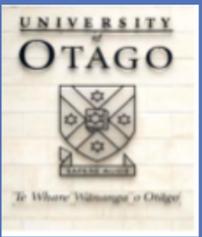


The Potential and Challenges of New Zealand-Style Justice for Youth

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Research Question

New Zealand has been a leader of change and development in youth justice over the last 25 years, heralded with offering a more family-focused and child-inclusive approach. It is also seen as an example of Restorative Justice in Practice – recognizing that: 1) When crime occurs, the focus is on the harm that has been done to people and relationships, 2) When harm has been done, it creates obligations and liabilities and 3) The way forward involves wrongdoers, victims and the community in efforts to heal the harm and put things right.

Research Question:

Accordingly, this project investigates whether New Zealand-style youth justice provides a more culturally appropriate model for youth in the juvenile criminal justice system than traditional youth justice models or those available in other countries might; for example, the United States.

Sub-questions:

- 1) How the FGC model came to be, with a focus on the history and context of the model;
- 2) How one should define or describe the FGC process;
- 3) How to define restorative justice;
- 4) Whether the FGC model is restorative in nature or part of restorative justice;
- 5) How to describe the strengths and limitations to New Zealand's youth justice system;
- 6) Asking this with consideration for what options are available to youth in New Zealand's JJ system compared to other systems;
- 7) How the FGC model's strengths and limitations are reflected in police, legislative or other policies in New Zealand;
- 8) Whether minority youth have different experiences of the juvenile justice system;
- 9) What factors might cause disparate impact or bias if minorities do experience the system differently than other youth;
- 10) What factors need to be addressed to encourage appropriate use of FGCs; and, at a high level; and
- 11) How to define a "good" model of justice for youth.

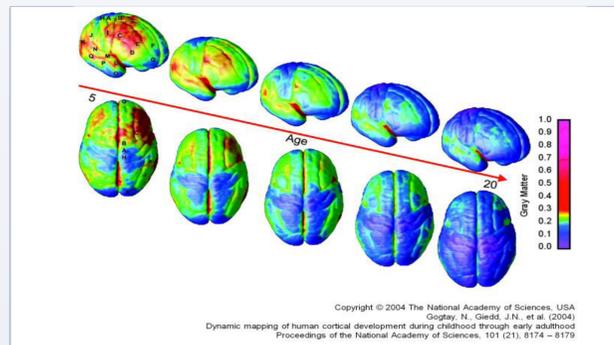
Methodology

This project uses a mixed methods approach to evaluate the Family Group Conference (FGC) model, a "kind of decision-making meeting, a face-to-face encounter involving offenders and their families, victims and their supporters, a police representative and others" in the context of current juvenile justice theory. It makes comparisons to the United State's system of justice to determine whether the FGC model is an effective and suitable tool for responding to youth offending and securing more appropriate, just and equal treatment for all court-involved youth.

Additionally, an integral part of this thesis involves qualitative research, where the author has had the opportunity to interview youth and professionals in New Zealand's youth justice system. This project underwent ethical consideration and the Māori Consultation (engagement) process at the university level. It applies Professor Angus Hikairo Macfarlane's *He Awa Whiria* (Braided River) approach to research, which combines a Western Scientific and Kaupapa Maori approach to research, through engagement, mentorship and application of the principles of Kaupapa Māori .

We Know That Kids Are Different:

Brain Research and Development: Cortical Regions



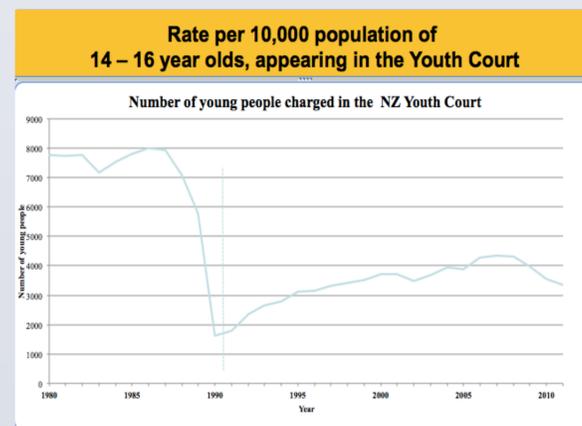
Nitin Gogtay, et al., *Dynamic Mapping of Human Cortical Development During Childhood Through Early Adulthood*, Proceedings of the National Academy of Sciences of the United States of America 1, 16 (2004)

Over the last 15 years, brain research has established that youth are still developing in significant ways. The research has shown that cortical regions of the brain—which deal with judgement, responsibility and wisdom—do not fully mature until the mid-20s. Thus, adolescence is a temporary phase and young people can and do "grow out" of harmful behavior.

New Zealand's Youth Justice System

New Zealand's youth justice system is proscribed by the Children, Young Persons, and Their Families Act 1989 (CYPFA).

As the figure below demonstrates, the Act has proven that there are better, more effective ways to respond to the unique needs of youth and young people who cause harm than a "just desserts" approach.



Today, New Zealand's system of Youth Justice has three main components: Police diversion for less serious offenses, Family Group Conferences and the Youth Court. The FGC model offers a particularly salient example of the country's development.

The Family Group Conference Model

The Family Group Conference is the "lynchpin" of the youth justice system. But how does it work?

The FGC is a meeting where a young person who has offended, their family, victims and other key people like the police, a social worker or youth advocate, talk about how to help the young person to: own up to what they did wrong and learn from their mistakes, find practical ways the young person can put things right and make up for what they did, look at why they offended and find ways to help them turn their life around.

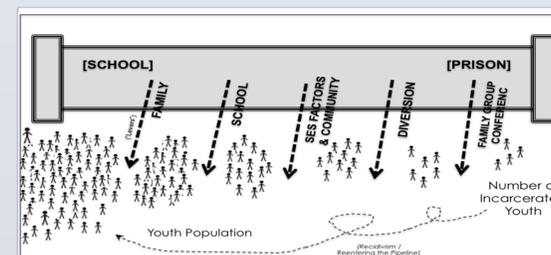
There are four primary types of conferences within New Zealand's youth justice system, all of which are proscribed by the CYPFA. The figure, below, offers a visual depiction of a conference.



The purpose of an FGC is to collectively make any necessary decisions, recommendations and plans in relation to the youth for whom the conference was convened and to empower all participants, all while building upon the resources of the extended family and community. Evidence shows it is effective in reducing recidivism and indicates this model can provide an opportunity to integrate cultural-considerations

The School-to-Prison-Pipeline

The "Pipeline" is also relevant to any discussion of youth justice. The model describes the theory that current school disciplinary (and other youth justice) policies push youth into the legal system too readily, creating a direct school-to-prison "pipeline." Children are funneled out of public schools and into the juvenile and criminal justice systems, often for minor offenses. Research shows that youth of color are disproportionately affected by school discipline.



The figure, above, offers a visual depiction of the Pipeline theory – and the matrix of laws and policies that drive students from the education system into the criminal justice system. Practices and support structures, such as family, diversion programs and processes like restorative justice, might be considered "levers" that can assist youth with exiting the pipeline before they reach prison.

RESULTS

Promising

- Family Inclusion
- Community-Resource-driven
- Label Theory
- Diversion
- Timeframe
- Promotes: Accountability, Resolution, Restoration

Challenges

- Resourcing FGC plans
- Data Restrictions around FGCs
- Understanding of Goals

Potential

- Youth Aid
- Diversion: 80% of cases diverted from court process in NZ Rangatahi Courts (Maori Youth Courts)
- Restorative Practice in Schools

Helpful Frameworks:

- 1) Restorative Continuum, Re-integrative Shaming
- 2) Durie's Te Whare Tapa Whā (Cornerstones): 1. whānau (family health), 2. tinana (physical health), 3. hinengaro (mental health), 4. wairua (spiritual health)
- 3) The Four "Domains" of a Young Persons Life (Chair Model): 1. Home, 2. School, 3. Friends/Peers, 4. Community
- 4) Pipeline Theory
- 5) Flower/Root Model – Need to look below the surface

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For Further Information

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