

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ASHLEY YOUTH  
DETENTION CENTRE MET AT THE CHARLES FERGUSSON BUILDING,  
WELLINGTON, NEW ZEALAND ON MONDAY 21 MAY 2007.**

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DISCUSSION WITH MEMBERS OF THE YOUTH JUSTICE POLICY TEAM: **Mr ROB HANDYSIDE**, CHAIR OF YOUTH JUSTICE LEADERSHIP GROUP (SENIOR OFFICIAL), **Mr PETER KENNEDY**, PRINCIPAL ADVISER OF THE YOUTH JUSTICE LEADERSHIP GROUP, AND **Ms LEIGH McPHAIL**

**Mr HANDYSIDE** - Ministry of Justice is the lead agency in terms of youth justice in New Zealand, but we work very closely with Child, Youth and Family, who you will spend some time with this afternoon, with the Ministry of Social Development, with New Zealand Police, obviously, and probably to a lesser extent with the Ministry of Education and the Ministry of Health. There are really five large agencies which make up what we call the Youth Justice Leadership Group, and the Ministry of Justice acts as both chair and secretary to that group.

It is good for us to have the opportunity to share with you, and we thought that what we would do initially was contextualise what happens in New Zealand. At the end, of course, you will go out and do a whole lot of site visits and see it in action. We hope that you are going to ask us the hard questions as you go because we are interested in what you see and what you notice and we encourage you to ask us the 'why' questions. We are hoping that in this morning session we will have the opportunity to ask you some questions as well, obviously about what happens in Tasmania but also your impressions of anything you picked up from other parts of Australia.

**Mr KENNEDY** - I am Peter Kennedy, Principal Adviser of the Youth Justice Team. The presentation basically describes what the youth justice system is, some statistics around youth offending in New Zealand and then a little bit about the youth-offending strategy, which we will give you a copy of. That is the main government policy document covering youth offending.

In terms of the system, the main piece of legislation is the Children, Young Persons and Their Families Act 1989. That was the act that, you may have heard, really brought about radical change in the system in New Zealand. It introduced the family group conference process, put a strong emphasis on diversion from the formal youth justice system, and a number of other things. So it was a real turning point in the youth justice system in New Zealand. It covers both care and protection and youth justice, so children who are subject to neglect and abuse but also children of the youth justice system. It makes quite a clear distinction between those two groups and the way they are treated.

**Mr MARTIN** - Seventeen-year-olds are adults?

**Mr KENNEDY** - Seventeen-year-olds are adults. 'Young people', in terms of the act, are defined as 14- to 16-year-olds and 'children' as 10- to 13-year-olds. Children under 10 can be arrested for offences but proceedings are not able to be taken against them for offending. They can be on other grounds in terms of their behaviour, neglect or protection issues, but not because of their offending.

**CHAIR** (Mr Hall) - So if you get a person who steals cars at 13 -

**Mr KENNEDY** - They are a child.

**CHAIR** - They are a child, so you can't charge them?

**Mr KENNEDY** - Correct. What happens in that case is that the police may take proceedings through the Family Court in terms of their offending. They go before a family court judge, the facts are laid out before the judge, and it has to be established to a level of criminal proof that they actually committed the offence. Then there are a range of orders which are largely designed to address their care and protection needs. Offending is seen as part of the context of the family, holding the family accountable for the offending, rather than the youth court where the focus is much more on the young person's accountability.

**Mr WILKINSON** - Was it a new thing in 1989 when the act came into being?

**Mr KENNEDY** - No. For younger children, under 14, it has always been seen as a care and protection issue. Those age cut-offs are quite important because when a young person turns 17 they are dealt with in the adult court. For some 14- to 16-year-olds who commit serious offences, if they commit an offence that is punishable by three month's imprisonment or more, they can elect to have a trial in the District Court, or the Youth Court judge can transfer them to the District Court for sentencing on more serious offences. So there is some movement between the Youth Court and the District Court, depending on the seriousness of the offence.

**Mr MARTIN** - Have you ever had any public controversy over the ages?

**Mr KENNEDY** - Yes, particularly about the issue around the definition of child offending. At the moment there is a private member's bill before the House to lower the age from 14 to 12 for a whole range of offences so that children 12 and 13, who at the moment are not criminally responsible or held criminally liable, will be liable. There is quite a lot of debate about that.

**Mr MARTIN** - Does the Government have a position?

**Mr KENNEDY** - They haven't stated a position; I think they are waiting to see how the debate unfolds.

**Mr HANDYSIDE** - I think it would be true to say that the New Zealand Labour Government that is in power and its supporting parties are sitting on the fence a bit at the moment waiting to see how the public debate unfolds around that because there have been some quite prominent and well-known cases of 13-year-olds offending where there has been public outcry that the system doesn't do a thing to them. It is quite a prominent public debate.

**Mrs JAMIESON** - Is it a wider debate or is it just very specific?

**Mr HANDYSIDE** - It is a wider debate, I think it would be fair to say, because it is about  
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both the lower age and the penalties that are available. Although it is not part of the public debate, there is also the issue as to whether 17 is too low. So there is also the added question as to whether or not it should be raised to 18 to make it consistent with United Nations.

**Ms McPHAIL** - The act is being updated at the moment. One of the main things being talked about is the age that the act applies to, different ages for child offending and youth offending, both at the bottom end and the top end. One of the key issues that is coming out in discussion at the moment is how we deal with a child offender, particularly the options that are available for them and the different ways it could be done.

**Mr KENNEDY** - There is quite a wide range of views on whether the system at the moment is adequate or whether we need to change it. Most of the data suggests that child offending hasn't actually increased, but there have been a few prominent cases of quite serious crimes.

**Mr WILKINSON** - Have those crimes been performed by a person in a family who is well known to the court system?

**Mr KENNEDY** - I cannot think of the details of all of them but a lot of them would be children who are well known to the police already.

**Mr WILKINSON** - And their families as well?

**Mr KENNEDY** - Probably, yes.

**Mrs JAMIESON** - Generally, is the offending more aggressive than it used to be?

**Mr KENNEDY** - I don't think the data actually shows that.

**Ms McPHAIL** - Not in relation to the 10- to 15-year-olds, no. There has been a slight increase in 14- to 16-year-olds in terms of serious crime over the last few years but child offenders' violence remains fairly stable. Another issue there that is cropping up is the more prolific offending by some of these younger children. It might not be at the very serious end. It might be a whole string of burglaries or a whole string of car thefts and things like that aren't at the serious end - in the middle range - but there is so much of it. So what is appropriate here and what can we do.

**Mr KENNEDY** - The incidents that have caused the controversy are quite serious violent offences. One murder, in particular, of a pizza delivery man resulted in a youth - I think he was 12 at the time - being charged with murder. So the 10- to 12-year-olds can be charged with murder or manslaughter but no other serious offences. People are saying that if that provision wasn't there, if he had committed, say, aggravated robbery causing serious harm or something like that, then the boy wouldn't have been charged so he would have been dealt with in the Family Court, which a lot of people see as totally inappropriate for such a serious offence.

One of the important things about the system and the Children and Young Persons Act is this emphasis on diversion, based on research that the more you get young people into the court system, the more likely they are to reoffend and return to the system. So there

is quite a big emphasis on keeping people out of the Youth Court, out of the family group conference process, and reserving those jurisdictions for the most serious offenders. The police deal with approximately 80 per cent of offenders by way of diversionary programs that they operate themselves, and there has been some research to show that they are generally reasonably successful. It is a bit difficult to know how many return but they do generally do quite a good job.

**Mr WILKINSON** - They had that in Tasmania for a while, and they still have it. What happens is that you get your official caution or warning, you go before a single police officer, that police officer will ask a parent to come along and then the young person will have to chop wood for the old man or something like that. It is fairly benign, really. What we found happening - for the statistics, I think, to show that it was working - is that you would get young kids who weren't going to get into trouble anyway, walking from one party to another with a beer in their hand and being charged with drinking in a public place. You would have these pretty minor offences, the police picking them up, taking them to the so-called diversionary conferences, but they weren't going to commit offences anyway. Then they're saying, 'It's working; look what's happening'. These people really weren't going to commit offences again. Is that happening over here or do you think that would sway your stats?

**Mr KENNEDY** - It is probably happening to a certain extent, except that the police do have a screening tool that they use to try to identify those kids who are at highest risk of reoffending and they focus their attention on that group. So the less serious offenders may get a warning or a caution but the actual diversionary program that you are talking about, maybe combined with some rehabilitation, would be reserved for those kids who are at highest risk of reoffending. I am sure that some of that is happening too, yes. In fact it is an area that we don't know a hell of a lot about. There hasn't been a lot of research on what is happening on police diversion, so while it is often touted as highly successful, I don't think we have a lot of data about it.

In the system we have a separate youth court for 14- to 16-year-olds. All cases that go to the Youth Court have a family group conference. A young person can be arrested and appear in the Youth Court and then they are referred for a family group conference before they return to court and are sentenced. The conference will develop a plan around that young person and make a recommendation so far as sentencing is concerned. In 95 per cent of cases the judge will follow that recommendation. So that is one way of getting a family group conference. The other way of going to a family group conference is that the police will refer a young person to a conference - it is called an intention-to-charge family group conference - and then the conference will decide if they can deal with the young person without going to the youth court. If they can they will develop a plan around that or they will decide to refer the matter to the Youth Court.

**CHAIR** - How many youth courts in the country, Peter?

**Mr HANDYSIDE** - Every District Court has a Youth Court sitting and there are 60 courts in the country, right down to some quite small rural areas. What will quite often happen is that there might only be a couple of people to appear before Youth Court and so a judge will sit in District Court for the morning and hear a defended hearing and then clear everybody out - because the Youth Court is a closed court - and declare it to be a Youth Court. That might happen at 3 o'clock in the afternoon, whereas in a large centre there

are regular Youth Court days which are exclusively for them. So some Youth Courts are actually quite small.

**Mr MARTIN** - Specialist judges?

**Mr HANDYSIDE** - Judges must hold a warrant for that court. So they can have a Family Court warrant, a Youth Court warrant or a District Court warrant. Not all District Court judges hold Youth Court warrants.

**Mr MARTIN** - There are judges that would specialise to only do youth?

**Mr HANDYSIDE** - Yes, there are. Not exclusively, but there are certainly judges that do predominantly youth. The Principal Youth Court Judge, Judge Becroft, is basically a dedicated resource to the Youth Court. In some of the large centres, like Auckland and Wellington, you will get judges that will spend a lot of their time in the Youth Court. I am not sure about the Youth Court judges but certainly with Family Court judges at one stage there was an expectation that they spend a certain percentage of their time in the District Court, which is really like the factory, just to keep their hand in. So I do not think there would be anybody other than Judge Becroft that only sits for youth.

**Ms McPHAIL** - There are a few that do both family and youth, not so many of them but a few.

**Mr HANDYSIDE** - It is certainly seen as a specialist jurisdiction. Judge Becroft has special planning and meeting days for the liaison Youth Court judges across the country. From time to time he will have periods of training just for Youth Court judges, so it has certainly retained its integrity as a specialised area.

**Mr KENNEDY** - Returning to the family group conference for a moment, when it happens is legislated. The time frames in which a family group conference is held are all set out in the act. People who can attend are set out in the act. So it is quite pivotal to the whole process for dealing with those more serious offenders. In terms of who can attend, there is usually a youth justice coordinator, who is an official employed by Child, Youth and Family and who arranges the whole conference, then there is the offender, the offender's family, the victim, support people for the victim and other professionals - police or a teacher might be there. So some family group conferences can have up to 20 or 30 people; others have four or five.

One of the issues around the conferences at the moment is the number of victims who are coming along; we are not particularly happy with the proportion of victims who attend. Approximately in 50 per cent of the cases, a victim will attend. There is quite a significant number of other cases where the victim will make a statement that is fed into the process but does not actually want to attend. We would like to get the number of victims attending conferences up because that is really the power of the conference - the young person having to talk to the victim and find out about the impact.

**Mrs JAMIESON** - Does the youth actually have an advocate, a specific person for them, who is not a conference person?

**Mr KENNEDY** - They can have a support person, or if it has been to the court and then  
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referred for a family group conference they might have a lawyer there representing them.

**Mrs JAMIESON** - Right. It is fairly intimidating otherwise.

**Mr KENNEDY** - For the young person?

**Mrs JAMIESON** - Yes.

**Mr KENNEDY** - Yes, it can be, although again one of the criticisms of the process has been that there are usually so many support people for the young person and so few for the victim. We have victims' rights groups who feel that victims aren't getting a fair go out of the process.

**Mr MARTIN** - Has thought been given to limiting the number of people there?

**Mr KENNEDY** - No, I don't think so.

**Ms McPHAIL** - A coordinator would generally try to ensure that a conference is going to be workable. In the case where you have these big ones there would have been consultation with everybody, I am sure, as to who is going to be there, and that kind of conference would go for a much longer time than a smaller one. There are not that many occasions when it would be that big, but generally the coordinator of the conference will liaise with everybody about what is going to happen.

**Mr KENNEDY** - Yes, it is their responsibility to make sure that the victim is supported, that there isn't a disproportionate number of support people for the offender, that it is going to work properly and everybody's interests are recognised.

**Mrs JAMIESON** - Would youth conferencing be used for really minor through to major crimes?

**Mr KENNEDY** - The minor crimes are really dealt with by the police by way of diversion. It is more persistent and serious offending that make it into the family group conference process. So you are getting kids who have committed quite a number of offences who may well end up in court as a result of the conference or people who have gone to court and have come back to the conference for a discussion around what is going to happen to them. It is more the serious end of offenders.

**Ms McPHAIL** - The police may or may not hold some kind of informal conference with family members or with a schoolteacher, if they think it is appropriate, as part of the diversionary plan.

**Mr KENNEDY** - The more minor offending is dealt with either through no further action or through a warning. I don't know whether you have specialist youth aid staff in Tasmania but as part of the police force we have about 120 youth aid officers who just deal with young people. So all offending by young people is referred to them; where there is going to be some follow-up it is referred to the youth aid force.

**Mr MARTIN** - They are police officers?

**Mr KENNEDY** - Yes. I think there are 120 or something like that.

**Mr HANDYSIDE** - On Wednesday morning you are going to meet with Superintendent Bill Harrison, who will argue that for the central job - youth offending rather than adult offending - is not nearly enough and that it should be increased. They are trained police who have general policing experience and who receive specialist training to become youth aid people. It is said that the training they get is pretty good. So they are effectively a specialised arm of the police.

**Mr MARTIN** - Is that all they do?

**Mr HANDYSIDE** - Yes, basically they just deal with youth.

**CHAIR** - We don't have that in Australia.

**Mr WILKINSON** - What happens if you caught me breaking into a place, and that was about the fiftieth offence? Any police officer could obviously arrest me. When I get to the police station, do they hand me over to one of these youth aid officers?

**Mr KENNEDY** - You would be referred to youth aid, yes, but it may not happen at the same time you appear at the police station. Certainly the next day the file would go through to youth aid and then you would get a visit from a youth aid officer. Then there would be a decision made - I think at that point - whether to prosecute you. The youth aid officer might get in touch with Child, Youth and Family and decide that they need to have a conference to decide whether it goes on to the Youth Court.

**Mr MARTIN** - They are minders and interrogators?

**Mr KENNEDY** - Youth aid officers deal with the whole spectrum.

**Mr WILKINSON** - Who is in on an interview when the kid is being interviewed? You can have a parent or a guardian; does the youth aid officer do the interviewing of the offender?

**Mr KENNEDY** - Yes.

**Mr WILKINSON** - They do. So therefore the actual interview wouldn't take place until after a youth aid officer came into the interview room?

**Mr KENNEDY** - I think that would vary across the country, depending on the availability. Obviously with 120 people stretched across the length of the country it won't always be possible. I think best practice is probably to involve the youth aid officer, but it won't always be possible.

**Ms McPHAIL** - The act sets out various provisions as to how you arrest and interview a young person. It is very specific.

**Mr KENNEDY** - I think the specialist youth aid people are certainly interested in the outcome after the arrest because their interest is really the whole context of the environment that the young person is in. The other thing that I think youth aid probably

do very well is look at where groups of young people are assembling for different reasons, mapping what is actually happening on their piece of turf and working with schools or other agencies in the area in terms of what is going to be done about that. So I think, rather than the individual burglary, they have a real interest in what is actually happening in terms of patterns and individual decisions that need to be made. That is probably where their real specialist skill comes in.

**Mr WILKINSON** - So most go through them? In other words, they are acting to say whether they go into this or that area?

**Mr KENNEDY** - You would expect a youth aid officer to have a good sense as to whether this young person is coming from a problem background. I think the youth aid officer will know and will have quite a lot of intelligence around particular streets, families, schools, those sorts of things, and will inform the decision-making about what needs to happen. It is quite a strong preventative.

**Mrs JAMIESON** - Yes, sounds good.

**Mr KENNEDY** - With the family group conference, a possible outcome might be the development of a rehabilitation plan, which involves elements of accountability as well but no court intervention. They may decide that the offending is serious enough to warrant going to court or that the plan needs to be backed up by a court order of some sort. Then as you get into the more serious offending it generally goes straight to court and then court adjourns the case for a family group conference. The young person can elect to go to trial in an adult court for certain offences and if they are 15 or over they can be referred to the District Court for sentencing.

**Mr MARTIN** - A lot of kids go on remand?

**Mr KENNEDY** - Yes.

**Mr MARTIN** - Is there a time limit?

**Mr KENNEDY** - Yes, 20 days. That has been an assured time. The length of remands are monitored nationally and there is data kept on them. It is closely scrutinised so there is quite a lot of pressure on Child, Youth and Family to convene conferences and get them back to court within that 20-day period.

**Mr WILKINSON** - Let's say if a person appeared on 1 June, they would have to be back in court before 21 June? They would have to come back every 20 days.

**Mr KENNEDY** - I am not sure if it is 20 days convening or holding -

**Ms McPHAIL** - Convening, and then it's holding - it's 20 and 14, I think.

**Mr KENNEDY** - It is tightly prescribed in the legislation.

**Mr WILKINSON** - Do you think it's worthwhile in relation to remand because what often happens is the Magistrates Court, when dealing young offenders, have a list and they have their own diaries. There are plenty there, so they can be remanded for two months



in order that a number of preliminary things occur. But if there were a prescription within the regulations or the act where they had to bring the child back every three weeks, or something along those lines, do you think that would hasten the process? Then the family group conference would realise that they had to do something within 21 days - maybe convene and then do something to work out what should happen with the child. Do you think having those time limits prescribed would assist in shortening the remand period?

**Mr KENNEDY** - It is generally the way the system works here.

**Mr WILKINSON** - Is it?

**Mr KENNEDY** - Yes. There is an emphasis on working to the child's time frames perhaps because if you have a three-month remand between the commission of the offence and it being dealt with, then the connection is often lost for the young person. They think, 'What the hell's going on', so the speed of the process is very important. If for some reason the family group conference couldn't be held within that time, they would definitely be coming back to court.

The maximum period is three months in custody, which is usually remitted to two months, and then six months' supervision afterwards - supervision with an activity order.

**Ms McPHAIL** - Supervision with activity is an order that supposedly sends a child to a residence, except that you are keeping the young person in the community rather than putting them into a residence. It involves a timetable, I suppose, for the young person that sets out where they are and what sorts of things they are doing. They can either go to a program for that period of three months that looks after their supervision or they can have a program set out by a social worker - that is usually at school from 9 to 3 and the teachers are watching you - or you are at an after-school program on these days or playing rugby on these days and you have people supervising you. Then you are at home from 5 p.m. until the next morning and the parents are supervising. It hasn't been used as much as would have been thought or liked, I suppose -

**Mr MARTIN** - Is that because of lack of resources?

**Ms McPHAIL** - That is one of the reasons put forward; the other reason is the lack of understanding of what it can entail. There seems to be a suggestion that you must put this person on a program somewhere for three months, which is not what this is. That is one of the options available. So it seems to be the two reasons: a training and an understanding issue about how to use that order, as well as a lack of resources to support them.

**Mr KENNEDY** - I think the social workers would say that they sometimes don't have the time to develop a good program of activity. You could go on a rehabilitation program, which might be a formal program delivered by an NGO, but the other option is for a social worker to develop a program of daily activities, but they sometimes would say that getting to that point is a lot of work and their caseload is too high to put the effort into it.

**Mr MARTIN** - It seems like an ideal best-practice outcome.

**Mr KENNEDY** - Yes.

**Mrs JAMIESON** - Can you be more prescriptive and say to a 10-year-old, 'You will join scouts', for example, and have that as part of your community-supervised activity?

**Mr KENNEDY** - Probably, yes, but it wouldn't be that sort of thing.

**Mrs JAMIESON** - Okay, I just said scouts as an example.

**Mr KENNEDY** - If you had certain activities laid out as part of a plan that was presented to the judge and then the young person didn't follow through on those things, then the matter could be brought back before the Youth Court for review.

**Mr WILKINSON** - So a Youth Court judge can't order that a person be sentenced to three months in a youth detention centre? That's got to go to a District Court for sentence?

**Mr KENNEDY** - No. The place you will go to in Palmerston North is a youth justice facility for young people in the youth justice system - up to 16 - and a Youth Court judge can sentence a young person to that facility. If they want to sentence you to prison for a serious crime, then you have to go into the adult jurisdiction to be sentenced in the District Court.

**Mr MARTIN** - That's supervision and residence, is it?

**MS MCPHAIL** - It is three months in residence and then six months supervision when you come out.

**Mr MARTIN** - And the community work, is it supervised community work?

**Ms McPHAIL** - Yes.

**Mr MARTIN** - And is that properly resourced?

**Ms McPHAIL** - Probably not.

**Mr KENNEDY** - In some areas it is. In some areas they employ people to organise and monitor it but in other areas it is not given that priority.

**Mr WILKINSON** - We have a real problem with lack of resources. It means it's taking them ages to finish the community work and therefore in the end they are just forgetting about it and saying, 'You've finished', and giving it a tick.

With the schoolteachers, when you were talking about supervision, and whether she or he has to be at school between certain hours, that's a huge task for the teacher, especially if they are a troubled child. Is that one of the reasons why that's not working?

**Ms McPHAIL** - If you were doing that kind of supervised activity where you have an organised timetable or program, and it is not being done by a suitable provider, then it does require the commitment and time and effort of a lot of people to make it work. If that child wasn't there, the teacher could call the social worker who would then contact

police youth aid or something like that and try to find the person. Yes, that would be the ideal solution but it is the hardest solution to achieve in reality.

**Mrs JAMIESON** - What other resources would the teacher have? I don't know whether you have this in New Zealand but in Tassie we have teachers who are having to supervise medication for a diabetic child or something like that, and then you get lumbered with the task of supervising. Is there any extra resource put into the classroom situation to help with this?

**Ms McPHAIL** - Not specifically if there is a young offender who is on this kind of plan but there are other resources available for schools. Some schools have social workers in the schools, some have resource teachers available to help with the specific needs of some children - all those kinds of things. If you had a child on a plan at a school you wouldn't get specific resources.

**Mr WILKINSON** - The confiscation of motor vehicles; is that for a specified time or can that be for ever and a day?

**Ms McPHAIL** - There's a provision in the act that refers to provisions in another act - one of those.

**Mr HANDYSIDE** - I think there's a 30-day confiscation but under some other confiscation orders the vehicle can be sold. Certainly the whole confiscation of motor vehicles becomes a very cumbersome thing and it's actually managed by another part of our organisation, which is a specialist unit. It can be a real drag.

**Ms McPHAIL** - I know the youths are disqualified from driving quite a bit but I don't think the judges use the confiscation order very much at all.

**Mr KENNEDY** - The Ministry of Justice has this lead policy role, and then we also have an operational focus with the courts - another part of the ministry. The Ministry of Social Development also has a policy role in relation to youth justice. Child, Youth and Family has recently merged with Social Development, so they are part of the one organisation now. So Social Development has a policy function and is running a social work service as well. Child, Youth and Family run all the youth justice residences and employ all the youth justice social workers. Then we have the Police, Health, Education, Department of Corrections.

**CHAIR** - So local government has no jurisdiction at all in the whole justice system in New Zealand?

**Mr KENNEDY** - We work with local government but they don't have a specified role, in the formal system anyway. Some local government authorities are putting quite a lot of resources into youth offending and running programs for at-risk young people who are offenders and those sorts of things.

**CHAIR** - Is that the regional council or the local council?

**Mr KENNEDY** - The local councils.

**Mr HANDYSIDE** - Regional councils are basically responsible for infrastructure rather than the social services.

**CHAIR** - That has been a reasonably new development over the last years, that the local councils are starting to put that resource in?

**Mr KENNEDY** - Yes, more and more. There was a change to the Local Government Act recently -

**Mr HANDYSIDE** - Yes, but there are some like Manukau that have been fairly heavily involved in social services for years.

**Mr KENNEDY** - I think Wellington City Council too.

**Mr HANDYSIDE** - So it is pretty varied across the country.

**Mr WILKINSON** - Can I ask what 'Iwi' is?

**Ms McPHAIL** - It is a grouping of indigenous-minded people and it is in relation to a location or a regional area normally. Iwi is a grouping of the smaller tribes.

**Mr HANDYSIDE** - You will come across that everywhere here and Iwi authorities are now quite a significant political force through places like Tainui. Of course through the Office of Treaty Settlements, being on this floor, they have had quite heavy investment through funding. They have quite major organisations and indeed take quite a lot of responsibility for their people, or at least some of them do. There are something like 20 major Iwis.

**Ms McPHAIL** - There are a lot. They often group themselves into bigger groupings too.

**Mr WILKINSON** - Is that something they decide should occur, or a joint agreement that it should occur, or has it always been there?

**Ms McPHAIL** - Iwi has always been there but their coming together for particular purposes obviously has developed over time with certain things happening in the environment.

**Mr WILKINSON** - Are they brought into this family group conferencing at some stage?

**Mr KENNEDY** - Iwi is a large grouping. You have a hapu, which is a smaller group under an Iwi and which might involve a local town where the tribe is heavily represented, and then you have a whanau group, which is an extended family group. So it would be the whanau that would be involved in the family group conference. Their Iwi grouping might run social services for their people; they might provide alternative education for kids or run a youth justice rehabilitation program.

**Ms McPHAIL** - Iwi is not an entity. Iwi is a way to describe a group of people. As we have our family trees, they have theirs, and it is just a way of describing where you are from and who you are related to. But an Iwi grouping of people will set up a legal body to represent themselves.

**Mr HANDYSIDE** - And invest money, and all that sort of thing.

**Mr KENNEDY** - Some of them have got a lot of money through the treaty settlement process so some of them are dealing with hundreds of millions of dollars, and running quite big businesses. One of their main aims is to put that into social services and the development of young people, so there is quite a lot of activity in that area.

**Ms McPHAIL** - There is provision in the act for when a matter is in court for a lay advocate to be appointed, as a cultural representative for a young person. They can be from any cultural background - but they have not been used very much, I don't think.

**Mr KENNEDY** - The whole family group conference model was really picked up from Maoridom. This idea of involving extended family was really to incorporate those sorts of concepts into the way we work with young people, particularly because so many of the young people are Maori.

**Mr MARTIN** - What percentage of the population is indigenous?

**Mr KENNEDY** - About 15 per cent.

**Ms McPHAIL** - It is a bit higher in the youth population.

**Mr KENNEDY** - There is the whole issue in terms of who identifies as a Maori. On the electoral roll I think you will find that that sort of percentage is around 14-15 per cent.

**CHAIR** - Islanders?

**Mr KENNEDY** - About another 8 per cent for islanders, so heading up to 25 per cent. The youth population is probably higher still because -

**Ms McPHAIL** - They've got a younger population.

**CHAIR** - And a greater concentration in the north island?

**Ms McPHAIL** - The greatest concentration for Maori is in Auckland and on the east coast of the North Island.

**Mr KENNEDY** - There is a separate school system for Maori kids where they speak Maori. It is relatively small but there are lots of schools in small towns where 90 per cent of the enrolments are Maori.

**Mrs JAMIESON** - Is there much dissention within communities with regard to their feeling towards English or not, or is it genuinely accepted?

**Mr HANDYSIDE** - I don't think so, really.

**Mr KENNEDY** - I would think that most European New Zealanders see Maori as very much a part of the landscape.

**Mr WILKINSON** - Especially in rugby teams.

**Mr KENNEDY** - Not just rugby teams - things like music and lots of other things that in fact Maori lead in.

**Ms McPHAIL** - Most of our research when we talk about youth crime in New Zealand comes from police apprehension data, the best available indicator of the overall level of offending. We also draw on data from Child, Youth and Family and from the courts to help explain what's happening. At the moment we are working on a youth justice data set which will try to match up the police data, the court's data, the Child, Youth and Family data so that we can map what's happening throughout the system. At the moment we can't do that because datasheets are all separate.

Approximately 4 per cent of our young people are apprehended by police for offending each year. Total apprehensions have been relatively stable. We know that a lot of young people do commit offences as they grow up, as part of natural growing up, so we would expect that a fairly reasonable number might come to the police attention. Young people account for 15-16 per cent of all police apprehensions - that is just the 14- to 16-year-old group. If you add in children, that comes up to about 22 per cent of all apprehensions.

The majority of youth apprehensions here involve males. Last year they accounted for 77.5 per cent of all apprehensions and the majority were for dishonesty and minor property offences. Last year 48 per cent involved dishonesty and a further 21 per cent involved property damage and abuse.

**Mr WILKINSON** - Do you have an increase in female participation in more violent crimes? There has been an increase in Australia.

**Mr KENNEDY** - We don't really know. The Principal Youth Court judge has said there is, and I think that is what police and judges are experiencing, but we do not have the data to really show that.

**Ms McPHAIL** - If you look at the police apprehension stats, overall female apprehensions are staying stable. Within that there is a very, very small increase in the violent offending, but males are still increasing in their violence at a greater rate than females.

**Mr KENNEDY** - We don't know that apprehensions are reflecting the underlying crime.

**Ms McPHAIL** - No, this is only a certain percentage of what is happening out there. The other thing is that apprehension figures don't relate to individuals; it is just apprehensions, so you don't actually know everything behind the stats. It is just all the stuff that comes to their attention.

**Mr KENNEDY** - It certainly is an issue that has been raised.

**Ms McPHAIL** - Maori youth are over-represented in youth apprehensions. They account for about 22 per cent of the youth population, but 47 per cent of apprehensions. Apprehensions of 14- to 16-year-olds have been fairly stable over the last 10 years, just that little rise in 2003, and 10- to 13-year-olds has actually been going down over the last couple of years. These are just total apprehensions.

**CHAIR** - There would be a reasonably high percentage of Maori police officers in the force, is that the case?

**Ms McPHAIL** - I don't know, but they also have specific area liaison officers who work very closely with youth aid, as well as with the general police, to help them.

When you take into account the population, apprehension rates for 14- to 16-year-olds is quite high, but it is on the way down over the last few years.

**Mr WILKINSON** - Any reasons for that?

**Mr KENNEDY** - It is the good work that we're doing.

*Laughter.*

**Mr HANDYSIDE** - There has been a lot of resource put into dealing with youth offending and wider social problems like truancy - though that's probably not a good example because the latest truancy figures show that it has been increasing.

**Ms McPHAIL** - It started to turn down after the strategy was released, so we can attribute it all to the strategy.

**Mr WILKINSON** - You would be saying, 'That's terrific', but the others seem pretty well the same.

**Ms McPHAIL** - Yes, the others are fairly stable. The only one that has gone up lately is that 17- to 20-year-old age group. We haven't had a look at what's behind some of these trends.

**Mr WILKINSON** - So you could not say to us, 'Do this, we can see the results'?

**Mr KENNEDY** - No, I don't think so. I think you have to be a bit careful about what that's actually showing you too. As I say, apprehensions are one part of a process and are influenced by changes in police and policy and practice and all those sorts of things. The victimisation study is showing that crime is not dropping like that but it is relatively stable as well.

**Ms McPHAIL** - With the distribution of offences that young people are apprehended for -

**Mr MARTIN** - What sorts of crimes?

**Ms McPHAIL** - Shoplifting, theft, burglary, stealing cars.

**Mrs JAMIESON** - And administrative?

**Ms McPHAIL** - They're offences against breaching orders - and other odd things. Violence has been increasing; a few years ago there would have only been 10-12 per cent and now it is up to 15 per cent, so it has been slowly increasing. The reason behind that is that there has been quite a sharp increase in some of the more serious stuff.

**CHAIR** - I notice in yesterday's paper that the total incarceration rate in adult prisons in about 8 500. Is that also reflected in your youth detention numbers at this stage?

**Mr KENNEDY** - The numbers have been going up, but it is a fairly limited capacity.

**Mr HANDYSIDE** - Part of the reason it's not going up is that there's not enough beds. If you ask Ken about that today, effectively the whole difficulty is the overflow into police cells. They absolutely don't want that to happen, so there tends to be a huge attempt to keep the 14- to 17-year-olds out of those cells.

**Ms McPHAIL** - The people in police cells will only be remanded in custody. They won't be sentenced to a custodial sentence. The reason that that is happening is because there have been more people put into the residential beds, which means there is less room for children in custody in those centres, so they end up in police cells.

**Mr HANDYSIDE** - I think there are a bit over 100 beds.

**Ms McPHAIL** - 102 beds, I think.

**Mr HANDYSIDE** - Yes, across the country, but then, as I was saying to you last night, there are also another 120 in units in prisons where they have actually been sentenced for a serious offence and they're under 17. They must be kept in single units. So in total, if you add those two together, you have a bit over 200.

**Mr KENNEDY** - But that's a huge decrease on what we used to have. We used to have several hundred youth justice beds - 500 to 600 at least - before the act was brought in. The act brought in this major policy shift towards diversion.

The other thing is that we, as a society, have changed so much that making comparisons now with the 1980s is difficult because the whole context is somewhat different. We do get asked those questions, but if you go back 20 years I think it is a bit like comparing apples and oranges.

**Mr MARTIN** - How big a problem are drugs?

**Mr HANDYSIDE** - Probably much bigger than it appears there, because that is where the offence has been drug-related.

**Ms McPHAIL** - Those are the specific drug or alcohol offences. They don't have to be offences where the prisoner is under the influence of alcohol at the time.

**Mr MARTIN** - Do you have any figures as to the drug problem?

**Mr HANDYSIDE** - One hundred per cent.

**Ms McPHAIL** - What we do know is that alcohol is still the most widely-used drug and then there are estimates as to how many offences are related to alcohol, which varies between 50 per cent to 70 per cent depending on who you talk to. The police have started to keep data now on offending relating to alcohol and other drug use. I don't have that data. It has only been in the last year that they have started to keep that in a systematic way.



**Mr WILKINSON** - What about the stats with drugs relating to violence? You can see now that because ice, amphetamines and speed are more prevalent, crimes relating to those drugs are more violent in themselves because they are more unpredictable in people who use them. Is that the case here and is some of the escalation in violence caused by the drugs they are taking? The biggest difference in the last probably 30 years in Tasmania, as far as offences are concerned, is as a result of drugs.

**Mr HANDYSIDE** - Certainly in the adult area there has been a lot of discussion and comment about the impact of very serious offending. I am not sure about the youth. I don't think the use is as widespread; it is more alcohol and marijuana. Alcohol in particular, I think, has been identified as a big problem. Binge drinking and that sort of thing by young people, but not so much the hard drugs.

**Mr WILKINSON** - There has probably been an increase in property offences, again because of the drugs and the need to feed their habit.

**Mr HANDYSIDE** - It is certainly an issue, but more so it has been identified in the 17-plus age group.

*Meeting suspended.*

**Ms McPHAIL** - (*Tape started in middle of sentence*)...we don't say, 'You must have this much ancestry', or you have to trace it back because this parent wants this much percentage. You don't have to do any of that; it is just a self-identification.

**Mr WILKINSON** - Does it have to be a recognition by the Maori community as well as being Maori?

**Mr HANDYSIDE** - I think it is an almost impossible thing to deal with. My own partner's ancestry probably goes back about three generations to full Maori, but you would never know she had any Maori blood at all because the colouring goes out so quickly. The interesting thing is that she is one of five and I don't think any of her brothers or sisters would identify as Maori but there is at least one niece in the next generation down who would. In fact, she probably looks more Maori than the others. I think it is kind of which part of your history you identify with. In New Zealand we simply allow people to identify. I think, even if you develop some very sophisticated measuring tool, you wouldn't come up with an answer. If you really identify as Maori and want to accept Maori heritage and values, then fine. If you see European as being the stronger and dominant culture, then that is fine too.

**Mr WILKINSON** - Is there any monetary gain?

**Ms McPHAIL** - No.

**Mr WILKINSON** - To some degree there is in Tasmania. In Tassie they used to call them the 'Tick-a-box blacks'. I am not being racist, but that is what the Aboriginals call them. They say, 'These people aren't Aboriginals, they are only Aboriginals because they want the benefits that flow from that'.

**Mr HANDYSIDE** - I think that would be a difficulty. I think that is because we have so much money now - there are things such as eligibility for scholarships and those sorts of things; I am not quite sure how those get designed but I can't say that they have become strong public issues. You don't hear them debated.

**Mrs JAMIESON** - As I was saying earlier, we have certainly had the situation where our Tasmanian Aboriginal Corporation maybe won't accept somebody who has identified themselves as an Aboriginal and that causes dissension. Where does this leave the kids who are in the offending system? It leaves them without a cultural place to go.

**Mr HANDYSIDE** - Without a homeland.

**Ms McPHAIL** - Ours is not formalised in any way, even with the authorities. My partner is half-Maori and he is registered with his Iwi authority, but you don't have to. Just because you are not registered doesn't mean you are not part of their culture. It doesn't mean you don't have the same ties and rights and everything.

**Mr KENNEDY** - What about, as Rob was saying, if there was scholarship money available?

**Ms McPHAIL** - You have to provide references normally and those references will be checked by the people who are distributing the scholarships. To use the scholarships you normally have to be able to track some kind of ancestry and that will be checked.

**Mr KENNEDY** - We are going to briefly talk about the youth offending strategy because, as I said, it is a main government policy document around youth offending. It was launched in 2002 and has three main areas of focus: supporting the Youth Justice system through better coordination, leadership and information. Rob talked about the Youth Justice Leadership Group, which is an interagency group that Rob chairs. It meets every six weeks and looks at issues to do with the system and how well agencies are working together. That is basically the leadership structure: the minister's group across the top, which is the Minister for Justice, Minister for Child, Youth and Family, Minister for Police, Health, Education. They do not meet very often, but occasionally. On the left there is this group that Rob chairs, the Youth Justice Leadership Group, which is an officials group. On the right is an advisory group, which Leigh works with, which is chaired by the principal Youth Court judge and his other experts. There is an experts advisory group. Underneath that are the youth offending teams. There are 30 of these across the country in local towns and cities. They bring together the local staff of the different agencies - Health, Education, Police - and look at what is happening in their community and make plans around youth justice services. They don't look at individual kids but it is more about how the police are working with schools, education.

**CHAIR** - How often does that happen, Peter?

**Mr KENNEDY** - They meet at least once a month.

**CHAIR** - The youth offending teams do?

**Mr KENNEDY** - Yes, but some of them meet more regularly than that and work much more closely.

**CHAIR** - And then they are reporting back, obviously, to the minister?

**Mr KENNEDY** - Yes.

**Mr HANDYSIDE** - They send the minutes of their meetings to us. Within our team, here in this building, there are two staff who are dedicated advisers to the management of the youth offending teams.

**Mrs JAMIESON** - What is the make-up of the youth offending teams?

**Ms McPHAIL** - You would have core representation from Child and Family, Police, Youth Aid, Education and Health. Your expectation is a manager and a practitioner from each of those agencies. The manager is there to make decisions and the practitioner is there to say how things are working and what is going on on the ground. Some of them also have representation from other groups within the local areas, so they might have someone from local council, an Iwi representative, social service agency representatives. Apart from the core, their make-up is pretty much up to them. We have insisted on what the core has to be and then how they engage with their community, whether they have full-time membership or representation or whether they have meetings with the community, is up to them.

**Mr HANDYSIDE** - One of the new things about youth offending teams and the strategy to some extent is the involvement of Health and Education and the Youth Justice sector. Prior to that, they were somewhat separate. They didn't see themselves as being particularly concerned about youth offending, but the government policy was that they were to become more involved. Now they are represented at a local level on these teams and truancy and mental health problems are seen as integral to addressing youth offending. They have to provide advice and support to young offenders, coordinated through the local team.

**CHAIR** - So in your position, Rob, obviously you are getting a monthly read-out on what is happening around the country?

**Mr HANDYSIDE** - There are seven of us in our team here and I think our interaction with them is quite critical because it gives us a very good, regular update on what is happening right across the country. It forms our policy advice in terms of what is really going on. It keeps us linked to the other agencies as well. I am relatively new to this team because I am relieving for someone who is on parental leave, but I have been very impressed with the way in which the flow of information up and down and around each of those boxes there occurs because it does mean that we have a fair notion of what the judges are thinking. We have a good notion of what ministers are thinking. We know from the youth offending teams what is going on in the country. From the point of view of a small group of people forming policy, that is a pretty good position to be in.

**CHAIR** - How many youth offending teams?

**Ms McPHAIL** - Thirty two - we have two new ones.

**Mr HANDYSIDE** - In your context I could imagine that even if you had six or eight of those around it would certainly inform and give a good view of what is going on.

**Mrs JAMIESON** - We do have similar thing, in a more informal sort of way, where we would have Housing, Health, Local Government and Police getting together monthly or whatever is deemed necessary. But it is not quite as formally set up, to my knowledge.

**Mr WILKINSON** - Who are on these teams?

**Mr HANDYSIDE** - Hopefully you would have the sergeant responsible for Youth Aid and probably one of his constables. You would hope to have a manager from Child, Youth and Family and a social worker. You would hope to have someone from the Mental Health team, from the district health

**Mrs JAMIESON** - It's on page 22.

**Ms McPHAIL** - We have handouts as well.

**Mr HANDYSIDE** - I went to the Northern Territory a couple of years ago and they were particularly interested in setting up youth offending teams. It is a hugely different environment to here but it was one of the initiatives that they thought was really worthwhile.

**Mrs JAMIESON** - Oh yes, it certainly makes sense.

**Mr HANDYSIDE** - There is a little bit of a difficulty because we have these other interagency coordinating forums as well. It takes a while for people to get their head around the fact that our focus is youth offending and not some other thing like care and protection, local government service delivery or recreation and all those other things. The difficulty with Youth Justice is getting it narrow enough and not just being generally services for youth per se. It is really about targeting youth offending.

**Mrs JAMIESON** - Our population base is so different too because we are just talking Tasmania.

**Mr MARTIN** - Just looking through the strategy and the focus areas 3 and 4. How long has this strategy been in place?

**Ms McPHAIL** - It has been in place since 2002.

**Mr HANDYSIDE** - We report annually to ministers on all aspects of the strategy. All the coordination aspects of the strategy are working more or less better across the country. There are some areas that still aren't performing as well as they could be. We are struggling with the Youth Justice dataset, so it is reasonable to say that until the recent capability review, we were probably struggling with some aspects of the things that related to casework with young offenders. There generally is quite a high level of implementation of the strategy.

**Mr MARTIN** - The proposals on page 27, the funded programs.

**Mr HANDYSIDE** - Just looking through those, there is a program known as 'Kipu Wai' (??) which looks at the very young children, particularly those in families in need, which is driven by the Ministry for Social Development.

**Ms McPHAIL** - There is Family Start, Early Years.

**Mr MARTIN** - Are we coming across anyone from those areas?

**Mr HANDYSIDE** - You will probably at the meeting you have this afternoon with the Ministry of Social Development. Child and Family is probably your best place to ask some of those questions.

**Mrs JAMIESON** - Do you feel there is more awareness of early intervention? I agree with Terry, we have to start looking way back at the antenatal stage almost and working with mums at risk before the baby is born and during and after the birth.

**Ms McPHAIL** - It hasn't been a contention-free area either because there have been arguments, even while I was still in the sector, around where you focus. Do you have to go right back to the start or do you focus when they are at school when you can actually reach them? There have been all sorts of discussions about where you put the focus. The strategy acknowledged that it was important to consider and there has been a lot of work around the intervention since that came out.

**Mr MARTIN** - I was involved in a project. My City of Glenorchy identified this area and presented very similar things 13 years ago. The trouble is all the research tells us that this is where we have to go back to if we are going to change society, yet it is in the too-hard basket. I think we are all guilty in terms of funding and measuring results.

**Mr KENNEDY** - I think we struggle with that as well. There are a lot of programs but you could well argue, when you look at the total spend, especially with our 8 500 people, to say, 'Where's the money been spent?'. There is a good case for a much bigger injection in a targeted way with some families at a much earlier stage. I think it is hard politically to make that move.

**Mrs JAMIESON** - It certainly is, and it is very resource-hungry too.

**Mr KENNEDY** - From our point of view, we are interested in targeting those families who have the highest needs, whereas previously I think there was a view that there was more of a universal approach to intervention. There still is in New Zealand -

**Mr MARTIN** - But it needs to be targeted.

**Mr KENNEDY** - Yes. There have been initiatives to identify kids at preschool now who have severe behaviour problems and providing services to them. Various screening instruments have been developed around identifying those kids.

**Mr MARTIN** - I would be really interested in anything on that.

**Mr KENNEDY** - If at the end of today you are feeling that you don't have what you require then we can probably point you in the direction of other sources.

**Mr WILKINSON** - It seems to me that that could easily be a separate focus, full stop.

**Mr HANDYSIDE** - Absolutely.

**Mr WILKINSON** - You can look at it generally and say, 'This, this and this should be done', but it is such a big area.

**Mr MARTIN** - That is my frustration. I have been on the bandwagon for 13 years and that is always where we finish up, the too-hard area. It is just too big an issue.

**Mr HANDYSIDE** - There is almost another visit in that.

*Laughter.*

*(Break in tape - switched on again in middle of sentence)*

... families are most at risk because of the offending outcomes. Previously it was concern about poor health and education but now there is a real focus from the Government as to the early signs of people ending up in prison and targeting those and trying to identify those groups for those reasons. That is quite a big shift, I think.

**Mr MARTIN** - I think if you went back and looked at, say, an 18-year-old offender, for instance, and interviewed the preschool teacher, you would find that that is where you have to change. It is the only way you stop the 18 year old

**Mrs JAMIESON** - But also, you can go back earlier than that. You can go to the playschool groups and things like that and they can identify kids right from the word go. But then of course you are targeting people in a way.

**Mr WILKINSON** - As an example, there was a criminal family in Hobart that I used to act for. The child was two years old and was drinking Coke from a bottle, out of a teat, and the police car pulled up and she said, 'Fuzz, fuzz, fuzz'. At two years of age! Mind you, she has never committed any offences. She hasn't gone into the criminal side, even though her family was so involved. But at two years old, that is obviously what she was being taught.

*(Break in recording).*

**CHAIR** - The issues?

**Mr KENNEDY** - Those were just some of the issues that we are currently working on in our team. They have been raised by various players in the Youth Justice sector. We have already talked about violent offending. There is an issue around the length of orders that the Youth Court can impose. There is a general feeling that they are not long enough, so there is work going on around the possibility of introducing longer orders. We talked about the age of criminal liability or responsibility being lowered. That is something that some people were interested in. The number of young people in police cells is generally regarded as too high. Victim participation in the family group conferences in particular; Youth Justice data. Rob talked about the Child, Youth and Family Capability Review, which is all around improving the quality of social work and family group conferences.

Increasingly, government is providing resources for NGOs to do a lot of the services, and some of them aren't very good at raising the quality of those services.

**Mr HANDYSIDE** - Those are probably our bread and butter day to day, in terms of things that one way or another are under discussion. We have a large conference coming up at the end of the year - a national conference on Youth Justice - and those will certainly be in the frame. The Youth Justice conference is on 26-28 November in Wellington.

**Mr KENNEDY** - Justice doesn't contract with NGOs a great deal; it is Social Development and Child, Youth and Family. Through various initiatives such as training for NGO workers, YOSEC has a tool to allow providers to assess the quality of their own services. It is something that has been developed that they can use to say, 'We are delivering a service that is likely to reduce youth offending'. It is based on the research findings about what is likely to reduce youth offending, so they can run themselves through it and say, 'We are doing things right', or 'No, we're not'. There is a lot of work force development stuff going on. You might like to talk to Child, Youth and Family and Social Development about that.

**Mr HANDYSIDE** - That's pretty much given you the overview of the sector. I think it will help you as you have further discussions going forward to put them in the context of the framework for youth justice here in New Zealand.

**Discussion concluded.**