While this will sometimes be legitimate, this response contrasted with the responses in other conferences where the victims, offenders and police were all involved in a discussion that was managed by the co-ordinator in ways that ensured that all views were heard and a negotiated solution was reached. However,

it is our view that such an outcome is not possible if some parties have 'a bottom line' which they see as non-negotiable. Furthermore, while a victim might in some circumstances be entitled to take such a position, it seems contrary to the intentions of the 1989 Act for a professional participant to do so except in circumstances when there are serious safety issues.

Post-conference actions

The final task at the conference is to discuss how to follow up on the tasks agreed to. Many conferences nominated people to arrange the details of the plans and to monitor their completion. Very commonly, these roles were delegated to family members. Interviews with the young offenders often indicated a discrepancy between their views of whether or not plans had been completed (or completed to the satisfaction of the person monitoring them) and the records about completion on CYF computer files or the information that victims reported receiving. Sometimes the young person may have not reported accurately on their behaviour, but at other times, the problem lay with the process for passing information on to professionals and from professionals to victims. This area of practice was identified as a problem in Maxwell and Morris (1993) and appears still to be unresolved. Reparation reported as paid was not reaching victims speedily, letters of apology were being written but not received, and work was largely completed but victims were not being told of this. When this happened, victims felt disillusioned. Such outcomes can adversely affect the public's perceptions of the appropriateness of family group conferences as a method of responding to offending by young people. Standards need to be developed around best practice in monitoring plans to ensure reliable signing off, both with young offenders and families, and with victims, CYF and the police.

5 Life outcomes

Since the family group conference, most of the young people in the retrospective sample were able to develop positive goals and achieve successes in education, employment or developing positive relationships. Of those interviewed, 70% had been employed in the last six months and over 80% reported having close relationships with partners, family or friends. Over 60% of the retrospective sample did not want any further involvement in crime, felt life had gone well for them, and had positive views about the future. Thirty percent of them had not been detected in any offending.

However, a negative life event or risk factor was also recorded for about 80% of the retrospective sample. About two-thirds said they had been involved in further detected offending and this figure corresponded with court records. Data on convictions for offences committed as an adult showed that nearly half appeared before the courts in the first year after they turned 17 years and that, after three years, this figure had risen to 69%. The new offences most often involved property, followed by traffic offences and violence. Within three years, 22% of the retrospective sample had received a prison sentence.

Predicting life outcomes

A series of analyses were undertaken to predict reoffending and positive life outcomes for the retrospective sample when they reached young adulthood. The results of these analyses were clear and consistent, both internally and with previous studies that examined similar issues (Fergusson et al, 1994; Zamble and Quinsy, 1997; Farrington, 1994; Andrews 1994). They showed that family background factors, the responses of the youth justice system that affected young offenders' views of family group conferences, and events subsequent to the conference, all had an impact on the young people's lives, and affected young offenders' likelihood of reoffending and achieving positive life outcomes. The analyses confirmed several previous findings.

- Effective early intervention is likely to prevent reoffending and ensure positive life outcomes.
- The focus of early intervention needs to be on building positive relationships in both the school and the family environment.
- Using diversionary strategies and avoiding charges in the Youth Court wherever appropriate is likely to lead to more positive outcomes.
- A constructive family group conference can make an important contribution to preventing further offending despite negative background factors and irrespective of the nature of the offending.
- Life events subsequent to the conference also matter: taking advantage of the opportunity to respond to psychological problems, alcohol and drug misuse, educational failure and lack of employment opportunities are all important options that could reduce reoffending and increase positive life outcomes.

A number of different aspects of the family group conference that were important in making reoffending less likely were identified. There should be good preparation before the conference and, at the conference, the young person should feel supported, understand what is happening, participate in the conference and not feel stigmatised or excluded. A conference that generates feelings of remorse, of being

able to repair harm and of being forgiven, and encourages the young offender to form the intention not to reoffend, is likely to reduce the chances of further offending. These findings provide a validation for the objects and the principles underlying the 1989 Act and of the features that those close to the youth justice system have identified as being important to good practice (Levine et al, 1998). Few of the young offenders in this study appeared to have participated in positive and effective programmes. The results of research (Sherman et al, 1996; Loeber and Farrington, 1998; Andrews and Bonta, 1998; Andrews et al, 1999) would strongly suggest that, if restorative processes were followed up with appropriate programmes of good quality, the outcomes would be even more positive. Further critical factors for building on positive youth justice system experiences are:

- providing appropriate and effective mental health services
- making employment a realistic possibility
- avoiding placing the young people in situations where they form close bonds with others involved in offending.

The findings also indicate that not all young offenders respond in the same way. While most either go on to experience positive life outcomes and subsequently do not reoffend or go on to experience negative life outcomes and reoffend, there is a group who have more mixed experiences as young adults. This group reported having positive life outcomes but also being involved in further reoffending. Further work needs to be undertaken to describe these differences more fully. There are also questions around why having matters resolved in court and receiving relatively severe sanctions were linked to negative life outcomes in adulthood. The direction of causation is by no means clear and further analysis could provide additional information.

6 Comparing the experiences of different groups

Data analyses were undertaken to compare the experiences of Māori and Pacific young people with those of Pākehā, and of girls with boys. This section presents a summary of these analyses.

Explaining the experiences of young Māori

This research attempts three tasks in relation to the provision of effective outcomes in youth justice for young Māori.

- We tried to use Māori-responsive research methods by using Māori interviewers, advisers and analysts to guide the research process and to report on the results.
- We attempted to elucidate outcomes for Māori in comparison with non-Māori, and also to identify possible intra-Māori differences for young people. Data are presented with Māori–non-Māori and/or intra-Māori breakdowns where the differences were significant, and we offer possible explanations for these differences.
- We identified some areas of practice within the youth justice system which should be changed or improved.

There is one important caveat that needs to be entered before our conclusions are offered. The self-report method (which is consistent with Statistics New Zealand practice) was used in identifying ethnicity for Māori who were interviewed. However, this method was not able to be used when examining data from files and this is clearly an area where practice in the youth justice system can improve. It particularly affects the analysis of patterns of offending and reoffending for the retrospective sample. The difference in method makes the identification of intra-Māori differences data from the CYF database problematic, and it is possible that the Māori populations in the retrospective and prospective samples are defined slightly differently, potentially complicating our analysis. That said, the major question of interest is whether or not outcomes for young Māori are different from those for other ethnic groups and this does not appear to be seriously affected.

Overall, we noted some broad differences in the youth justice system that clearly resulted in more severe outcomes for young Māori. These differences, described below, had a cumulative negative effect. First, it is important to note that in this research, as in the general statistics on this topic, Māori young people are more likely to come to the attention of the youth justice system than are non-Māori young people. Previous research (Fergusson et al, 1994) indicated that this difference can partly be explained by the greater likelihood that Māori are at risk in terms of socio-economic status.

- Young Māori who entered the youth justice system in this study had a similar range of backgrounds and risks to those who were identified as non-Māori. In other words, socio-economic factors did not appear to explain the differences in terms of the numbers of Māori young people entering the youth justice system. However, it was noted that those who ‘solely’ identified as Māori experienced slightly greater risks than those who identified as mixed-Māori.
- As a consequence of being more likely to enter the youth justice system in the first place, young Māori were also more likely to be identified as having been previously in contact with the youth justice system: we found that the single largest correlation with reoffending was previous offence history.

- On the other hand, young Māori who entered the youth justice system did so with, on average, less severe offences. This finding is consistent with one of the explanations for the over-representation of Māori in populations of young offenders offered by Fergusson and his colleagues (1994) and supported by Maxwell and Smith (1998): they suggest that this over-representation is likely to be, in part, due to the 'increased vigilance' of the public and the police with regard to Māori youth. This is a plausible explanation for the finding that young Māori are coming to notice for less severe offending in this study.
- When the outcomes of family group conferences were analysed separately for those who were directly referred by the police for a family group conference and for those referred by the Youth Court, the severity of outcomes for young Māori were not significantly different from those for other young offenders. However, Youth Court appearances resulted in more severe outcomes for all young offenders, when compared to the outcomes from family group conferences, irrespective of the young offenders' ethnic group.
- Young Māori appeared more likely to be dealt with in the Youth Court than were young Pākehā (71% compared with 56%) and so this means that a more severe range of outcomes were available for these Māori than for those dealt with solely through a family group conferences by the police. Again, these more severe outcomes may be directly related to the fact that Māori were brought to the attention of the youth justice system more frequently.
- As those being referred to the Youth Court were more likely to receive more severe outcomes regardless of the seriousness of their offending, this increased the chances that young Māori would receive more severe outcomes regardless of the seriousness of their offending. In practice, this meant that young Māori were more likely to receive outcomes involving orders for supervision either in the community or in a residence. This appeared to be independent of the seriousness of their offences, but was consistent with (i) being processed through the Youth Court rather than being directly referred to family group conference, and (ii) entering the youth justice system more frequently due to increased vigilance.

These findings have important implications for police practice. Two aspects deserve to be monitored. First, it is important that the police ensure that they are not responding differently when a report is received about the behaviour of young Māori compared to young Pākehā, or when an offender is apprehended. Previous research (Maxwell and Smith, 1998) that surveyed police officers indicated that most officers believed that some officers behaved differently when a young person who was reported as offending was identified as Māori. Furthermore, in this study, it appeared the decision to charge a young person in the Youth Court varied geographically. In some areas, other things being equal, Māori were more likely to be charged than Pākehā. While most police may be equitable in their treatment regardless of the offender's ethnicity, any suggestion of differential responses is of considerable concern. This can only be addressed by careful recording and monitoring at a local level.

The research also attempted to address the question of how effective family group conferences were for Māori. Overall, analysis of statistical data shows no significant differences in satisfaction with, or outcomes from, family group conferences for Māori compared with other ethnicities. This may possibly reflect the fact that a high proportion of the youth justice co-ordinators and social workers are Māori.

Furthermore, the philosophy underpinning the design of the family group conference is consistent with whānau processes in that the expectation is that, after greetings and introductions, all are given the opportunity to speak freely of their concerns, the whānau are allowed time to debate issues privately and decision making is intended to be by consensus. Statistical analysis cannot provide a detailed insight into participants' feelings about the process but, as discussed earlier, qualitative analysis is consistent with the finding that the process did not always operate as intended in these respects, and this affected Māori, Pākehā and Pacific peoples alike.

The data shows that, in many conferences for Māori, tikanga (protocol) was appropriately observed in terms of mihi, karakia, introductions and venues. But the data also shows that, in some conferences, karakia were used when the participants had not been consulted and were not comfortable with this. The cultural and ethnic responsiveness of family group conferences is a subtle process to manage. The diversity of Māori young people and their whānau also results in tensions which are difficult to manage and this dynamic is exacerbated when victims are from different ethnic groups or cultures. The Māori ethnic group consists of a number of sub-cultures and our research has again confirmed the diversity of Māori, ranging from those with more to those with less traditionally conservative backgrounds. Their views on what is appropriate for them will be equally diverse.

It is important that youth justice co-ordinators are responsive to the many factors that are involved. In practice, this means that all should receive training which will enable them to be alert to the critical factors discussed above and which will ensure that the participants are themselves consulted about where and when the conference will be held and how the process should be managed for it to be culturally appropriate for them and for the others involved.

Explaining the experiences of young Pacific people

Young Pacific people offend at approximately twice the rate of Pākehā but at half the rate of young Māori. The socio-economic disadvantage of Pacific peoples in New Zealand is undoubtedly a major factor in this difference, but our data also suggests that they are being brought before the Youth Court more often than their Pākehā counterparts for similar offending. However, once dealt with either by a family group conference or by the Youth Court, outcomes are not discernibly different from those of Pākehā who have committed offences similar in type and seriousness.

The fact that the offending of Pacific young people was likely to be more serious than that of other ethnic groups may explain why Pacific young people were more often dealt with in the Youth Court than were other ethnic groups and why their outcomes were on average more severe. These results are consistent with previous data from Paulin and Siddle (1997) who compared the offending of Pacific peoples with those of other ethnicities. Nevertheless, despite the greater seriousness of their offending and their more severe outcomes, Pacific young people in the sample were convicted as adults at a significantly lower rate than Pākehā or Māori.²

The data from observations and case studies of family group conferences for Pacific young people and discussions with Pacific advisers suggest conferences can be successful in engaging families and in arriving at successful outcomes. Success was considered most likely to occur when the process engaged the family by treating them with respect and by acknowledging them and their role in a manner which went

² Understanding why, despite the greater seriousness of their offending, Pacific people are convicted as adults at a lower rate could provide a valuable insight into factors that might contribute further to understanding how to prevent reoffending. Further analysis of these data together with other data available through the Ministry of Justice could assist in this.

beyond token gestures. Our advisers suggest that Pacific participants needed to feel validated and crucial to the process rather than merely provided with an opportunity to participate. They needed to be left to take charge of the decisions rather than have professionals suggest or make decisions for them. They needed to be spoken to in a language they understood by people who could respond to them in ways that were affirming and respectful. They needed encouragement to provide their young people with the support, affirmation and forgiveness that they needed if they too were to become part of a solution that set wrongs right and built towards a constructive future. In addition, it is essential that speakers of English as a second language are able to understand the process.

Our observations suggest there is room for improvement in the way family group conferences are managed for Pacific peoples. Just as for Māori, best practice would be for the co-ordinator to ascertain the specific cultural expectations of the participants prior to the conference and to clearly explain the use of any culture-specific processes to all the participants at the beginning of the conference. In particular it is important that the co-ordinator ensure that all participants in the family group conference are introduced to each other and, when interpreters are not able to be present, non-English speakers should be identified and encouraged to seek clarification (perhaps from a family translator) throughout the conference.

The lack of suitable programmes for many of the Pacific young offenders is a problem, particularly given the extent to which they reported periods of depression after the family group conference. At the same time, a strength for Pacific young offenders, which may partly explain their decreased probability of conviction in the adult system during the first three years after turning 17, may well lie in the extent to which they are connected with family and community, acknowledge and respect their elders and have a sense of identity as a Pacific young person. Another advantage for the young Pacific offenders in this study was their relatively greater achievement in the educational system and the opportunities given many of them to take part in further training after their family group conference.

However, this research also points up the need for a much deeper and fuller understanding of what it means to be, for example, a young Samoan, Tongan, Niuean, Cook Islander or Tokelauan in New Zealand today. We need to explore how the patterns of the past from the Pacific can be reconciled with New Zealand's current reality so that both parents and children can share a common vision of their future and how accepted cultural norms can be reconciled with educational practices that encourage a questioning attitude and with family group conferences that require the full participation of young offenders in decisions about their offending.

Explaining the experiences of girls and boys

The girls in the retrospective sample were more likely than the boys to report adverse background factors. They were also more likely to report risk-taking behaviours such as frequent experimentation with alcohol and engaging in unsafe sex. These findings are very similar to those reported by Fergusson et al (1994), who commented that, when girls offend, they are more likely to display a range of other anti-social behaviours as well.

Girls were more likely than boys to commit less serious offences. In particular, they were more likely to be involved in shoplifting and offences of minor violence, while boys were more likely to be involved in burglary, car theft and serious violence. Consequently, boys were more likely than girls to be charged in Youth Court, to receive heavier penalties and to be given more sanctions of a restrictive type.

Despite being less serious offenders, the girls more often than the boys reported that they were not treated fairly by the police. They were also less likely than the boys to

report pride in their culture and background. When asked about the family group conference, boys were more likely than girls to report that having a family group conference had helped them to stop or reduce their offending, although they were also more likely to say that the conference had made them 'feel like a bad person'. Boys were also more likely to report being able to see the victim's viewpoint and that now, as young men, they felt that what they had done was wrong. Some of these findings are not easy to explain and they raise questions for future research. In other respects, there was little difference between the family group conference experiences of boys and girls.

After the conference, the boys were more likely to report that they had found it easy to get on with their peers and that they had had positive experiences. In contrast, the girls more often reported experiencing mood swings and the death or illness of someone close to them. These findings are consistent with the greater earlier adversity in the lives of the girls. Yet, despite the more favourable post-conference events for boys, it is the boys who were more likely than the girls to have reoffended and to be still offending as young adults. This underlines the main finding, worldwide, that men are more likely than women to engage in both offending and reoffending.

7 Meeting the objects and principles of the 1989 Act

The primary purpose of this research was to identify the factors associated with effective outcomes in the youth justice system. In doing so, it has first focused on the extent to which of the objects and principles of the 1989 Act were met and the extent to which restorative processes were achieved.

Elements of family group conference plans were classified under two headings corresponding to the two major purposes of the conference: accountability and enhancing wellbeing. The accountability elements were further classified into those that were principally restorative in nature and the remainder, which were largely of a restrictive nature. The wellbeing elements were further classified into those that were largely rehabilitative in nature (in the sense of intending to assist recovery from past problems) and those that were largely reintegrative (in the sense of assisting the young person to become part of the community and gain skills that would assist them to be full members of the community). However, in practice, many of the elements of the plan could serve multiple purposes.

Accountability

Accountability for young people is being achieved almost universally through the plans agreed at the family group conference and through the orders of the Youth Court. Although there are no data on the outcomes of monitoring of these, information from the young offenders in the retrospective sample indicates that, in over 80% of conferences, the required tasks were completed.

Repairing harm

Some form of restorative response was normally part of the plan when there was a victim. Responses usually took the form of an apology (agreed to at just over three-quarters of conferences), monetary reparation or donations (just over half) or work for the victim or in the community (two-thirds).

Restrictive sanctions

Restrictive sanctions were included in the plans for nearly three-fifths of the young people. Non-association, informal supervision and curfews were recommended for three out of ten; driving disqualification was recommended for nearly one in seven and court orders for fines, suspended sentences, supervision, or a conviction and transfer to the adult courts for sentence (usually a custodial outcome) were recommended for about the same proportion. The authors suggest that these sanctions were not always necessary for the public's safety and that they were not consistent with the objects and principles of the Act.

Enhancing wellbeing

Measures to enhance wellbeing were included for about half of the young people in the 1998 sample. Actions that could be seen as likely to assist the reintegration of the young person in the community were recommended for about two out of five of the young people. The family group conferences made arrangements for education, training or employment for only three out of ten of the young people, despite the fact that a far greater number lacked appropriate employment qualifications. About one in eight reported that plans were made for a change in where they lived.

Recommendations of programmes or actions that could be seen as more rehabilitative were made for just under a third. Counselling was arranged for nearly one quarter of the 1998 sample, anger management programmes for one in sixteen. Drug and alcohol programmes and referrals for driver education were made for less

than one in ten. Referrals for assessments or for a care and protection conference that may or may not have resulted in a rehabilitative or a reintegrative outcome were arranged for about one in eight.

When the data on conference recommendations is compared with data on young offenders' needs it appears that both reintegrative and rehabilitative options were too rarely available for the young offenders in the retrospective sample. For example, at the time of the conference over two-thirds reported being truant regularly or having been suspended or expelled, but fewer than half of these had proposals made for gaining further educational or vocational qualifications. Of those lacking school qualifications when they were interviewed two to three years later, two-thirds had not had plans that included arrangements for their further education or training. On the other hand, of those who were helped to continue their education, nine out of ten reported it as helpful.

There is also a large disparity between the numbers reporting unmet needs in the areas of mental health, drug and alcohol abuse and anger control since the conference and the number for whom programmes or activities were arranged at the time of the conference. Even when programmes were arranged, a third said that they had not been helpful. Some increase in the proportion referred to programmes or training courses was, however, noted for the 2000/2001 prospective sample, compared to the 1998 retrospective sample but the sample is small and it was often too early to tell how effective the programmes were.

Participation and consensus decision making

The main process goals of the family group conference – ensuring that the appropriate people participate, that victims and families are involved and that there is consensus decision-making – were largely achieved. Not all victims attended but this was mainly because they chose not to. More young people reported feeling involved than in the years immediately after the Act, but, as this was reported by only about half of them, there remains room for improvement if family group conferences are to reach their full potential. Agreed conference decisions did not always reflect true consensus and questions were raised about the extent to which, at times, professionals dominated decision making.

Time frames

Appropriate time frames in convening and completing family group conferences were, for the most part, met within CYF, but time frames for the police and for the Youth Court in making referrals to a family group conference were sometimes quite long in some areas. Considerable delays could occur in the Youth Court, especially where sittings were infrequent, where administrative problems arose and, less frequently, when there was repeat offending before the case was completed. Other contributing problems were the lack of monitoring of time frames and of progress towards the completion of plans.

Protecting rights

Information on the extent to which young people's rights were protected was not available. Procedures for recording the actions of the police in arresting and interviewing young people about offending were in place during the early years of the Act (Maxwell and Morris 1993) but these appear to have been discontinued. In addition, records are not kept on whether or not the young person was asked if he or she agreed with the summary of facts presented by the police and, if not, what processes were followed to either correct the summary of facts or to arrange a defended hearing. All young offenders charged in the Youth Court had a youth

advocate appointed to represent them. However, the process of appointment and the quality of performance of youth advocates are not monitored. There are also no procedures for protecting young people's rights within the family group conference when a youth advocate is not present.

Diversion

The increased use of diversionary practices and the decreased use of incarceration are amongst the most dramatic consequences that occurred with the introduction of the 1989 Act. Since 1990/91, the use of police warnings remains much the same; however, there has been an increased use of police youth diversion with fewer young offenders being referred to family group conferences; there has been a slight decline in the numbers of convictions and transfer to the adult courts; and, over recent years, fewer young offenders have been given prison sentences.

Appropriate sanctions

There are two areas where there has been an increase in the use of criminal proceedings in ways that do not appear related to the increased seriousness of offending or to the increased severity of the outcomes decided upon. The first is that police are, compared with 1990/91, referring a greater proportion of cases to the Youth Court (17% in this study compared to 10% reported by Maxwell and Morris, 1993). The second is the somewhat greater use of Youth Court orders. To some extent, this may be a consequence of the greater number of referrals for which court orders are being recommended by police.³ It may also be because of any difficulties CYF have had in processing the number of family group conferences being referred directly to them by the police. Increased resources within CYF, improved relationships in certain Districts between police and CYF, and increased discussion of these matters between Youth Court judges, Police personnel and CYF, could lead to a reduction in Youth Court caseloads and Youth Court appearances for relatively minor matters, without compromising the need to ensure appropriate outcomes for more serious offending.

³ This could also come about when the Youth Court decided to use an order rather than follow family group conference recommendations. However, in our 1990/91 study we found that it was rare for judges to decide on a more severe penalty than that recommended by the family group conference.

8 Effective practice

Meeting the objects and principles of legislation is clearly a primary target for the youth justice system. However, a second, and possibly more fundamental, objective is to achieve the desired outcomes of the system. This research has, therefore, examined findings on effective practice, especially with respect to family group conferences. In identifying key factors in practice, the research has focused on those predicting reoffending and life outcomes more generally.

The analysis of the data enabled us to identify a number of best practice factors with respect to the youth justice system in general and the management of conference processes in particular. The first of these factors stems from the finding noted above that preference is not always being given by the police to resolving matters at the lowest level possible that is consistent with the nature of the offending and the circumstances of the offender. The subsection that follows summarises some key features of best practice in conferences that emerged from the research findings.

Dealing with matters at the lowest level possible

The data in this study indicates that, when the seriousness of the offence was held constant, offenders dealt with at a lower level (ie through direct referral for a family group conference rather than through a charge in the Youth Court) and who received less severe outcomes (ie were dealt with by plans that were less rather than more restrictive and by lower rather than higher tariff Youth Court orders) were less likely to be convicted as an adult and to have poorer life outcomes.

It could be argued that sometimes factors other than the seriousness of the offence should influence the level and nature of responses to offending. However, there is little doubt that relatively minor offending was sometimes being dealt with through a family group conference when a police diversionary response could have been used. Similarly, the finding that minor matters that could have been dealt with through a family group conference were processed through the Youth Court is contrary not only to the principles of the Act but also to best practice. These findings support diverting offenders to the lowest level possible in all cases by reducing the number of young offenders charged in the Youth Court and using the least restrictive penalties consistent with the nature of the offending.

Best practice in conferencing

In summary, the key features of best practice that have emerged from observation of conferences, a consideration of the views of participants and statistical analyses of outcomes are:

System factors

- Providing all professionals who may be called upon to take part in a family group conference with training in their role, including identification of key tasks and knowledge of best practice guidelines. Those potentially involved include co-ordinators, police, social workers and youth advocates.
- Ensuring that Youth Justice co-ordinators receive professional support and backup in an office environment where morale is high and their contribution is valued.

Preparing for the conference

- Ensuring the right participants are invited, including fathers as well as mothers, including other people who will be able to support the young offender and ensuring that the number of professionals present is limited to those who are essential for the process.
- Preparing families, young offenders, victims and professionals for the conference, ideally at separate face-to-face meetings with the co-ordinator, where they are given information on the purposes of a conference, the order in which things are likely to occur, the role that each will be expected to play and possible options for outcomes.
- Consulting participants about preferences with respect to time, place and process.

Facilitating the conference

- Greeting participants on arrival, introducing the victim to others, ensuring appropriate seating arrangements and beginning with formal introductions.
- Explaining any culturally responsive processes which may be used, such as karakia and prayers, and specifying the language that will be used.
- Discussing early on in the conference the facts of the offence and checking to determine whether or not the young person denies or substantially accepts these facts, while ensuring that neither the family nor the professionals coerce the young offender into agreeing with the facts set out by the Police.
- Providing an opportunity for any victims' views to be fully expressed, elaborated on and heard with respect and without interruption.
- Providing an opportunity, and if need be, actively encouraging the young offender and his or her family to respond to the victim without interruption or additions by other participants at this time.
- Providing an opportunity for all to be fully involved in a discussion of options for responding to the offending before the family and young offender deliberate privately.
- Ensuring that the young offender and his or her family are given time to deliberate privately.
- Listening to and considering the proposals of the family and the young offender.
- Encouraging an open discussion to ensure that all participants can express their views on the proposals and negotiate modifications where there is agreement.
- Avoiding domination of the proceedings, especially by the professionals.
- Ensuring that all are treated fairly and with respect and encouraged to contribute at all key phases, including prior to the private family time and after the young offender and his or her family have made their proposals.
- Ensuring that all are in full agreement with the final plan, but, if this is not the case, recording the details of the non-agreement.

Desirable features of practice for young offenders

The research focused on identifying desirable features of practice from the perspective of the young offender. Many of these have already been noted above but they can be summarised as follows:

- being well prepared for the conference, consulted about arrangements and informed about what will happen
- having people present that support and care about the young offender
- understanding what happened
- being treated fairly and with respect
- not being stigmatised and excluded
- participating fully through presenting views and being involved in decisions
- feeling remorse, including understanding the victims' views and feeling genuine regret for what happened
- feeling able to repair the harm that was done
- feeling that others forgave them and gave them another chance
- deciding to keep out of trouble in future.

When young offenders responded to the conference in these ways, they were less likely to reoffend and more likely to experience positive outcomes as young adults.

Positive outcomes for families and victims

Similarly, a number of factors resulted in families and victims responding positively. In summary, these were:

- being prepared for what would happen
- being greeted, introduced and enabled to participate fully
- understanding what was happening
- being treated with fairness and respect
- being involved in the decision about outcomes
- feeling that the young offender was genuinely remorseful, had attempted to make up for what he or she had done, and resolved not to reoffend.

There will doubtless be aspects of practice that are important but which have not been identified in this research because of the type of data collected and the questions asked. For example, the need for co-ordinators to have appropriate professional supervision, the need for co-ordinators to have regular conferences and meetings with other co-ordinators in the area, and the need to have team meetings of all local professionals including Youth Court, Police, CYF and community agency personnel have been identified as important by youth justice co-ordinators and others in both this and previous research (Levine et al, 1998; Maxwell and Morris, 1993;

Morris et al, 1997; Morris and Maxwell, 1999). Further information about programmes that are effective in rehabilitating and reintegrating young people is still needed. We were not able to undertake an analysis of the impact of programmes on reoffending and reintegration because of the relatively low number of offenders in the retrospective sample for whom programmes were provided and the limited time frame for data collection in the prospective sample. The impact on outcomes of receiving support from effective youth justice social workers has not been able to be assessed because they were rarely involved with the young offenders in the retrospective sample. And only minimal information on Youth Court processes was collected due to limits on the budget for the research and on the records that were available.

9 Policy implications

There are a number of important policy implications that emerge from this research. Three particular areas stand out. These are the need for improved and co-ordinated data collection systems across agencies, the need for better monitoring of processes and the need for more effective action to prevent offending before young people reach the point at which a family group conference becomes necessary.

Data collection systems

The lack of a common identifier across departments for young offenders meant that records had to be manually linked by name, date of birth and ethnicity. Thus, the process of obtaining and reconciling data from the official records held by different departments was not simple or straightforward. There were three main reasons for this. First, the record systems of the police, CYF and the courts were designed primarily to serve the needs of practitioners rather than for monitoring and reporting on judicial processes and outcomes. Second, there is little or no consistency across user departments in how the data were categorised and recorded. And, third, data that can be used to assess the performance of the youth justice system are not routinely collected and none of the agencies had a system in place for recording data that would have enabled samples of participants to be easily tracked and interviewed should evaluation of the system be required. Further details on these problems are included in the full report (Maxwell et al, 2003).

We propose that all information on responses to young people in the youth justice system be recorded using a consistent terminology and a well defined and simple set of categories that users can come to understand. We propose that information systems be developed to allow outcomes to be monitored and reported. We recommend that a common youth justice data system operate across all three agencies with the following features:

- a single ID number for each person
- a case-based approach to recording rather than an offence-based or incident-based approach
- a record of key dates, including offence date, apprehension date, all referral dates and the nature of referrals, date of first court appearance, decision/outcome data for family group conference and Youth Court, dates of completion of tasks or orders or discharge
- common categories describing how cases were disposed of (for example, by specific orders or by plans with specific characteristics) across family group conference plans, Youth Court outcomes and District Court outcomes that can be ranked by severity
- common referral and transfer categories and records
- data on cases remanded in custody, residences and police custody
- records of any monitoring of tasks, including who is responsible and whether or not completed when signed off
- basic information on key players, including addresses for the young person, their family and victims

- clear and consistent demographic data, with particular attention to ethnic group by self-identification from multiple options.

Monitoring

A number of points have been identified where the monitoring of practice is necessary if best practice is to be achieved. These include:

- monitoring young people's rights when they are arrested or interviewed
- monitoring police practice in deciding whether to take no further action, warn, divert, refer to family group conference or charge in the Youth Court
- monitoring the young person's admission of responsibility and agreement with proposed plans at the family group conference
- monitoring completion of the elements of the plan after the family group conference
- monitoring the availability and effectiveness of programmes
- monitoring follow-up to victims.

A related issue where monitoring is urgently needed relates to ethnicity and equity. The findings about the disadvantage of young Māori compared to Pākehā who offend at a similar level are of considerable concern. It is possible that this affects only a few areas of New Zealand and it may stem from a greater probability that young Māori enter the system at a younger age than Pākehā. Nevertheless, policies and practices must be developed to monitor issues of inequity with respect to Māori and other groups, and respond rapidly to any problems of this nature.

Crime prevention

Analyses of the factors associated with reoffending and positive outcomes also have implications for broader areas of policy and, in particular, for crime prevention strategies. Firstly, the finding that those likely to be convicted as an adult and to have poor life outcomes were also more likely to have come from more disadvantaged family backgrounds (characterised by high mobility, abuse and punishment, antisocial behaviour of other family members and poor supervision) is not new (Fergusson, 1994) but it reinforces the crucial importance of providing support to high-needs families and programmes for young children at risk.

Secondly, the finding that young people notified to CYF as being in need of care and protection, or referred previously for a youth justice family group conference, were more likely to be convicted as an adult and report poorer life outcomes highlights the critical importance of effective intervention on the first occasion a child comes to the notice of CYF. Responses to the first referral are likely to have a long-term impact and affect the chances of further referrals for offending. Thus this finding also supports the critical importance of family support and programmes for children and young people at risk when they first come to attention.

Thirdly, the lack of school qualifications was also related to adult criminal conviction and poor life outcomes. The success of the education system in identifying children who are truants, or not succeeding in school, and in providing a way of meeting their educational needs is likely to have an important impact on their reoffending as well as on their employment, relationships with others and integration into the community.

Finally, the level at which a young offender is dealt with emerges as an important factor in life outcomes. Those dealt with more severely for offences of similar seriousness have poorer outcomes. This finding underlines the importance of compliance with the diversionary principles of the Act by ensuring that children and young people are dealt with at the lowest level appropriate in the youth justice system.

10 Restorative and diversionary justice for young offenders in New Zealand

In some respects, the youth justice system in New Zealand has continued to grow in strength and to become more restorative and diversionary in its philosophy and practice. The sanctions adopted by family group conferences remain at least as restorative in 2002 as they were in 1990. The Police have developed their own diversionary practices which reflect restorative rather than punitive values. The Youth Court appears to have become more inclusive than it was in 1990/91, if the views of young offenders and their families are to be relied upon. Victims more often appear to feel positively about their experiences than in the early years. Re-integrative and rehabilitative programmes were also offered more often in 1998 than in 1990/91 and current policies aim to strengthen this aspect of the youth justice system.

On the other hand, restrictive sanctions were still being used in cases where they did not appear to be necessary for the safety of the public. And the practice of laying charges in the Youth Court where relatively minor offending was involved and where relatively minimal sanctions were imposed has increased. The research also indicated that there were some area differences in terms of the practice of laying charges in the Youth Court, with young Māori being more likely to be charged than young Pākehā for similar offences.

Furthermore, there remain considerable areas where improvement in practice is both needed and possible. The needs of young offenders are not always being met. Victims and young offenders are not always effectively included in decision making at the family group conference. Youth Justice co-ordinators and other professionals do not always manage the conference situation in a way that optimises involvement, encourages consensus decisions and provides an opportunity for remorse and healing. The use of the Youth Court for making decisions could be reduced. And improvements in both monitoring and the keeping of records on key processes and outcomes could allow the youth justice system to be built around optimising effective restorative practice: achieving greater satisfaction for participants, repairing harm and reintegrating more of young offenders into the wider society.

11 A summary of key findings

In this study, many findings highlight common misconceptions about family group conferences and some of these are listed below in Box 1. Other findings clarify issues of debate, validate existing beliefs and highlight the critical issues around current successes and failures and around future needs. Summaries of key findings are presented in Boxes 2 to 5 below.

Box 1 Misconceptions about family group conferences

- 1 It is not true that it is *faster for young offenders to go through the Youth Court*.** Family group conferences do not substantially slow the process of justice and Youth Court referrals do not increase the speed of resolution. The research findings showed that:
 - Youth-Court-referred family group conferences were completed more speedily than Police-referred family group conferences. However, decisions about outcomes were no faster and were sometimes slower overall for Youth Court cases because of the extra time taken to make a referral and to reach a decision.

- 2 It is not true that *the family group conference is a soft response to offending*.** The data presented in this report showed that:
 - Young offenders did not find the family group conference to be an easy option. At the conference, they were required to face their victims and their family and they were expected to apologise and to repair the harm that they had done. Going to court and receiving an order, according to some young people, was much simpler and easier.

- 3 It is not true that *the family group conference fails to respond to offending*.** Data presented in this report indicated that:
 - At least as many young offenders were now being made accountable through family group conferences and the Youth Court as before the 1989 legislation (when most of these young offenders were dealt with by the courts). Furthermore, most of those involved in the decisions, including families, young offenders and victims, believed the outcomes of the family group conference were fair and appropriate. An analysis of what young offenders actually did after the conference showed that most were acting to the best of their ability to repair the harm they had caused.

- 4 It is not true that *young people fail to complete agreed-to tasks*.** This study showed:
 - When young offenders agreed to undertake apologies, to do work or to pay money, the large majority completed these tasks. Many of those who did not complete the tasks fully did complete most of them. However, the lack of monitoring whether or not tasks were completed and the lack of communication of progress to victims could lead to the young offender being wrongly blamed for failing to do what was promised.

5 ***It is not true that the requirements of the family group conference plans were less likely to be complied with and completed than Court orders.***
Data presented in this report indicated that:

- Compared to the court system, the victim was much more likely to receive an apology and some reparation for damage as a result of the family group conference.
- Victims often said that they had experienced reassurance from finding out who the young offender was and from actions being taken to make him or her accountable and to reduce the chances of further offending.
- However, some young offenders and their families were unable to completely repair the harm done, both because this was not possible and because the expectations of some victims could not be met.

Box 2 Meeting the objects and principles of the Act

1 *Achieving accountability*

Young offenders who attended family group conferences were held accountable for their offending and restorative outcomes were agreed to for most of them.

2 *Enhancing wellbeing*

Family group conferences have had limited success either in enhancing the wellbeing of young offenders or in providing support for their families. The following problems were noted:

- There were limited resources for programmes in many parts of the country.
- Specific deficiencies were the lack of drug and alcohol, anger-management and mental health programmes.
- When programmes were provided, they were not always able to retain young offenders or were perceived as ineffective by them.
- Suitable educational and training arrangements were not always made, although when arranged they were often completed and valued.
- Needs for family support or for care and protection were not always responded to.

3 *Diversification processes*

The data in this research showed that:

- The family group conference was meeting the goals of diversion from criminal proceedings and of avoiding institutional and custodial outcomes for young people.
- Police youth diversion provides an important option for many young people for whom a family group conference is not considered necessary.

Box 3 Ethnic and cultural responsiveness

- For Māori, outcomes in the youth justice system as a whole are of greater relative severity than for non-Māori. This is because Māori young people are more likely to come to the attention of the youth justice system and, although they present on average with less severe offences, they are more frequently referred by the police to the Youth Court for minor offences, rather than directly for family group conference.
- This research demonstrated that young people from different ethnic groups or cultures tend to obtain similar outcomes to each other from the family group conference process itself; there are also similar outcomes for all ethnic groups from the Youth Court process. However, Youth Court outcomes are generally more severe than family group conference outcomes, and as we have seen, Māori are more likely to go to the Youth Court.
- Appropriate cultural responses will depend on the particular family or whānau – much of this is probably about ensuring that the family is comfortable with the person who is arranging their conference and that this person listens and responds to their preferences to the extent that this is possible.

Box 4 Practice

1 *Effective practice*

Effective practice means:

- treating all young people fairly irrespective of their ethnic group especially when deciding who to apprehend, divert, refer or prosecute
- avoiding bringing matters before the Youth Court when they are unlikely to require Youth Court orders
- arranging family group conferences so as to ensure that:
 - all participants are well prepared and consulted about who will attend, the venue, the processes and the time
 - all who attend are greeted and introduced
 - all who attend understand what is happening and have support
 - victims, families and young offenders participate fully, are able to say what they feel and are involved in decisions
 - professionals do not dominate the conference and the decision making, and as few professionals are present as is possible
 - young offenders are treated with fairness and respect and feelings of stigma and exclusion are avoided
 - the cultural practices used are appropriate to the setting and situation, and determined in consultation with the participants
 - expressions of remorse, repairing the harm, including the use of restorative sanctions, and forgiveness are facilitated
 - punitive and restrictive sanctions are avoided whenever possible
 - reintegrative and rehabilitative options are arranged as appropriate, plans are monitored and victims are kept informed

- minimising the delays in all processing and minimising the use of lengthy remands in custody
- ensuring that young offenders have options for gaining educational qualifications, vocational skills and suitable employment
- avoiding arrangements that bring together young offenders and enable them to develop friendships that can focus on anti-social activities
- providing programmes for young offenders that respond to their psychological problems and that help them to learn how to develop positive relationships with others, as well as to deal with issues of anger and drug and alcohol misuse.

2 Practitioners' effectiveness

A number of factors affecting practitioners were identified:

- Youth Justice co-ordinators identified the need for support through professional supervision, back-up and training; they also identified the need for resources to fund conferences, to arrange programmes and to make appropriate placements.
- Good relationships and effective team work among youth justice professionals is necessary for the youth justice system to reach its potential and all need more training in relation to the Act and best practice.
- Problems with restructuring and changes in computer record systems were linked with adverse staff morale and all of these impacted on effective practice.
- The skills of the co-ordinator were undoubtedly an important factor, but generalisations are not possible and it appears that, at the time of the research, some co-ordinators related better to some young people than did others.

Box 5 Outcomes

1 Reoffending

- The data suggest that reoffending is not increasing and may have declined.
- Girls are less likely to reoffend than boys.
- Pacific young people are less inclined to reoffend as adults compared to Pākehā and Māori young people.

2 Achieving positive life outcomes for young people

Effective responses to the offending of young people need to occur at a number of points and include ensuring that there are:

- services and strategies that respond to early signs of childhood disadvantage, parental difficulties, educational failure and anti-social behaviour
- appropriate responses to young offenders when they come in contact with the youth justice system
- opportunities for young people as they enter adulthood to ensure they can develop a constructive lifestyle that is rewarding to them as well as avoiding reoffending.

12 Māori Glossary⁴

<i>karakia</i>	<i> blessing</i> prayer-chant, religious service, incantation
<i>kaupapa</i>	<i> topics</i> and agenda
<i>Māori</i>	<i> indigenous people of New Zealand</i>
<i>mihi</i>	<i> greet</i> admire, respect, congratulate
<i>Pākehā</i>	<i> European Caucasian</i> non-Māori
<i>tikanga</i>	<i> custom</i> obligations and conditions (legal), provisions (legal), criterion
<i>whānau</i>	<i> family extended family</i> delivery, give birth, genus

⁴ *Bolded meanings are the ones corresponding to the usages in this report.*

13 References

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