

● Professor Ian Lambie,  
Auckland, New Zealand







Table 1.

Levels in group progress

Level 0	I am not saying anything and will not cooperate.
Level 1	I can say why I am here (what the charges were against me), and I am also willing to cooperate.
Level 2	I have shown that I want to cooperate by contributing without having been asked. I also helped others to join and participate.
Level 3	I am now ready to tell about all the details of what I did to assault a minor. I will tell about whom I did it to, how I led up to it, and exactly what happened.
Level 4	I can talk about my own sexuality, the good parts and the bad. I have learned to feel o.k. about discussing sex. I also opened up about having been a victim myself. There are no more secrets.
Level 5	I have made a plan to deal with my victim and my perpetrator. I know also how to deal with my sexual desires in the future. I have also received a vote of confidence from the group members.

Smets, AC & Cebula, CM. (1987). A group treatment for adolescent sex offenders: Five steps toward resolution. *Child Abuse & Neglect*, 11, 247-254.



# Chief Science Advisor to the Justice Sector



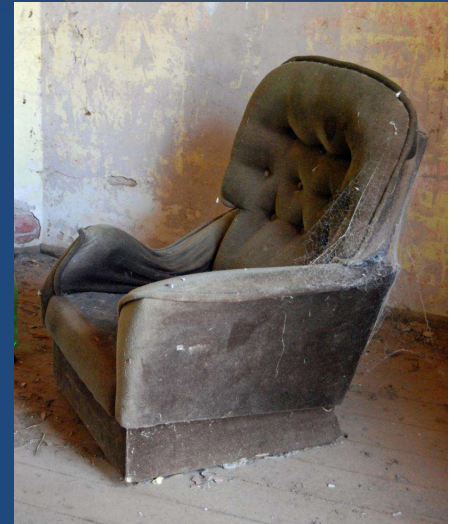
“Promote the public understanding of and engagement with robust evidence”





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- D. What were they thinking: A discussion paper on brain and behaviour in relation to the Justice system in New Zealand.



# THE CHILD WELFARE AND FAMILY COURT SYSTEM

How can we reduce  
the risk of child  
(re)offending?

Indigenous Justice Clearinghouse, Sydney 12 October 2021



- ⦿ *I just went yesterday to a sentencing, an 18-year-old, and I didn't go in my capacity as lawyer for child, I just went to support him because he was my client from when he was 13.*
- ⦿ *He and his 3-year-old brother were uplifted from their mother and stepfather due to physical abuse by both parents. From 13 to 18, I've had to act for him a lot.*
- ⦿ *He's in remand now, up for sentencing for aggravated robbery. He didn't get sentenced yesterday because the Judge didn't have all the information. So, he's in there until October because the sentencing's been put off and that will make it 10 months in custody at [adult prison].*

- ⦿ The first thing I see is these **children's faces**, they are real kids, and each file I have are separate children with histories ...
- ⦿ *I'm looking at him and all I see is this **little boy** and he's saying, "Talía, the longer I'm in here, I'm really scared that I'm going to get **really hardened** and it's worrying because all around me are these **bad people** and I feel like they're taking me down with them."*

***HOW DOES THIS HAPPEN?***



Professor Ian Lambie, Judge Andrew Becroft  
Dr Jerome Reil, Dr Ruth Allen

# A mixed methods study about the system responsible for child offending, supported by the Michael & Suzanne Borrin Foundation, Law Foundation and the University of Auckland



Michael &  
Suzanne  
Borrin  
Foundation



THE UNIVERSITY OF  
**AUCKLAND**  
NEW ZEALAND

# Background

- ⊙ Children who offend are at risk of:
  - Cross-over into the Youth Justice system
  - Persistent criminality
  - A range of adverse outcomes (poor education, health, employment, incarceration)
- ⊙ Overrepresentation of Māori children
- ⊙ Limited focus on children who have offended in research, policy, & practice

# The Project – Part 1

What are the characteristics, backgrounds, and trajectories of children who offend?

- ⦿ IDI analyses
- ⦿ CYRAS case file analyses



# IDI data for children born in 2000

## *Offending Group Frequency Table\**

Offending Group	Rounded Count	Percent
Child only (<14 years old)	750	1.5%
Youth only (14 to 18 years old)	4,698	9.6%
Child and youth offending	1,272	2.6%
No offending	42,219	86.3%
Total number in cohort	48,939	100.0%

*\*IDI findings are initial only, awaiting peer review*

# IDI: Early harm

- Children who offended before age 14 were significantly more likely to have experienced abuse before the age of 5 years, or before the age of 10 years, than were non-offenders (emotional, sexual, physical abuse, and neglect)

# IDI: Background to offending

Children who offended before age 14:

- ⦿ Those who had a **report of concern** before age 10 or 14 were more likely to reoffend as a youth
- ⦿ Those who had an **out-of-home placement** before age 10 were more likely to offend at all ages
- ⦿ Those who were **stood down or suspended** from school before age 10 were more likely to offend as children; before age 14 offend as youth



# OT case files

- ⦿ All children who had offended and categorised under s14(1)(e) from 1 July 2019 to 30 June 2020
- ⦿ 108 children – digital files (CYRAS) – plus 87 paper files
- ⦿ Anonymised case snapshots, that bring the IDI data to life

## The Project – Part 2

How can child welfare and Family Court practices be improved to reduce the risk of children (re)offending?

- Professional interviews & hui
- Whānau interviews



## 33 key stakeholder interviews

- 28 professionals – 7 Māori, 4 Pacific, 14 Pākehā, 1 Other; 13 men, 15 women
- 12 lawyers, 4 police officers, 3 Oranga Tamariki advisors, 3 social workers, 3 psychologists, Kuia, school principal, lay advocate – around North Island
- 5 justice-involved whānau (wāhine) at least 1 justice-involved child (e.g. 5 mokopuna, 2 in YJ residence); plus OT (e.g. 6/6 children uplifted, 3/5 uplifted) etc



## Brief outline of findings to date

1. Child offending is synonymous with care and protection concerns
2. There is systemic failure to promptly and effectively respond to these concerns
3. Lack of resources & services, high thresholds, poor practice, silos, delays, limited monitoring

# “It can be a lifetime for children to get their issues resolved”

- **Chronic delays:** To get to the FGC, to get a hearing, to get specialist assessments, no stipulated timeframes

*So, I've got an **FGC today**. Police referred him under 14(1)(e) because OT weren't taking any action, referred him last year for an FGC, we're getting it today **[11 months later]**. So, what's the problem there? Delay. It's the same with the **Family Court, delay, delay, delay**, not in the child's sense of time, not the action needed when it needs to be. (Lawyer, Jasmine)*

# Family Court: Limited monitoring

- Complex paperwork for children who offend & outdated reference *Child Offender Manual*
- Limited monitoring and poor implementation of plans; limited ability to hold OT to account

*Youth Court* is structured, it's written into the **legislation** that these **reports** have to be before the court within a certain **timeframe**. So, it's rare in the Youth Court that a case will be adjourned for longer than two weeks. That is unheard of in the **Family Court**. I mean, you know, the timeframes are just **pushed right out**.  
(Lawyer, Samantha)



# Family Court vs. Youth Court

- ① Youth Court much better resourced (e.g., regular reviews & oversight, routine assessments, more resources, lay advocates, mentors, communication assistants)
- ① FGCs – professionals not being on the same page, whānau unsure of proceedings, focus on offence, plans not adhered to, barriers:

# Families going in blind

- I didn't understand all the legal or jargon talks and expectations that they wanted, I didn't understand anything. I wanted to know **what the hell was a 333, what the hell was a 101**, what does that mean, what's a court order, you know. (*Whānau, Maria*)
- My experience was horrible. I went in blind, I didn't understand how the system worked. **If it had been explained to me better what the Department [OT] was about and how they could assist to help** and how they could have supported in a positive way and will you allow us to help you and this is what I think I could advise and what are your thoughts? (*Whānau, Kourtney*)
- **They talk to you in Youth Court**, the Judge um that's what I liked about them. They give the parents or the family member of whoever the young person is the **opportunity to speak** which was good. (*Whānau, Maria*)

## Early assistance at every turn

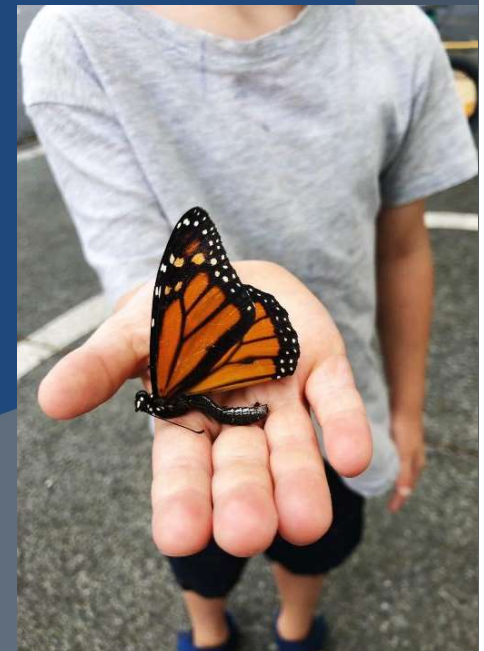
*If they had looked into the police callouts, where I tried to stop the fathers turning up at my house uninvited and disrupting our household and the way that I was trying to struggle, managed and raised the kids, that **they could have been a bit more helpful in the situation instead of labelling me as bad mother**, that I couldn't provide for my children. (Whānau, Kourtney)*

- Earlier involvement from lawyers to keep oversight of cases (i.e., before it gets to court at FGC level)?



## The same factors over and over

When I'm thinking about children who offend, I'm thinking about a range of identifiable factors. The same factors occur over and over again are completely identifiable from a young age and sometimes from before birth and it's engagement across the board, addressing those factors *for as long as it takes*. (Lawyer, Robert)



# Relationships are key

- ◎ The Crossover Courts needs Judges who not only have the training but also the empathy and communication skills to deal with people in that environment. Some of the Judges are stunningly good at that process, some of them just have real empathy and ability to communicate with kids, and others, one kid said to me when she had to go back and see the same Judge twice, “*Could you get her to take off her witch gear?*” (Lawyer, Julie)

# Children who have offended

- 170 children are under Section 14(1) (e) – that's still under 14 years old.
- Why are prevention and intervention efforts to reduce persistent criminality so seldom applied?

**Therapeutic lens and  
being less directive**



**Being truly client focused**





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**child, youth  
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# Children who have offended

Why are prevention and intervention efforts to reduce persistent criminality so seldom applied?

*If countries across the globe are truly going to address the problem of **mass incarceration** in prisons and the **overrepresentation of indigenous and minority populations in prisons**, then we need to look at what feeds the prison population and what can be done to **turn this pipeline off**.*



Currently, *conversations are stuck* on solving the problem by focusing on solutions inside the wire.

All the scientific evidence tells us that these interventions will fail to reduce the prison population and are merely like putting *fingers* in a *leaking dike*.....



Reil J, Lambie I, Horwood J, & Becroft A (2020). Why are prevention and intervention efforts to reduce persistent criminality so seldom applied? *Psychology, Public Policy, and Law*. Advance online publication.

## *Iwi is for life: It's time for by Māori/for Māori*

I would go back to their own iwi because the difference between the two is that one will go and the other one won't, because iwi is yours forever and you're linked through whakapapa, whereas you're not linked through a community programme and I would put the money into that and it would be, and it wouldn't just be about that particular person, it would be about the whole whānau. **That's the difference between programmes and iwi. They're short-term, iwi is for life.** (*Lay advocate, Sue*)

# Kia ora... reflections, questions?

