

# NATIONAL YOUTH CUSTODY INDEX 2017

OUR COLLECTIVE SHAME - THE LOSS OF YOUTH





## Message

The National Youth Custody Index 2017 (YCI) has been prepared, as in previous years, by a group of seven students, Years 11 to 13, from St Thomas of Canterbury College, Christchurch. Our first Youth Custody Index was released in September of 2014. The YCI is our shared contribution to the ongoing debate about the incarceration of young New Zealanders. Our College follows the teachings of Edmund Rice, founder of the Christian Brothers. Edmund and his actions in Waterford Ireland in the 1800's are the inspiration of the core values that our College is built upon (See Appendix A).

This index is designed to provide New Zealanders with an insight into the youth of our nation and how they live their lives in custody. This index is not intended to be a comprehensive and complete assessment of all the relevant statistics and information. This Index has been compiled to provide an avenue by which the public can be educated regarding the rehabilitation of young people on the margins in an effort to create a better society. This index has been created by young people for other young people who have walked a different path in life. They spend the years of their youth behind fences. This Index aims to be a voice for the voiceless, and to help those on the margins of our society.

Our continued journey in obtaining information from different government agencies under the Official Information Act (OIA) remains not an easy one. Once again we have yet to receive a response from Ministry of Social Development (MSD) now the Ministry of Vulnerable Children. We are once again saddened to have had no information released from this agency as in the past We worked through the Christmas holidays to make sure questions were ready to go live end of February 2017.

On a positive note last year the Chief Ombudsman, Judge Peter Boshier, offered resource to assist our annual journey – we accepted and a most grateful.

We finessed our methodology this year to proactively seek good news stories, successes, outstanding processes and procedures which have resulted in good outcomes for youth. In January 2017 we wrote to all sites which held youth in custody including prison youth units, care and protection and youth justice facilities also education providers. We told providers we would comment on the success stories and appendix the full response to the Index. We had one formalised response from the Central Regional Health School. We thank the Principal, Mr Ken McIntosh, for making the effort to provide us with an insight into that schools approach in providing education to youth in custody.

As in previous years we have relied on officially provided information, to put together a picture from alternative sources and used the media to assist us in identifying the journey of youth in custody.

Our relationships have evolved with some agencies. An example is provided by the New Zealand Police. After a difficult few years, we have developed a rapport through good dialogue we abandoned our annual Official Information request as the provision of rich information not only met but exceeded our expectations. A similar relationship also developed with the Ministry of Health. We also enjoyed a better connectivity with the Department of Corrections who provided by a timely and full response to our questions.

Along with adding to previously collective information we have increased the coverage of the YCI to provide a new focus of transition – what options are available, what barriers exist to engagement and what are the success rates. We also turned our minds to youth with intellectual disability who are no longer able to be placed or live in special residential schools, as a result of the removal of the use of seclusion. We understand this practice was judiciously applied for the protection of the youth, other youth and staff – we asked the question where these students are now and how does life for them now.

We once again draw attention to a lack of student voice for Youth in Custody, especially with respect to education. Two of the three education providers are state run schools with Boards of Trustees but unlike other school no student voice exists at governance level.

As in previous years our purpose is to inform the public debate. We do not offer explicit solutions to the issues raised but we do see the results of this year YCI as a sadness. There is no marked improvement in the custodial indicators we measure. These presented results indicate our 'Collective Shame – The Loss of Youth'. Every report or assessment on youth in custody we have accessed, does not provide positive or uplifting reading.

We do seek, no matter how bluntly to be the voice for our brothers and sisters who are locked up for a variety of reasons. We do not see hope that all youth are provided with the necessary individual support and attention required, as a result society continues to create a loss in the potentiality of many youths.

Thank you for your interest.

**Te Aotahi Rice-Edwards (Year 13)**

**Facilitator Youth Custody Index (2017)**

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# 1. The Trends - Youth Prosecutions – The Beginning of the Journey – A Snap Shot:

## Trends in Child and Youth Prosecutions

### Court statistics for 10-16 year olds in the year ended December 2016

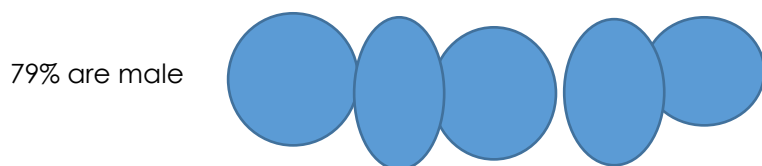
The number of children (10-13) and youth (14-16) charged in court has increased over the last year.

The number of children and youth in court:






Account for less than 3% of all people charged in court in 2016.

The number of young people charged in court has decreased for all gender, age and ethnic groups over the past 5 years.




The majority of young people in court are aged 15 or 16

Age	Percentage
14 years	24%
15 years	31%
16 years	43%

	2015		2016	Change
Maori	1,164		1,272	+9%
European	438		432	-1%
Pacific People	204		207	+1%

Proportion who are Maori has increased in the last 10 Years:


2006		2016
46%		64%

**Most charges are proved, and plans agreed at Family Group Conferences are followed.**

Instead of undertaking a Family Group Conference plan, a small number of children and young people with proceed charge,s receive one of these as their most serious order:

- 126 monetary, confiscation, or disqualifications;
- 99 community work order or supervision order;
- 54 compulsory community programme which may be fooled by supervision; and
- 90 supervision with residence.

**The number of youth receiving adult sentences is less than a quarter of what it was 10 years ago:**

2006		2016
162		33

\*These statistics include all children and young people charged in any court, including Youth, District and High Courts.

**Source: Statistics NZ**

## 2. Education

All education providers for youth in custody across New Zealand, have each provided data on student numbers, gender and ethnicity.

### Who are the Providers of Education for those in Custody?

- **Korowai Manaaki Residence (Youth Justice)**

A youth justice residence located in Auckland which provides 24 hour safe and secure care for up to 40 young people aged from 14 - 17 years. In addition, the residence also provides six placements for young people subject to District Court custodial sentences. Education provided by Creative Learning Scheme.

- **Te Maioha o Parekarangi (Youth Justice)**

A youth justice residence located in Rotorua which provides 24 hour safe and secure care for up to 30 children and young people aged from 12-17 years. Education is provided by Kingslea School.

- **Te Puna Wai o Tuhinapo Residence (Youth Justice)**

A youth justice residence located in Christchurch which provides 24 hour safe and secure care for up to 40 young people aged from 12 to 17 years. In addition, the residence also provides six placements for young people subject to District Court custodial sentences. Education is provided by Kingslea School.

- **Te Au rere a te Tonga Residence (Youth Justice)**

A youth justice residence located in Palmerston North which provides safe and secure care for up to 30 young people aged from 14 to 17 years. Education is provided by the Central Regional Health School.

- **Puketai Residence (Care and Protection)**

A care and protection residence located in Dunedin which provides 24 hours safe and secure care for up to eight children and young people aged from 10-16 years. Education is provided by Kingslea School.

- **Te Oranga Residence (Care and Protection)**

A care and protection residence located in Christchurch which provides 24 hours safe and secure care for up to 10 children and young people aged from 10-16 years. Education is provided by Kingslea School.

- **Whakatakopakai Residence (Care and Protection)**

A care and protection residence located in Auckland which provides 24 hour safe and secure care for up to 20 children and young people aged 10-16 years. Education is provided by Creative Learning Scheme.

- **Te Poutama Arahi Rangatahi Residence**

A specialist residential treatment facility located in Christchurch. The service, which is managed by Barnardos under contract from Child, Youth and Family, provides residential treatment for young men aged from 12-17 years who have engaged in harmful sexual behaviour and who can no longer be treated within their own communities. Education is provided by Barnardos.

## **Proactive Response**

We wrote to all education providers for good news stories on successful practice in terms of the education of youth. The Central Regional Health School was the only provider to respond and it appears that providers are delivering at both its sites (see Appendix B). At Te Au rere a te Tonga, a new approach is in place with a new multi-agency approach 'The One Plan'. We note the review of class structure and the establishment of electives for students. At Epuni we note also a multi-agency approach, a focus on communication and clear intention of returning students back to mainstream education.

## **Remuneration Ranges**

All education providers reported consistent salary ranges. Consistent response were provided by all providers and there are no variances from the previous year in terms of nature and scale of all staff, ranging from support staff to the Principal.

## **Student Numbers**

Across all national sites, across providers, there has been no material increase or decrease in student numbers from 2016. The only material change has being the decision to recommission a mothballed unit at Te Puna Wai o Tuhinapo Residence (Youth Justice) which will result in a small increase in student roll for Kingslea School.

## Support students with mental health needs

There has been no material change to support provided to students with mental health needs. Creative Learning through discussions with stakeholders at a multi-agency level, discuss what supports and considerations can assist with students in their learning. Kingslea School asserts a well-being curriculum, individual plans and data, trauma informed practices, Positive Behaviour for Learning Pilot, Educational Psychologist intern.

CRHS, Te Au rere a te Tonga, report students have access to mental health and AOD services through CYF and Epunu Care and Protection Residence. Further it states:

*CRHS has a large number of students on the health school roll who present with mental health conditions. Staff have strong links with other CRHS teachers who can access the support and expertise of these teachers. CRHS also provides education at specialist mental health units in Porirua – including the new national forensic mental health unit.*

Te Poutama notes each student has an assigned Clinician and all concerns are referred to them. Clinicians access community providers for treatment assistance as required.

## Travel Cost by Schools

This year we thought it would be useful to look at the expenditure of each school on travel. We found the CRHS had all domestic travel with the exception of the Principal attending an international conference and visit to international schools which came to \$ 4,055.08. Domestic travel for the Principal came to \$4,274.99. The travel of all other staff came to \$9,908.79. CRHS also employs a Speech Theorist and total travel costs for this staff member came to \$5,480.91.

### Principal Costs

Domestic Flights	2,982.18
Domestic Taxis	337.15
Domestic Parking	288.27
Domestic Accommodation	217.39
<b>Total</b>	<b>\$4,274.99</b>

### International

International Flights	2,487.64
International Accommodation	1,455.71
International Public Transport	111.73
<b>Total</b>	<b>\$4,055.08</b>



Speech and Language Therapist costs – all travel is domestic

Accommodation	1 163.76
Flights	544.35
Mileage/Parking	3,712.28
Taxis	60.52
<b>Total</b>	<b><u>\$5,480.91</u></b>

In terms of Creative Learning Scheme the Principal costs were all domestic and came to \$984.92.

Travel allowance	881.92
Conference flight	103.00
<b>Total</b>	<b><u>\$984.92</u></b>

The travel costs incurred by Kingslea School were significantly in excess of those of the other two education providers. The Principal spent \$36,632.66 on travel and no international travel is reported in 2016. Overnight accommodation is a significant cost. Further the Senior Leadership team which comprises four Assistant Principals collectively generated a travel cost of \$24,605.13 with the balance of staff incurring \$3,669.23 in travel expenses. Two schools are based in Christchurch, a small site in Dunedin and a site in Rotoura.

Principal	36,632.66
Senior Leadership Team	24,605.13
Board of Trustees	430.00
Teachers	3,669.23
<b>Total</b>	<b><u>\$65,337.02</u></b>

Cost by type of travel expense

Accommodation	21,170.99
Airfares	34,897.56
Motor Vehicle Travel	9,268.47
Public Transport	0
<b>Total</b>	<b><u>\$65,337.02</u></b>

The travel variance between schools is considerable – Kingslea School is the top spender – presumably because of four sites nationally yet two are in Christchurch. CRHS has two sites in Palmerston North and Wellington (Lower Hutt) and comes in with lower costs. Creative Learning Scheme operates two schools in the Auckland region.

We suggest that Kingslea School look at taking advantage of cheaper electronic

\* CRHS's response to our request, the Assistant Principal and teacher travel costs have been put together as the only expenditure for the 2016 year. The expenditure was for a schoolwide meeting with 36 Central Regional Health School teachers which was paid for out of the Assistant Principal's travel allowance.

### Staffing and Operating Budgets

Creative Learning Solutions - Operational Budget of \$1, 515,163

Kingslea –Operational Costs 2016 - \$2,965,440.00

CRHS - Operational Costs 2016 – Not available – still subject to audit.

<b>Total Number of Staff 1 January 2016</b>	<b>Total Staff Left Between 1 January 2016 and 1 January 2017</b>	<b>Total Number of Staff 1 January 2017</b>
CRHS -Te Au rere - 10	3	10
CRHS - Epuni - 5	2	4
Creative Learning Solutions- 18	0	18
Kingslea School - 32	6	31

### Professional Development

All education providers engage in professional development; ensuring good opportunities exist for all staff.

Professional Development across all providers ranged from conferences, workshops and seminars mostly payment was required however a few were provided or attended at no charge.

Creative Learning Solutions had a professional development spend of \$20,946. No practice existed of sharing knowledge with other education providers nor any intentions to do so in the future. It is unclear what professional development was undertaken by the Principal as employment roles were blanked out in the information response to our questions pursuant to section 9(2)(a) of the OIA.

The CRHS had a professional development spend for all staff of \$33,560 and Kingslea School of \$31,853.

A comparison between Principals of CRHS and Kingslea provides a difference. The CRHS Principal attended a course on Non-Maori Roles in Supporting Maori in Residential Care at a cost of \$50.00 (2 hours) and attended pan school Professional Development. In 2016, the Principal of CRHS also went on an international educational trip to attend a conference and visit schools overseas to learn of new practices (cost \$4,055.08).

The Kingslea Principal attended the following courses (and also attended pan school professional development):

Google Apps for Education	\$326.00
SPANZ Principal's Conference – Queenstown	\$1,456.00
NZPF Conference – Auckland	\$2,079.00
Change Management Workshop	\$495.00

**Total** \$4,356.00

### **Sharing the Learnings of Professional Development – Between Educational Providers**

All providers were asked if they currently shared learnings, or practice derived from PD training, courses, conferences both domestic and international with other providers with responsibility for youth in custody. Kingslea School and Creative Learning Solutions both said no - with absolutely no intentions of doing so in the future.

CRHS stated currently there was no sharing but would looking at sharing learnings from the following two courses when concluded:

1. Developing & Inquiry Project – when concluded in 2017
2. Massey University - Literacy Teaching Specific to working with Young Adults in Youth Custody – when concluded in 2018.

### **Recommendations**

1. As stated in our Index (2016) we believe Te Poutama is too reliant on teacher aides and non-registered teachers. We have concerns a 'school' operates on this site without a governance structure. Although regularly reviewed by ERO we don't consider the level of scrutiny sufficient. We believe this deficit raises issues in terms of accountability and transparency. Other providers include Central Health School and Kingslea School have clear governance structures in place and are also regularly reviewed by ERO.
2. A significance variance exists in terms of travel. Perhaps Kingslea School needs to review its practice and employ technologies in order to communicate more frequently to avoid expensive travel.
3. Significance variance exists in terms of Professional Development for Principals.
4. No structure or willingness to share the learnings from professional development (training, conferences et al.) with the exception of CRHS expressing a possible intent. This is disturbing in a very narrow area of education especially in-light of the lack of competition for students with each assured of a roll. We feel there needs to be some formalised collaborative approach between schools so money expended on transport overseas and to conferences to acquire knowledge is shared beyond the school environment to other schools.

### **3. View of the Education Review Office\***

The Central Region Health School (CRHS) caters for students in the North Island region, Whanganui and Hawkes Bay to Wellington. The school operates two sites Epuni Care and Protection Residence and Hikitia te Wairua. These two sites have contributed to significant roll growth. Kingslea School operates on four sites in Dunedin, Rolleston, Christchurch and Rotorua. The school has a sole Principal and Assistant Principals in place at each site. The Creative Learning Scheme (CLS), is a private provider of education under contract to the Ministry of Education (the Ministry). The school provides education at Korowai Manaaki, a Child Youth

and Family (CYF) Youth Justice Residence, located in Manurewa, Auckland and Whakatakapokai, a Care and Protection site. A few teachers have had little or no experience outside of CLS in mainstream schools. The Principal leads both Korowai Manaaki and the neighbouring residential school, Whakatakapokai, and has also had some wider responsibilities within the CLS alternative education programme. Barnardos New Zealand, which like CLS, also lacks a Board of Trustees, operates Te Poutama Ārahi Rangatahi School. Barnardo's is responsible for both the school and the residence, and are the employer for residential and teaching staff. A residence manager is responsible for the residence and the lead educator for the school.

## **Transition**

At Kingslea School (Te Oranga Residential School) there is a reported focus on providing the best outcomes for the individual students during their time in the classroom and when supporting their transition back to mainstream schools. A challenge for the teachers is the variable and unpredictable length of time a young person might spend in the residence. It is reported Kingslea works closely with the residential staff to plan effective transitions out of the residence to another residence, community placement or mainstream school. Teachers communicate with the next school and share the academic information they have gathered. The assistant principal may sometimes communicate with parents, while at other times the communication is with, or through, the young person's case manager.

At another Kingslea site (Te Poutama Ārahi Rangatahi) it appears transition is a shared responsibility between the school and site residential clinical team. ERO states,

*'the school contributes to the discussion about transition with information on the student's progress and achievement of both education and social goals. When an agreed school has been identified the new school staff are given the opportunity to speak to both the clinical and education teams. A progress report on the student is made available to them. The student may also visit the school with support of a social worker. The residential and school staff work together to support a successful transition',*

In terms of successful outcomes all Kingslea sites, including Te Maioha o Parekarangi, unfortunately report, that once the young person has left the residence, the education staff have little influence on future outcomes. *'It is difficult to monitor outcomes when the young person comes from, and returns to, different parts of New Zealand. If young person returns to the North or South Island or the case worker changes the transition plan difficulty arises'.* The same position exists at the Te Poutama Ārahi Rangatahi site where it is reported the school is not usually in a position to assess the capacity of the new school to provide for the student's needs once they have left. *The school usually loses sight of the student once they leave the residence.*

CLS, Whakatakapokai Care and Protection site, (CLS) report that processes to transition students back to the community are well managed in part. *'The school has clear and well documented processes for the transition of students out of Whakatakapokai. The CYF Care Team are responsible for the process. The team leader is part of the Care Team meetings for each student, which take place regularly throughout the student's time in the residence and at the school. The school provides relevant information to the team on the student's progress and achievement'.* However ERO has critiqued elements of the transition process on this site which is similar to the position of Kingslea. Information provided by the residential school is not well used to support students' transition to a new school. It is not always possible for the residential school to have direct contact with the destination school, particularly if the destination is outside Auckland. The final decisions about both residential and educational placement are made externally, at the local level, by the case worker and the local CYF office. The school does not receive information about the capacity of the local school to support the

student and has no involvement in supporting the student once they have left the residence. ERO notes *'Transitions often do not meet the needs of students to sustain their learning'*.

ERO reports transitions out of the residential school are very effectively managed. The overarching goal for every student is to transition back successfully to mainstream education, further training or employment. The school and residence case leaders work together closely to promote positive outcomes for the student. They liaise about the support the student will need in the mainstream classroom. The case is different with respect to the CRHS. With this provider,

*'considerable care is taken to ensure that the student has the best possible chance to continue their schooling. The principal negotiates directly with the new school principal to enrol the student. The team leader and residence case worker often travel with the student to the new school on a familiarisation visit.'*

Further,

*'when the new school is further afield, the wider CRHS network may be used to support the student as they transition to a new school. The school is proactive in supporting the new school to access resources from the Ministry of Education (the Ministry) to support the student's transition to, and learning in, the new school. Transitions are managed flexibly to support individual students' circumstances. On occasions the transition out may be staged with students moving to a Supervised Group Home but continuing to attend the residential school for a time. Another approach has been for the student to remain in the residence for a time while being supported to attend an outside school. In another case, school staff worked alongside a student in their new school following their transition from the residence'.*

However it was noted on occasions working in partnership with the student's site case worker and the local CYF office can be a challenge. *'Decisions made at this level do not always reflect the priorities and recommendations made by the school or residential staff about how to best meet the students' needs'*.

In sum, it appears a lack of knowledge about transition outcomes exists for some education providers. The reasons for this lack of knowledge include geographical distance, and inter-agency communication difficulties, but it appears CRHS have navigated a successful pathway.

## **A Disconnect**

ERO has reported with all providers an apparent disconnect between the provision of education and the residences where children live. With respect to Barnardos, ERO states:

*'Greater consistency of expectations between the school and the residence should assist the development of students' social competency. Processes for transition out of residential schools require review by CYF and the Ministry to ensure better continuity of learning that meets students' needs'*.

A disconnect is not limited to Barnardos. At CLS, Korowai Manaaki YJ Residence, in terms of transition,

*'the final decisions about residential and educational placement are made externally, at the local level, by the case worker, in conjunction with the local CYF office and do not always reflect the priorities and recommendations of the school or residential staff. The school does not receive information about the capacity of the local school to*

*support the student and has no involvement in supporting the student once they have left the residence. Transitions often do not meet the needs of students to sustain their learning'.*

Further ERO reported at CLS,

*'relationships between CYF and school staff are not always positive. Teaching staff spoke about conflicting philosophies between CYF and CLS. They were concerned about a lack of notice and consultation about changes that affect the school, particularly by site social workers. On occasions their teaching choices are limited as residence staff will not approve courses that they deem as being unsafe. Some such courses are available at other Youth Justice facilities'.*

ERO also reported from a different perspective with respect to CLS, *'some residence staff expressed a lack of confidence in the quality of teaching. The residence staff do not actively support the students' learning programme. Their role in the classroom is one of containment rather than supporting the learning'.* At the CLS site of Whakatakapokai Care and Protection ERO note many of these students have complex needs and behaviours that require teachers and residential staff to support each other to provide consistent approaches that fully engage student in learning. *'Concerns identified about relationships during the review suggest that further work is needed to strengthen relationships between residence staff and school staff'.* Further, *'residential staff do not actively support student learning. Their role in the classroom is one of containment rather than supporting the learning. They are concerned that on occasions teachers failure to be able to engage students results in them being returned to the residence for CYF supervision'.*

At Kingslea School site, Te Maioha o Parekarangi, difficulties are reported with staff at the school working professionally with CYPS staff. ERO stated

*'on occasions the CYF site social worker and school roles come into conflict. The CYF site social worker sees it as their role to provide information to the school and broker the school placement. However the school believes that direct communication between the residential school and the student's new school is better for the success of the student and therefore sometimes step beyond their formal role to negotiate a place in a school for the young person. On one occasion the assistant principal worked hard to establish a student in a school only to be undermined by the CYF site worker who spoke negatively to the potential principal about the young person. The various roles should be clarified to make sure the most appropriate person supports the student to successfully continue to engage in learning'.*

At Kingslea's Te Poutama Ārahi Rangatahi Site *'greater consistency of expectations between the school and the residence should assist the development of students' social competency'.*

There appears to be a variance in the relationships enjoyed at CRHS. ERO reports strong and positive relationship.

*'Leaders have established effective working relationships with medical staff, Youth Justice and CYF personnel, working with representatives of these organisations to develop, regularly review and set goals for all students. The school reports that 90% of goals set for students within this process are achieved'.*

The relationship between CYF and teaching staff is strong with a focus on the student. Both groups show respect for the contribution the other makes to the students' wellbeing. Teachers work closely with CYF staff to exchange information so as to better meet students' needs. Daily and weekly planning is shared with CYF, and the IP and the overall CYF plan for the student

closely align. They work together on off-site activities such as gym attendance and sports. They participate in joint assemblies to recognise students' achievements. It is reassuring to learn that there is work for improvement but it is voluntarily named as such. The residence manager stated '*...that she wants to promote more consistency between the school and the residence on approaches to behaviour management*'.

In sum, with the reported exception of one educational provider, a disconnect exists between well paid professionals from two agencies, education and CYPs, and it is simply not good enough where youth in custody are missing out as a result. This is the same result reported in our Index (2016). It is hoped the new Ministry of Vulnerable Children may make a material difference.

## **ERO Recommendations**

We have selected two recommendations to highlight from the many ERO have made to education providers we think they are material to Youth in Custody.

It is of concern that ERO has recommended one Principal to spend more time on site.

*'The principal has had a wide range of roles within CLS, including responsibilities in their alternative education programmes. In 2015 she spent little time in the school because of other CLS responsibilities. This has impacted on the time she has had available to provide leadership of teaching and learning in the school. The board has also identified this and has reviewed the responsibilities for 2016. Strong leadership is required to develop staff capability and raise the quality of teaching'*.

At Kingslea School, Puketai site, positives are noted in developing a strong focus on building positive relationships with, and between, students. Strategies include:

- Personally greeting students at the door each morning
- Meeting as a group to list all the positives at the end of the day
- Students being encouraged to write positive affirmations in their individual 'chat books'
- Teachers and students writing positive comments about each other regularly and dropping them in a bucket

However ERO reports on the teachers' acknowledgment that they do not have the knowledge and expertise to provide a culturally responsive curriculum. Several attempts to engage external expertise have been unsuccessful. '*This is an area that requires further whole-staff professional learning and development*'.

As we have earlier recommended with respect to sharing knowledge around professional development between education providers there also needs to be greater cooperation between agencies. Education providers and CYPs staff continue not to work effectively together in the interests of their shared youth. ERO provides clear evidence of this dysfunctional relationship across providers and nationwide.

Just one example of where working together could well enrich youth. ERO reported a lack of a culturally responsive curriculum at one site. Whereas ERO reports that CRHS has '*a significant majority of students within the residential youth justice sites identify as Māori with a smaller number identifying as Pacific. Staff at these sites are successfully using cultural contexts to develop students' interest and reconnect them with learning. Culturally responsive practices are strong within the school sites. Across the wider school there is an ongoing focus on strengthening these practices, programmes and teacher understanding*'. Could there not be some sharing of practice between sites not just from the education providers but from the agency staff of CYPs.

\*ERO reports for all providers carried out in 2016.

#### **4. Where is the Voice of Youth in the provision of education?**

We note that the Office of Ombudsman and Children's Commission monitor the well-being of Youth in Custody and complaint processes and procedures are in place, but we ask is there genuine voice of youth in custody. We acknowledge custody by its nature requires suspension of rights held by others in society but we wonder if more can be done.

Children's Commissioner, Andrew Becroft, in an article in a New Zealand School Trustees Association publication (31 January 2017) asked What Do Children Want from School. He talked of the review of the Education (Update) Amendment Bill. He hoped the proposed changes empower Boards of Trustees to further empower children rights to an education – developing their personalities, talents and mental and physical abilities to their fullest potential as described in the United Nations Convention on the Rights of the Child, Article 29.

The state run providers do their best, with an amalgam of ministerial appointees, staff representative and co-opted trustees. The Kingslea Board of Trustees '*seeks innovative solutions and scrutinises carefully the effectiveness of the school*'. At its Te Poutama Ārahi Rangatahi site it is reported, '*students enjoy a rich and varied programme that caters for their needs and interests, with an appropriate balance between one-to-one teaching and cooperative group learning. Engagement is maximised by teachers actively involving students in decisions about their programme*'. But engagement is not the same as youth having a representative capacity let alone having opportunities for consultation.

It appears that one provider can't achieve a basic level of engagement. ERO reports that a CLS site (Korowai Manaaki) the school collects student voice on a termly basis '*but it is not clear that this has any impact on teaching practices*'. Although students have identified some of the areas requiring development that ERO had noted, however student goal setting changes haven't occurred as a result.

We note that two providers of education don't even have a Board of Trustees in place which in our view is a significant issue in terms of good governance, accountability and transparency – presumably the only review is provided by ERO on a three yearly cycle.

The Commissioner challenges Boards of Trustees to make sure they hear from children in their decision making - Article 12 states children should have a say in matters which affect them (Article 12). Their voice should help to shape the education system. Often consulting children is a tick box exercise. We are of the view that with respect to youth in custody representation is not provided at governance level for the two existing providers with Boards of Trustees; with this deficit, we feel it is unlikely there would be any scope for genuine consultation. We feel a level of engagement is very important for those who lack other key freedoms – we also look forward to seeing how education providers '*...earnestly and genuinely seeking out children's views factoring them into decision making and reporting back to them when decisions are made*'.

#### **Recommendation**

We recommend that student voice and consultation occurs, in line with the principles suggested by the Children's Commissioner. We think if there was a group of youth who are the most marginalised and vulnerable it is those in custody. Although forfeiting some freedoms and liberties as a result of crime, education is a fundamental right and equaliser in a civil society for some youth to lack voice or input into decision making is wrong.



## 5. Youth in Prisons

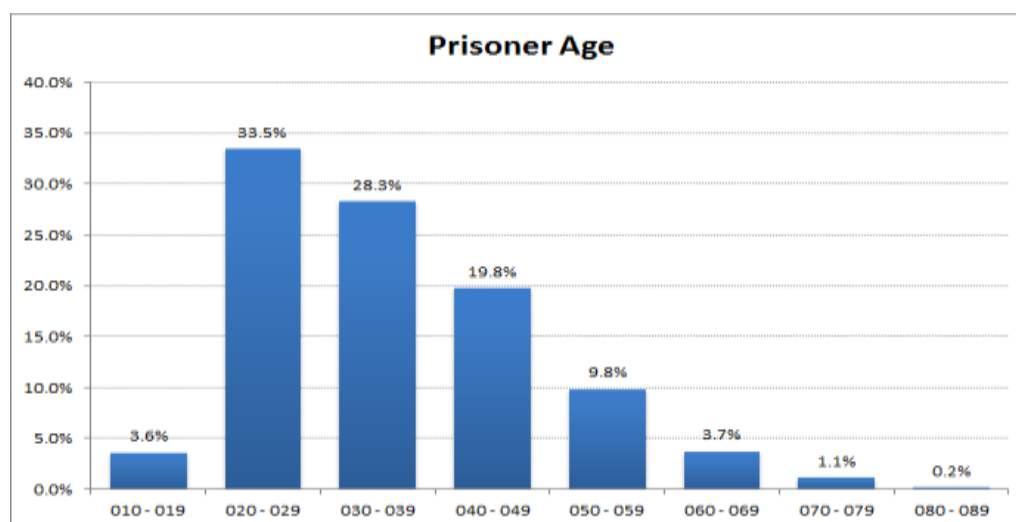
The Department of Corrections (Corrections) state its overarching vision is to create lasting change by breaking the cycle of reoffending. In order to support this goal, we provide young people in prison with a wide range of rehabilitation and reintegration initiatives aimed at assisting them to lead an offence free life on release from prison.

Youth units are located within the main grounds at Christchurch Men's and Hawkes Bay Prisons, but are entirely separate from the adult population. The Waikeria Prison Youth Unit was repurposed as a high security unit in 2015, as the youth muster, which had been steadily declining nationally, no longer justified three youth units. The need for space for adult prisoners has increased recently so it was believed that the unit would be more useful as a high security unit for adults.

### Re-Offending Rates

In terms of the percentage of prisoners, across different age groups, youth makes up a very small percentage of 3.6% of total inmates.

### Prison facts and statistics - December 2016



In the Corrections Annual Report, 2015/2016, it was noted at population level the rate of re-offending over the past five years for all people aged 16 and over has steadily declined, importantly with even steeper decline in the 16 to 19 population. The re-offending rate per 100,000 by national population aged 16 years and over: 30% reduction. Further, the re-offending rate per 100,000 by national population aged 16 to 19 years: 53% reduction.

Young prisoners in the youth units are provided with a structured and active daily routine, including approximately 30 hours of rehabilitative programmes, vocational training, and long education each week.

School work is mandatory for youth under the age of 16.

Our Youth units are established with the aim of creating a safe developmental environment for all imprisoned male youth under the age of 18, and young adult males aged 18 and 19

years deemed vulnerable, in a manner appropriate to their age, level of maturity, and statutory requirement.

### **Mental Health Needs of Youth in Custody**

On 1 February 2016, Corrections is reported to have introduced a new assessment which measures young people's vulnerability and risk to others, to help determine the best placement for them within the Prison system. The new assessment is the Test of Best Interest.

Corrections report that interventions and assessment processes are in place for the management of physical and mental health risks for youth in custody. In addition to risk assessments carried out for all prisoners entering a prison, all males entering prison who are aged 18 and 19 years of age are assessed using a 'Prison Youth Vulnerability Scale' to determine vulnerability to suicide or self-harm, and risk of victimisation within the mainstream prison population.

All males entering prison who are aged 18 and 19 years of age are assessed using a 'Prison Youth Vulnerability Scale' to determine vulnerability to suicide or self-harm, and the risk of victimisation within the mainstream prison population.

All prisoners aged over 18 are screened as part of the arrival process to assess if they have mental health needs. If they have a mild to moderate mental health need, they can be referred to the prison doctor or receive counselling, including if eligible, cognitive behavioural therapy.

All prisoners with serious mental health needs are managed in partnership with their local Regional Forensic Mental Health Services.

In acute cases, prisoners may be transferred to a secure forensic mental health facility. These services are managed by District Health Boards.

### **Self-Harm**

In the 2013/14 to 2015/16 financial years, there have been no self-harm, - threat to life incidents in either youth unit. Self-harm – threat to life is defined as prisoners who were involved in self-harm incidents where they would have been unlikely to survive without staff intervention.

As with last year we asked the question: How many youth are identified as having a mental health issue having being admitted to a youth unit?

*'The Department does not centrally collate data relating to youth who are identified as having mental health issues. In order to identify this type of information, we would be required to manually review a large number of files'.*

This response is a concern given the relatively low numbers of youth within the prison system each year and the stated importance of mental health for youth in custody.

### **Complaint procedures for youth in Prison Custody**

All prisoners are able to raise concerns or complaints via the internal prisoner complaints system using a complaint form. This process applies whenever prisoner, or other person acting in the interests of a prisoner, formally draws attention, either orally or in writing, to any action which the complainant wishes to have investigated or reviewed.

## Complaints Made @ Each Youth Unit

	Hawkes Bay Prison	Christchurch Men's Prison
2015/16	3	0
2014/15	1	1
2013/14	6	2

### Subject of Complaints:

-Request for Information -Staff conduct and attitude -Prisoner Welfare -Prison Conditions -Food Service -Communications

All complaints are reported to be resolved by Corrections. Further information declined under s9 (2) (a) OIA and Privacy Act.

As in previous years we asked for copies of summaries of inmate feedback from youth units. The response was:

*'The Department does not centrally collate feedback provided by prisoners who have spent time in youth units. The information that you request does not currently exist in a form that can be readily supplied to you, and would instead require initiation of a project to extract, analyse and present the data in the form requested'.*

The food budget remains at approximately \$5.00 per day and the menu is rotated on 4 weekly basis. Approved grocery items can be purchased including phone cards, sweets, fruit, tea bags, instant coffee, cordial, biscuits, snacks, stamps, writing material, greeting cards et al. Family and friends of prisoners can deposit money in to a prisoner's account. A youth may have a maximum of \$200.00 in an account, and generally may spend no more than \$70.00 per week.

### Rights of Youth in Custody

When an offender is first received into custody in a prison they undertake an induction. As part of this process, it is explained to them the policies and procedures of the prison.

All prisoners including youth have the right to be treated with humanity, dignity and respect while in prison. There are a number of human rights standards in place to ensure safe detention. All prisons, including Youth Units are monitored by the Office of the Ombudsman who reviews the safety of all people in prison, under their role as a National Prevention Mechanism (NPM). This role is provided for by the Crimes of Torture Act which gives effect to New Zealand's obligations under the United Nations Operational Protocol to the Convention against Torture (OPCAT). The purpose of OPCAT is to establish a system of regular visits by independent international and national bodies to place of detention, to help prevent torture and other cruel, inhuman or degrading treatment or punishment. The Ombudsman's role as a NPM is to examine, at regular intervals, the conditions of detention and treatment of detainees, and make recommendations for improvement.

## Incidents

### Assault – Incidents – Christchurch Men's Prison and Hawkes Bay Regional Prison Youth Units for 2013/14 to 2015/16 financial years

#### Christchurch Men's - Youth Unit

Incident Category	2013/14	2014/15	2015/16
Prisoner/Staff – Non Serious	0	3	2
Prisoner/Staff – Serious Assaults	0	0	0
Prisoner/Prisoner – Non Serious-Non Injury Assaults	8	19	18
Prisoner/Prisoner – Serious Assaults	0	0	1

#### Hawkes Bay Regional Prison – Youth Unit

Incident Category	2013/14	2014/15	2015/16
Prisoner/Staff – Non Serious	2	6	5
Prisoner/Staff – Serious Assaults	0	0	0
Prisoner/Prisoner – Non Serious-Non Injury Assaults	7	27	18
Prisoner/Prisoner – Serious Assaults	0	1	0

## Average Stay in Youth Units

For the 2015/16 financial year – 32 offenders were released from a prison sentence and were under 18 at the time of release. These individuals served an average of 204 days in prison at the time of release, this is lower than the average of 360 days in prison for prisoners aged 18 or over.

## Occupancy Rates and Costs – for previous two years

### Average occupancy rates of youth units at Hawkes Bay Regional Prison and Christchurch Men's Prison for 2013/14 to 2015/16 financial years

	Hawkes Bay Regional Prison	Christchurch Men's Prison
2015/16	22	31
2014/15	21	33
2013/4	17	28

## Annual Operating Costs of Youth Units (Units & Youth-specific Programmes & Education)

	Hawkes Bay Regional Prison	Christchurch Men's Prison
2015/16	\$1,263,349	\$1,504,221
2014/15	\$1,412,168	\$1,370,692
2013/4	\$1,366,172	\$1,426,218

### Transparency and Accountability

We are advised by Corrections that all Youth Units are monitored by the Office of the Ombudsman who reviews the safety of all people in prison, under their role as a National Preventive Mechanism. Previous visits have been carried out with representatives from the Office of the Children's Commissioner.

#### Programmes Provided to Youth in Prison Custody

- A range of rehabilitative and reintegrative programmes available to Youth in Custody include:
  - Young Offenders Programme or Mauri Toa Rangatahi: our two medium intensity programmes;
  - Education: literacy numeracy etc., provided by internal tutor, Te Wangana o Aotearoa, or the Open Polytechnic;
  - Online Learning: (specific website approved by the department); and
- Trades training: either onsite with our own instructors or delivered by external facilitators such as CPIT;
- Alcohol and other drug intervention;
  - Bible Studies;
  - Problem solving First Aid;
  - Farming courses;
  - Forklift & Drivers Licence programmes;
  - Parenting programmes;
  - Tikanga Maori interventions; and
  - Life-skills.

#### Further Corrections report:

Young people are encouraged to take advantage of educational and employment opportunities available to them, including obtaining qualifications. Young people have their educational needs assessed within seven days of being received into the unit. Young people with identified literacy needs will receive specific tuition.

A young person's educational needs will be identified via their initial education assessment that informs the case management process and forms part of their offender plan. Specialised case managers work closely with individual prisoners to create their offender plans. The plans contain the specific interventions each prisoner needs to address the factors that contribute to their offending, including education, motivation, background and circumstances and

potential employment skill deficiencies. Custodial staff will provide encouragement to undertake educational activities through active management.

### **Reported Innovation**

The Department is working toward Youth Units being places of exceptional engagement and providing a world's leading rehabilitation and reintegration services. Part of this is to see Youth Units as Centres of Excellence.

Alongside addressing criminogenic needs of a young person to support a reduction in reoffending, we are also offering a range of life skills to support a young person successfully living independently this includes cooking, budgeting et al. We are also partnering with Youth and Income to streamline a young person's referring to Youth Services for benefit and employment support upon release.

### **Provision for Female Youth in Custody**

In New Zealand there are no specific Youth Units for female prisoners as the number of young women prisoners in custody is extremely low. Corrections report it is believed that housing these young women with others in mainstream prisons is in their best interests and therefore complies with our responsibilities under United Nation's Convention of the rights of the Child (UNCROC).

Corrections report that due to low number of young women prisoners, specific provision for young females is not warranted. 'We believe that housing these young women with others is in their best interests and therefore does comply with our responsibilities under the (UNCROC) to place a young person in line with their best interests.'

Corrections cite the academic article by Goldingay (2007) to justify its lack of provision for a specific young female prison unit. The article noted at present in Aotearoa New Zealand, young female prisoners aged 14 to 19 years are either mixed with adult prisoners, or kept separate from them within the mainstream environment. Due to the practical difficulties of keeping young women separate in this environment, they may have few opportunities for participating in rehabilitative and therapeutic programmes or education, and may face extended lock-up hours. Young male prisoners aged 14 to 17 are treated differently: for example, they are placed in Young Offender Units, where they are provided with age-appropriate services and interventions. Youth female youth are also at risk of undue influence and sexual assault under the current practice – there is simply not equality between genders.

### **Recommendations - Corrections**

Separate facilities for female youth in accordance with the United Nation's Convention of the rights of the Child (UNCROC).

National figures on the number of youth in prison with mental health issues on admission or accessed during a custodial sentence.

Providing clear information on feedback from youth inmates on their treatment and rehabilitative pathway as experienced in a Youth Custody Unit.

## **6. Youth with Intellectual Disability**

In the last quarter of 2016 the Minister of Education announced that selection or time out rooms were not to be used any more within New Zealand schools. Although we don't have any issues, or indeed specialist knowledge concerning this directive, we were interested to see where youth with intellectual disability, who exhibit behavioural issues, were to be once cared for in special residential schools where students live and are schooled. The new directive having

removed a key component to behavioural management also may remove their ability to stay in such an environment i.e. their behaviour, without the use of seclusion, may create a risk to other students and/or staff.

To better understand this issue we formally approached each District Health Board (DHB) with official information requests and the Ministry of Health (MoH) to try to enhance our understanding of youth with intellectual disabilities, previously looked after in these schools, now resident within DHB inpatient units or facilities funded by DHBs.

We wanted to learn what do their lives now look like in terms of the usage of seclusion in these environments and if medical or physical is employed and how often.

A variance of responses were received. Many DHBs responses were clear that these do not have youth with intellectual disability within in-patient units or fund non-government organisations to house these youth. Some DHBs did cater for this cohort but experienced no increases in numbers as a result of the Minister of Education's Directive. An example being Canterbury DHB response to our question -

Question: In November 2016, the Minister of Education, directed that seclusion rooms were not to be provided for youth within mainstream schools or special character schools. Can you please provide details of any increases in number of youth presenting with intellectual disabilities exhibiting behavioural problems, after this date, and explain how these behaviours are managed within your DHB or DHB funded provider?

Response: There has been no increase in the number of youth presenting with intellectual disabilities.

Nelson Marlborough DHB also noted with Salisbury Social Residential School enrolment numbers dropping the likelihood of increased admissions was significant reduced.

As a result of asking questions around youth with intellectual disability in the care of DHBs we decided to explore this group, the numbers on what legal basis they were held, and what was their lives like and were they subject to seclusion which is now banned in school for all youth including those with intellectual disabilities.

We initially asked the Ministry of Health, and learnt they fund services to support the administration of the Intellectual Disability (Compulsory and Rehabilitation) Act 2003 (IDCC&R) Act. The ID(CC&R) Act provides for the compulsory care and rehabilitation of individuals with intellectual disabilities (ID) that have been found unfit to stand trial on, or convicted of, an imprisonable offence.

People who have a dual diagnosis may also be detained under the Mental Health (Compulsory Assessment and Treatment) Act 1992 (MH(CAT) Act). However individuals detained under the MH (CAT) Act would have mental illness as their primary diagnosis. For the pursue of this (our) request, we have only included those detained under the ID (CC&R) Act.

The total number of youth under the ID(CC&R) Act as of 10 March 2017 was eight. The demographic break down of these eight youth and the providers which are providing the services:

<b>Gender</b>	8x Males	
<b>Age</b>	3x 16 year olds	5x 17 year olds
<b>Ethnicity</b>	6x Maori	2x European

**Providers:**

- Ideal Services;
- Capital and Coast District Health Board;
- Canterbury District Health Board; and
- Southern District Health Board.

Chief Advisor, Disability for the Ministry of Health, Dr Amanda Smith wrote a follow up email to us: *'I am very impressed with you exploring this issue which is an extremely important one for our young disabled people'*. The OIA has been responded to but I thought I would provide you with a few additional points.

- Young people may end up in residential care for a number of reasons usually due to a break down in their family situation which **may be contributed to by behaviour at school**. Young people may end up in residential care under S141 of the CYPFA or in fact a range of other sections but these are not considered to be under compulsory care.
- The information we have provided specifically related to the ID(CC&R) Act which is for people with intellectual disabilities going through the criminal justice system. I just wanted to add a word of caution that no direct link can be made between the decision to no longer have seclusion room and people coming under the Act. The same could be said of the close down of particular schools.
- Having said that it would be safe to say for the small number of youth we have under the framework that they have largely had a negative experience of school along with other factors that have led to them being involved in the criminal justice system.

We also asked the Canterbury DHB a wider questions including youth with mental health issues around seclusion.

Question: Please provide for the last two years, on a month by month basis, the instances where youth (with either mental health or intellectual issues) have been put into seclusion or withdrawn from other patients as a consequence of poor behaviour.

Answer: Seclusion is not used as a consequence of poor behaviour. It is only used when a young person's risk to themselves or others has been unable to be managed in any other manner.

At the Canterbury DHB average duration of a seclusion episode over the past two years was reported as 4 hours. The Table (below) shows a count of the individual instances of seclusion used for young people (under 18 years old) with an intellectual disability at the Canterbury DHB:



Table\*

Mar-15		Mar-16	
April-15	2	April-16	
May-15	6	May-16	
June-15		June-16	
July -15		July -16	3
Aug-15		Aug-16	6
Sept-15		Sept-16	7
Oct-15		Oct-16	4
Nov-15		Nov-16	3
Dec-15		Dec-16	3
Jan-16	1	Jan-16	
Feb-16	4	Feb-16	1

\*Note: Number of incidents of seclusion does not mean unique patients as some may have had multiple incidents of seclusion.

### Physically Restrained by Staff Members

We asked the Canterbury DHB to provide information on instances where youth have needed to be physically restrained by its staff members. The response was *'safety 1st, our incident reporting system, does not report if the person has an intellectual disability therefore this information cannot be provided. We are therefore declining to answer this question under section 18(g) of the Official Information Act i.e. we do not hold this information'*. This was a disappointing response as we thought with such low numbers of youth appearing with intellectual disability (sole – i.e. no dual diagnosis of a mental health issue) were low and therefore the information should be readily available.

We learned from the Canterbury DHB youth with intellectual disability were provided information about their rights during the admission process or at the earliest appropriate opportunity. This orientation is reported to include information on the Code of Health and Disability Services Consumers' Rights and the NZ Advocacy Service. Posters are displayed in patient areas in all wards. Each inpatient youth is allocated a clinician with whom they are working for the shift. There is an emphasis on the clinician establishing a therapeutic relationship, thereby enabling the opportunity to raise concerns about treatment. An inpatient youth can, as with all other inpatients discuss their concerns with the Charge Nurse Manager. The Clinical review process requires staff to discuss any treatment related concerns with the consumer and their family whanau.

Inpatients subject to the MH (CAT) Act can request the assistance of the District Inspector at any time. Feedback forms and suggestion boxes are made available in all units for people to raise issues and provide feedback to the Customer Service Coordinator. Responses to the person making the complaint are responded to in accordance with the Code of Health and Disability Services Consumers Rights.

The Canterbury DHB refused to provide the cost per night for food for youth inpatients due to commercial considerations. It did note that Canterbury DHB receives revenue of \$795.82 per bed night for provision of youth inpatient services.

The following requested information was provided on the average stay of each presenting youth and readmission rate within a period of two years.

**Average length of stay and number of subsequent readmissions for each discharge**

Month of Discharge	Number of Discharges	Average Length of Stay (days)	Number of Discharges/Subsequent Readmitted	Percentage readmitted as at 16 March 2017
March -15	2	2	2	100%
April-15	7	2	7	100%
May-15	12	2	9	75%
June-15				
July-15				
August 15				
Sept -15				
Oct-15				
Nov-15				
Dec -15				
Jan-16				
Feb- 16	1	36		0%
March-16	2	61	1	50%
April-16	1	1		0%
May-16				
June-16				
July-16	1	146	1	100%
August-16				
Sept-16				
Oct -16	1	63		0%
Nov-16	2	48		0%
Dec -16	1	2		0%
Jan -16	1	8	1	100%
Feb -16				

Note: 1. for later discharges a smaller amount of time has passed in which they could be readmitted.

The DHB reported thirteen young people with an intellectual disability were discharged during this period, some had multiple admissions.

This is an area we intend to monitor and map as we don't think we have fully seen the impact of the directive to remove the practice of seclusion within schools and it knock on effects – i.e. where are these youth now placed and how do they now experience life. No marked changes in admissions or new patterns have emerged which is very reassuring,

**7. Youth in Care and Protection and Youth Custody Residencies (MSD)**

CYF is the government service charged with protecting children. CYF was a service arm of the former Ministry of Social Development (MSD) now the Ministry for Vulnerable Children, Oranga Tamariki. It has legal powers to intervene to protect and help children who are being abused or neglected or who have serious problem behaviour, or have committed offences. It employs

around 3000 staff who delivers services from 76 nationwide sites. With around 1000 front line social workers, CYF is the largest employer of social workers in New Zealand. In addition, CYF supports around 45000 caregivers who provide foster care or respite care to children around the country.

The Ministry for Vulnerable Children, Oranga Tamariki has ultimate responsibility for both Youth Justice and Care and Protection Residences.

As in the past four years of this Index – the Ministry has failed to respond within the legally prescribed time frames and we have been waiting one month for a response. They had requested one extension. We have contacted the Minister responsible for the Ministry for Vulnerable Children, Oranga Tamariki advising her of our wait and the failure of this agency to meet statutory imposed time frames. We continue to await a response.

### **Change from the Ministry of Social Development (MSD) to the Ministry for Vulnerable Children, Oranga Tamariki.**

The change to a new Ministry, the Ministry for Vulnerable Children, Oranga Tamariki, occurred on 1 April 2017. The establishment of Ministry for Vulnerable Children, Oranga Tamariki as a new stand-alone ministry.

The new Ministry has asserted what the key differences are:

- *Signals a 'whole of sector', child-centred approach which will transform the way we work with vulnerable children and young people. It will act in partnership with the wider social sector, reinforcing the fact that it can only achieve outcomes through others, rather than as a primary direct delivery agency.*
- *Establishes the new Ministry as a single point of accountability for ensuring vulnerable children and their families and whānau get the services they need. This will ensure that government agencies work together to provide coherent and complete services to these children, young people and their families.*
- *Will take a broader view which will include children and young people who are at significant risk of harm now or into the future.*

The Ministry for Vulnerable Children, Oranga Tamariki incorporates Child, Youth and Family, some MSD and Community Investment functions, and the Children's Action Plan Directorate, including Children's Teams, VIKI and the Vulnerable Children's Hub.

### **Core services**

At the heart of our new system are vulnerable children or young people. We will take a broader view to include children who are at significant risk of harm now or in the future. This may be as a consequence of their family environment, and/or their own complex needs, and include young people who have offended or may offend in the future.

The new Ministry states it will focus on five core services which include:

- Prevention services
- Intensive Intervention services
- Care Support services
- Youth Justice services
- Transition Support services

### **What is the different?**

The age of care and protection will be raised to include 17-year-olds, which means:

- The Ministry can now accept referrals for 17-year-olds where there are concerns about their wellbeing; this means they will have increased ability to get the support and help they need
- Young people will remain in care until they turn 18, giving them stability and support for longer, and more time to build the skills, knowledge and experiences to help prepare them for independence
- 17-year-olds who are no longer in care on 1 April 2017 will have the ability to opt back in until they turn 18
- Caregivers will receive financial and other assistance for 17-year-olds, giving them the ability to provide.

Increased visibility and access to child-centred feedback and complaints service, making it easier for those involved in the service to give feedback or make a complaint. This includes:

- Information specifically for children and young people, including a video and printed resources that encourage them to speak up about their experiences and to reinforce that their views are valued
- Ability to give feedback or raise concerns via the website
- Centralised oversight and coordination of the feedback and complaints process to provide a consistent approach and help influence on-going improvements at a systemic level.

Strengthened obligations to support children and young people's participation, which means that:

- At an individual level, frontline workers will ensure children and young people are supported to participate in decisions that affect them, and their views will be better represented in Court and in family group conferences
- At a systemic level, children and young people will participate in the design of services, policies and procedures.

VOYCE – Whakarongo Mai, an independent connection and advocacy agency launched

- Operating initially in Auckland (regional hubs will be established across New Zealand over time).
- Interactive website, designed by young people, and local connection events will give care-experienced children and young people a community to belong to. Voyce will contact children and young people in care directly to welcome them to the service.

New branding which reflects the voices of young people

- The voices of young people are being reflected right from the start, with the release of the new Ministry's visual identity and values.
- Te Whānau Aroha, the Youth Advisory Panel, drove the design and made decisions around the final look and feel of the identity of the Ministry.
- This is what we mean by 'child-centred'. It's more than just words, it's involving young people in processes, in appropriate, meaningful ways.

We will monitor this significant change, whether it is just rhetoric or if it creates real change in the lives of young people.

There are four youth justice residences in New Zealand

- Korowai Manaaki in South Auckland can have up to 40 young people
- Te Maioha o Parekarangi in Rotorua can have up to 30 young people
- Te Au rere a te Tonga in Palmerston North can have up to 30 young people
- Te Puna Wai o Tuhinapo in Christchurch can have up to 40 young people.

### **A New Zealand Treasury Insight into Youth Justice**

Despite not receiving a response from the Ministry of Social Development we were able to gain some insight into Youth Justice via information obtained from the New Zealand Treasury. A Joint Treasury MSD Report Briefing (to Cabinet) on Vote Vulnerable Children Oranga Tamariki (October, 2016) was obtained.

The report stated the biggest costs are from the number of plans, orders and residential placements (\$49.7 million). The average cost per bed is currently is \$285,000 and average resident placement (\$100,000) i.e. an average stay of approximately four months. This is lower because placements are for set periods that are less than one year on average. The youth facility, Te Puna Wai o Tuhinapo, reduced by 10 beds availability\* in response to reducing referrals, but not all costs are variable, the average bed night cost increased.

\*This reduced bed capacity has now being reinstated (2017) due to increased demand.

Overall Youth Justice volumes have being declining with the number of proceedings for youth aged 14-16 falling by 49% between 2010 and 2015, contributed to be the investment across Government and the NGO sector with the Fresh Start programme. The resources freed up were reinvested in youth justice services, apart from \$4.5 million per year transferred to fund pressures within Care and Protection.

It was reported that a significant body of robust international research on the detrimental effect that adult and formal justice process have on young people. The Ministry of Justice has estimated the inclusion of 17 year olds within the youth justice system could reduce reoffending for that group by 15%. The findings of the Youth Funding Review indicate that programme involved continued and intense social work are effective in reducing youth crime.

(As previously stated no information has being provided on the number of youth in care and protection or youth justice residences during the last year. No information on costings, breakdown of gender and ethnicity or evidence based insights into the lives have been provided).

### **8. Youth in Sexual Offenders Unit Barnardos - Te Poutama – Christchurch**

Te Poutama is a residential treatment centre for high-risk, sexually abusive male adolescents aged 12–16 years who are unsuited to treatment in the community. It is based in Christchurch, and has a capacity of 12 beds. It began operation in 1999 in response to the clear need for such a specialised treatment facility. Barnardos delivers the therapeutic programme under contract to CYF.

With the exception of reviewing the recent ERO report on this site (see latter) we have not drilled down on this provider having done an extensive review last year and drew heavily on the research of Kingi & Robertson (2007).

However we do note the significant costs of Te Poutama. A full residence costs on average \$210,612 a year per youth, while on reported numbers a few years ago the cost was on average \$280,000 per youth. This is a very expensive programme for a small number of high needs youth, compared to Department of Correction Youth Units and those placed in Youth Justice or Care and Protection facilities. This is a cost society is required to pay.

## **9. Police Custody**

The Police do not hold youth for long periods of time, their role is defined below, and as such are not a primary focus for this Index. However, there has been recent judicial criticism of the amount of time youth are being held in Police custody due to a lack of space in CYPs facilities (see – What the media have said). The amount of time youth are held in Police custody on some occasions breaches UN protocols but as stated this is a result of lack of bed space in CYPs facilities.

A child or young person is apprehended for committing an offence and can be arrested pursuant to section 214 of the Children, Young Persons, and their Families Act 1989 (CYPFA). They may then be placed into Police custody subject to section 234 CYPFA following arrest or pending hearing.

If it is decided that the Child or Young Person needs to appear in the Youth Court, and it is going to be longer than 24 hours, then the young person may be held in Police custody pursuant to section 236 CYPFA.

Once the young person has appeared in the Youth Court, the Judge has options regarding custody pending court appearance as per section 238 CYPFA. So, young people in Police custody can be there after arrest and before their first court appearance plus they can also be there if the Judge decides (section 238(1) (e) or via a section 242). When a young person is in Police custody there are operational guidelines and policies for all persons who are detained in custody suites, including the following:

All persons are formally assessed when they are received into the custody suite.

The New Zealand Police database (NIA) includes a custody module, highlights that there is a child or young person in the custody suite. This automatically ensures that the child or young person's needs are identified in relation to timeliness of action to ensure compliance with legislation and the Optional Protocol to the Convention Against Torture (OPCAT). Automatically the child or young person becomes subject to regular monitoring whilst in the custody suite.

Further the child or young person will have discussed with them a 'Notice to Person in custody' form which highlights that their parent(s), guardian(s), or others having care of them will be informed of the arrest and that these people are entitled to visit them and that they have the right to speak to a lawyer without delay and in private. They also have access to medical assistance, religious support and visits from a Ministry for Vulnerable Children social worker. Whenever possible, they will also be kept apart from adult persons in the custody suites.

## **Recommendation**

**We appreciate the Police are in an invidious position on occasion having to hold youth in less than desirable circumstances due to a lack of bed space in youth facilities. Often the custodial times spent by youth in Police cells exceeds that prescribed by UN protocol (see - What the Media have said). We seek to see Police removed from the role of defacto custodian and fit for purpose facilities be made available for all youth in a safe and appropriate environment.**

## 10. What the Media have said:

The key theme over the past year has been the placement of youth in Police cells. The Police stated on 14 May 2016 a prison cell was not the best place for a young person, but they also had a responsibility to stop people harming themselves or others in the community. It was reported that it was only done for 700 children and teenagers in the last five years as a last resort, the police say. Police had made several changes in how they dealt with youth offenders, especially when it came to holding them in custody. This issue was picked up again on 28 November 2016 when Christchurch based Judge Robert Murfitt commented on the plight of a 15-year-old boy who had spent a sixth day in solitary confinement in Christchurch's police cells because there was nowhere else to put him. Judge Robert Murfitt noted there is an entire wing at youth justice facility Te Puna Wai that has effectively been "mothballed". This year another Judge, on 23 January, also asserted the 'Use of police cells to hold young people 'unacceptable''. Principal Youth Court Judge John Walker says the number of teenage offenders forced to spend the night in police cells is unacceptable, as they're no place for young people to spend the night. Figures acquired by RNZ show young offenders spent at least 24 hours in police cells on 151 occasions from June 2015 to 2016 - an increase of nearly 200 percent on the previous year. On April 2017, Children's Commissioner says putting children in police cells 'solitary confinement' The Children's Commissioner has called for an end to placing young people in police cells while on remand, calling it "solitary confinement" and "not acceptable". Police figures show 2167 children aged 10 to 16 have been placed in police custody so far this financial year. It was reported on those, 157 spent more than 24 hours in police cells according to Ministry of Social Development figures. Police have been placed in a difficult position. Ross Lienert stated police managed the risk that went with their age and vulnerability and looked 'to family, the community or other agencies to look after them'.

Another theme to emerge during the past year, via media, was the high use of seclusion and restraints in prisons and other facilities. This has been criticised in an international report on the practices. The report, *Thinking outside the Box*, looked at how seclusion was used in prisons, health and disability units, a youth justice residence, a children's care unit and police cells. The report author Sharon Shalev, a British criminologist and expert in seclusion studies, visited 17 prisons, police cells, mental health units and children's care facilities last year. Dr Shalev criticised the placing of children and young people in protection and care units that are identical to adults' segregation units in prison. The Children's Commissioner Andrew Becroft also stated that the practice of remanding children in police cells must end. He said New Zealanders could not assume this country had an unblemished human rights record.

The Youth Justice facility at Te Puna Wai has been a regular feature in the news. Despite the Ministry being proactive in putting forward good news stories, an example been reporting on Christmas 2016 where '*behind high fences and locked gates, the country's youngest offenders will decorate donated Christmas trees, tuck into roast meals and unwrap presents to celebrate the festive season*'. It was reported up to 30 youths will spend the Christmas holiday at Te Puna Wai ō Tuhinapo, one of four youth justice residences run by Child, Youth and Family (CYF) and the only one in the South Island. '*Our young people will mark the holiday season with a range of activities . . . including plenty of sports and activities that would be familiar to anyone attending a holiday programme,*' CYF youth justice support general manager Chris Polaschek said. This reporting overshadowed a series of negative news stories. In October 2016 it was reported '*Under-resourcing at Te Puna Wai is causing "active harm" to children and mental stress on overworked staff*'. It was stated '*violence was so rife at a youth justice centre that staff and residents were being hospitalised for their injuries and a 2015 police report warned someone could be killed. Have things improved? Newly-released reports on Christchurch's Te Puna Wai ō Tuhinapo facility lay bare a multitude of issues following a slating of the facility by outgoing children's commissioner Russell Wills in June*'. Further, last year two girls were transported to Christchurch Hospital after attempting to huff head lice products at Te Puna

Wai. It was reported staff at Te Puna Wai in Rolleston were treating several young people for head lice when two were seen attempting to inhale the product.

Although Te Puna Wai is only one of four youth justice sites operated by CYF, now a new Ministry, its operations suggest under-resourcing.

Just prior to completing the research for this year's Index in mid May 2017 we learn with sadness of a report by the Children's Commissioner on the State of Care (Youth). We learnt that in an unnamed boys' youth justice facility, criticised for its 'prison-like' appearance. The report called New Zealand's children's homes and youth justice residences 'outdated, prison-like and bleak'. Concerns were also highlighted ranging from youths escaping from justice residences, to bullying, allegations of fight clubs, and an incident where young people were locked in their rooms at a care facility because of a staffing shortage. Seven of the country's nine Oranga Tamariki (Ministry for Vulnerable Children) youth justice and care and protection residences were inspected. The report praised the improvement in the standard of the facilities, and their programmes – but also found the progress uneven. The report recommendations included the Office of the Children's Commissioner being allowed to monitor the facilities twice-yearly, instead of the current annually to 18-monthly. There is apparently not sufficient resources for the Office of the Children's Commissioner to carry out more frequent inspections.

### **Significant Issues Raised**

- The key theme over the past year has been the placement of youth in Police cells. General consensus, including view of Police is that a police cell is not the best place for a young person. Media reported that young offenders spent at least 24 hours in police cells on 151 occasions from June 2015 to 2016 - an increase of nearly 200 percent on the previous year.
- The high use of seclusion and restraints in prisons and other facilities has been criticised in an international report on the practices.
- Media (May -2017) reported on the Office of the Children's Commissioner Report, which criticised for its 'prison-like' appearance youth justice facility. Concerns also raised from youths escaping from justice residences, to bullying, allegations of fight clubs, and an incident where young people were locked in their rooms at a care facility because of a staffing shortage. The report recommended Office of the Children's Commissioner having resources to monitor facilities twice-yearly, instead of the current annually to 18-monthly.

### **Summary**

This year's National Youth Custody Index has had challenging moments, we continue to learn a lot, both favourable and unfavourable, about government agency engagement. A lot of information we have captured this year continues the same pattern and trends of previous years. There are some variances which we have reported. There has been a major restructure and rebranding of one of the agencies responsible for youth in custody – there is a lot of rhetoric about the changes which will enhance the lives of youth – we will wait and see if material change in practices occur.

We thank you all for reading about the journey of youth in custody over the previous years – it reads as a sad story and we as students reflect on the lives and opportunities we enjoy which are not available to our brothers and sisters in custody.



## **Footnotes:**

Goldingay, Sophie 2007, Jail Mums: the status of adult female prisoners amongst young female prisoners in Christchurch women's prison, *Social policy journal of New Zealand: te puna whakaaro*, vol. 31, pp. 56-73.

Kingi, V. and Robertson, J. (2007). Evaluation of the Te Poutama Arahi Rangatahi residential treatment programme for adolescent males. Final report, August 2007. Wellington: Child, Youth and Family, New Zealand Government

## **Appendix A:**

### **Edmund Rice (1762 – 1844)**

**Disciple – businessman – husband – father – widower – brother – educationist – champion of the poor – founder**

The 250th anniversary of the birth of Edmund Rice, the founder of the Christian Brothers (a pontifical congregation) and the Presentation Brothers (a diocesan congregation), will be observed and appropriately celebrated throughout the world on 1 June 2012.

Disciple, Businessman  Husband and Father  Founder  A man of God

The fourth of seven sons, Edmund was born in Callan, Ireland, in 1762 to devout Catholic parents who, by the standards of the day, were reasonably well-off. He received a good education before being apprenticed to his uncle, Michael Rice – a wealthy merchant in the thriving seaport of Waterford. Having displayed business acumen, legal expertise, practical common sense, and a capacity for hard work, Edmund eventually inherited and successfully expanded his uncle's business which supplied food and materials for trading vessels. He became an influential and highly respected citizen of his adopted city – a man of means who moved easily among the social elite.

Having personal touch, testimonies to his piety and charity at this time abound; but he was not unique among the businessmen of Waterford in this regard. As a class they were generous in providing alms for the desperately poor people who flocked to the city in search of employment. If Edmund Rice stood out among his contemporaries, it was because of the deeply personal aspect of his charity. Moved by the stark contrast between his own affluence and the sorry lot of the poor slum dwellers, he did more than give money to the needy. He gave them his time, his hospitality, and finally his life. Of special concern to him were the wild and uncared for boys who gathered around the timber stacks on the quay. He brought them to his home in Arundel Lane and provided them with food and clothing.

For many years, even after he founded a religious institute, Edmund's solicitude also extended to the prisoners in the Waterford county jail. He visited them and, in the case of those sentenced to death, assisted them to make their peace with God. Traumatic as the experience must have been for him, he met condemned men on the morning of their execution and accompanied them to the scaffold.

Source: <http://www.edmundrice.org.au/cbop/about-us/blessed-edmund-rice>

## Appendix B:

### Proactive Statement Received: Good Practice and Successes – Youth in Custody

CRHS - Te Au rere a te Tonga

Over the last 24 months' significant changes have occurred at Te Au rere a te Tonga. Based on the APIR project from the Ministry of Social Development in 2015 we began to develop a way that the stakeholders (Education, Health and CYF) in Te Au rere could work from one combined plan – The *One Plan*.

This plan is based on the Young Person's kitbag which identifies 5 key areas to reduce the chance of reoffending. The kitbag includes identifying: safe placement, supportive adults, education/ vocation pathways, prosocial activities and treatment (health, mental health, and drug and alcohol).

Through the development of the *One Plan* it was identified that a re-evaluation of assessment practices needed to occur and the idea of establishing an assessment class was put forward.

Since then significant progress has been made in order to better meet the needs of young person within residence, to support transition and to evaluate what went wrong if a young person should return to residence.

The process for a young person entering residence at Te Au rere has completely changed within the last two years. There is now a multi-agency team approach to all aspects, beginning on admission. A young person spends the first three days in an assessment class where streamlined assessments are completed from an Education, Health, Mental health, AoD and CYF perspective. Each afternoon the multi-agency team meet, discuss information that has been collected and work together to formulate a young person's *One Plan* including goals and actions under each of the areas of the kitbag, and ensuring the young person's and whanau voice are clearly heard.

With clearer and more specific planning came the need to change the structure of the programmes available for young people; not only during school but within the full 13 hours each day - breakfast to bedtime. This has resulted in a collaborative approach between CRHS and CYF.

The first major change was implemented in Term 4 2015 with a change of class structure and the establishment of electives based on culture, life skills and PE programmes. Instead of students attending school in the classroom within their unit, students were mixed, based on their needs identified within the assessment process. Three classes of 10 plus the assessment class were established, each class with a different focus.

**Education** – for those students who wished to return to mainstream school or were likely to be attending an alternative education programme or activity centre. These students were generally younger 14-15 years old (although not a prerequisite)

**Vocation** – for students who returning to school was no longer a likely option and who were looking at vocational pathways and potential tertiary course options on discharge. These students were usually 15-16 years old.

**Work Ready** – for students who are 16-17 years' old who are looking at developing skills to enter the work force or to be able to live independently on discharge. The

programme includes developing interview skills, budgeting, employment rights, understanding contacts, and tenancy agreements.

The elective streams were a collaborative approach to developing young people's skills and knowledge in their culture, in life skills and in P.E / sports. During the school week each class had a lesson in each of these areas and then an extra lesson in their elective – the one area they wished to develop further. This dovetailed into the afternoon – CYF programmes, where the elective continued with co-planning of these programmes between CYF and CRHS to ensure a level of coherence to these programmes. We had many successes which were displayed during site events that allowed young people from each elective to showcase their learning.

By the end of 2016 some key areas of refinement were identified, especially within the Vocation class. 2017 saw the development of a new school timetable, refocus of the Vocation and Work Ready classes and collaborative (CYF and CRHS) programming within school time to implement programmes that have a more hands on/ skill based vocational focus and to allow the re-establishment of programmes that had not been sustainable previously.

The Vocation class has been named *Work Ready 1*. *Work Ready 1* is for students who are likely to be on a shorter stay (3-6 weeks). The focus of career pathways still remains, additionally students complete their CV, learn about filling in forms, and gain a food safety qualification. They are taught about basic budgeting, rights and responsibilities, cooking, teamwork, helping agencies, art and bone carving, as well as working towards their learner driver licence. Once students have completed a set of criteria they then move to *Work Ready 2*.

*Work Ready 2* has more of a vocational skill focus and is designed for young people who are staying longer in residence. Students are supported to develop their literacy and numeracy skills and are able to achieve unit standards in these areas, they may also be enrolled in a Te Kura Pathways course. They participate in a variety of other programmes such as barista, screen printing, basic carpentry, gardening, cooking, and car maintenance. These programmes are delivered in collaboration with CYF staff to best utilize the strengths of staff to help support students and to improve their outcomes.

So far this year we have found that students are more engaged in the programmes. There appears to be improved outcomes in terms of a wider range of skills being taught. In time we hope to monitor the progress of young people post-residence to better understand the impact on the future of young offenders.

We feel that the changes implemented in 2017 are heading in the right direction and we are learning to work with our CYF partners in a more collaborative and sustainable manner.

In addition to the teaching staff at Te Au rere, CRHS also employs a Speech Language Therapist who works across the school. This was an initiative, started in 2015, based on international research showing the prevalence of communication difficulties amongst the Youth Justice population. The project was reviewed by independent evaluators at the end of 2016 and the Board agreed to fund it for a further two years.

**K B McIntosh**  
**Principal**  
**18.03.17**

## **CRHS – Epuni Care and Protection Residence**

As part of the Central Regional Health School we operate a school for the young people of Epuni Care and Protection Residence. We are a full time school onsite at the residence. Being a secure facility we work in a distinctly different environment.

While faced with challenges due to the nature of the environment and our students we are successful in many ways. Firstly, we reengage students for whom school has not featured in their lives for many years. Our initial focus is presence. With our partners CYF we have all students attending regularly, attendance and participation in school counts toward the residence behavioural reward system. This encourages the students to be present for learning.

We assess our students in the key areas of Numeracy and Literacy upon the student's entrance to residence. While not unique, this identifies the students learning needs and areas for the school to focus on. From this we target specific areas for the learner and develop an individual plan for the student. This forms the basis for their education programme. Our focus throughout this is ultimately having our students transitioning to full time mainstream education when they leave the residence.

Every three weeks we meet with our partners to discuss the students' progress as a Multi-Agency Team meetings. These include Social workers from CYF at the residence and the students site, the Vibe Health Team, placement organisations and other professionals (i.e. Psychologists, Ministry of Education Teams and the High and Complex Needs team). The purpose of these is to plan and coordinate our students return to the community. Our focus in these meetings is to make sure the students are reengaged in education.

In our school we focus on the communication difficulties of our students. We have identified that at any one time between 60% - 80% of our students in residence having communication needs and difficulties. We are innovative as we focus on addressing these communication needs of our learners. CRHS has a fulltime speech language therapist who supports the teachers to deliver our learning programmes in a way to best support the learner's communication needs. This involves teaching the teachers strategies and methods to cater for the needs. At times full speech language assessments are undertaken. This information is shared across the multi-agency teams. Students are also provided with a "communication passport" that provides a summary of the ways the student communicates and ways to communicate with the students.

Our aim is to return our students back to mainstream schools. When the placement out of residence is being arranged we will look into and make contact with possible schools. We have accompanied students on school visits and interviews. Our teachers have also take the students to their new schools and worked alongside them to support their integration. Students enrolled in Te Kura have been able to maintain this while in residence with our support. We have also arranged for students to be enrolled and attend tertiary training while at residence.

Within our school we are innovative in the way the students are engaged in activities in and outside the residence. Despite us working in a secure environment we aim to get our students into the community and provide them an opportunity learn in a different way.

These include:

- Weekly fitness and boxing sessions at the Naenae Boxing Academy
- Sessions with a local Waka ama group - including the students out on the water in the waka.
- We have developed links with the Wellington Tenth Trust as part of this relationship the students are receiving Morakau lessons.

- We have weekly swimming sessions at a local pool with the pool instructors
- The students also get the opportunity to mountain bike every fortnight.
- The Youth Team from Vibe Youth Services provide programmes that include Bullying, Drugs and Alcohol and Job skills.

**K B McIntosh**  
**Principal**  
**18.03.17**

## **Appendix C: Media**

### **Children's Commissioner's report labels youth justice and child protection homes 'prison-like'**

TALIA SHADWELL

**May 15 2017**

A room at an unnamed boys' youth justice facility, criticised for its 'prison-like' appearance in the Office of the Children's Commissioner's State of Care report.

A new report calls New Zealand's children's homes and youth justice residences "outdated, prison-like and bleak".

But the facilities are set for a revamp under the guidance of a new ministry, which says it is already cleaning them up.

The State of Care report, released on Monday, highlighted concerns ranging from youths escaping from justice residences, to bullying, allegations of fight clubs, and an incident where young people were locked in their rooms at a care facility because of a staffing shortage.

A single allegation of fight clubs and staff punching youths at an unidentified facility was unable to be substantiated by the report's inspectors.

But the inspections, carried out by the Office of the Children's Commissioner, also noted a widespread "snitches get stitches" mentality at the state care and youth detention facilities, which hindered authorities' efforts to create whistleblowing systems.

Seven of the country's nine Oranga Tamariki (Ministry for Vulnerable Children) youth justice and care and protection residences were inspected. The report praised the improvement in the standard of the facilities, and their programmes – but also found the progress uneven.

The inspectors found no evidence of systemic abuse or human rights violations – but there was room for improvement, Children's Commissioner Judge Andrew Becroft said on Sunday.

"They are the mothers and fathers of the next generation and we have an opportunity to turn their lives around. The current environment doesn't optimise that."

A time-out room at a girls' youth justice residence, which the young women were allowed to decorate themselves and which was praised in the report for creating a friendly environment.

Oranga Tamariki chief executive Grainne Moss said on Sunday that she shared the commissioner's vision of a future where the present large-scale homes would be scrapped in favour of a greater number of smaller, more targeted facilities nationwide – with some potentially iwi-run.

"In five years' time I would want to see some alternatives."

The limited number of large homes can mean youths are taken far from whanau and social networks.

Becroft said he had heard of cases of children from Whangarei unable to be placed at a full Auckland facility and having to be transferred to Christchurch instead – which was "not ideal".

The report also expressed concern that youths with different needs were mismatched in the facilities – teens with neurodisabilities were sharing a home with peers with addiction problems, and the high turnover of youths on remand was disrupting those serving sentences.

It also criticised the standard of some facilities. At one care and protection home, the intercom system and call buttons were not working properly, meaning young people had to wave their arms or bang on doors to get staff attention.

The graffiti at one home led to a youth commenting that it made them feel like they were living in a "mental unit", the report said.

Recommendations included the Office of the Children's Commissioner being allowed to monitor the facilities twice-yearly, instead of the current annually to 18-monthly.

Becroft said he also wanted the homes to become more culturally responsive to Maori, who remained disproportionately represented in youth justice residences.

Today's facilities were an improvement on the children's homes of the past – currently subject to widespread claims of historical abuse. But it would be "Pollyanna-ish" to assume there were no longer abuses in the state care system, he said.

Moss said the ministry was working to make the residences more culturally responsive, and a friendly, family-like environment where youths could get the support they needed.

"We are dealing with kids with complex needs who have suffered significant trauma and so we want to establish a new way of structuring our residential care to separate those with different needs; for example, those who have been sentenced and those with specific issues such as mental health or drug problems."

The next step was to recruit and train specialist foster carers and find the right settings, as well as look at expanding transition to work and independence programmes nationally, Moss said.

**- Stuff**

## Children's Commissioner says putting children in police cells 'solitary confinement'

April 30 2017



### CHRISTEL YARDLEY/FAIRFAX NZ

Thousands of children are held in police cells each year, with two days the average stay.

The Children's Commissioner has called for an end to placing young people in police cells while on remand, calling it "solitary confinement" and "not acceptable".

Police figures show 2167 children aged 10 to 16 have been placed in police custody so far this financial year.

Of those, 157 spent more than 24 hours in police cells, Ministry of Social Development figures show. Oranga Tamariki said two days was the average stay.

### CHRIS MCKEEN/FAIRFAX NZ

Holding cells at the Manukau police station have been spruced up with a mural.

In Canterbury, 127 children were placed in police custody in the last year, down from 151 in 2015/16, but up from 123 the previous financial year.

The Ministry of Justice said young people were remanded to police cells as a last resort, while police said they separated them from older prisoners and aimed to have them in custody "for the shortest time possible in the circumstance".

Children's Commissioner Judge Andrew Becroft said there were certain cases where a young person may need to be held in a police cell, such as before their first Youth Court appearance, or where a child needs to be moved to a facility elsewhere in the country.

However, the Government needed to remove the option of police cell remand in the new Oranga Tamariki legislation before Parliament.

"If the Government is being serious about being child-centred, they won't allow children to be remanded in police cells. It's solitary confinement and it's not acceptable," he said.

"It is contrary to every child rights and human rights norm and, frankly, I hope the Government moves quickly to remove the option."



Oranga Tamariki Youth Justice Services deputy chief executive Allan Boreham said breaking the cycle of youth offending was a priority for the new ministry.

The average time a young person spent in police custody was about two days.

"Our general duty of care requires us to ensure that any child or young person detained in police custody is visited regularly and assessed until they can be safely returned home, placed in the community or in a secure residential placement."

"Looking ahead, we will be establishing a number of community-based settings for children and young people detained in the chief executive's custody pending their youth court hearing," Boreham said.

"These include the development of small local remand homes and recruitment and training of specialist foster carers.

"We are also looking at ways we can provide better advice to Judges on the circumstances of the young person and how any decision made impact them in the future.

"In the interim, we have increased the capacity at Te Puna Wai by 10 more beds, to reduce the risk of vulnerable young people spending more time than is necessary in police custody."

A Ministry of Justice spokesperson said as soon as a young person was remanded into police cells, officials tried to find a bed in a secure unit.

"This usually happens within a day of remand."

Police youth manager Ross Lienert said police managed the risk that went with their age and vulnerability and looked "to family, the community or other agencies to look after them".

Youth health advocate Dr Sue Bagshaw said clear guidelines were needed on what constituted a "short term" stay for children and youth in police cells.

While the number of children and youth in police custody has decreased, there were still "too many".

She believed police cells should not be an option for children.

"We shouldn't have as many as that. If we were doing better care in the community for young people they shouldn't need to get into police hands."

In the 2015/2016 financial year, 2686 young people were placed in police cells on remand, with 149 of them held for more than 24 hours.

**- Stuff**

## Meal allowance no treat for youth in custody in New Zealand

EMILY SPINK

July 8 2016



JOHN KIRK-ANDERSON/FAIRFAX NZ

Te Aotahi Rice-Edwards, 16, left, Nuku Tau, 16, Xavier Wgaata, 18, and Joseph Devine, 17, with trays representing food served to youth in custody.

Source: The Press – Christchurch – July 2016

## NZ use of seclusion in prison lambasted

27 April 2017

Source: <http://www.radionz.co.nz/news/national/329557/nz-use-of-seclusion-in-prison-lambasted>

New Zealand's high use of seclusion and restraints in prisons and other facilities has been criticised in an international report on the practices.

The report, *Thinking Outside The Box*, looked at how seclusion was used in prisons, health and disability units, a youth justice residence, a children's care unit and police cells.

Report author Sharon Shalev, a British criminologist and expert in seclusion studies, visited 17 prisons, police cells, mental health units and children's care facilities last year.

She found prisoners in New Zealand were four times more likely to be put into seclusion than prisoners in England and Wales.

Many seclusion rooms were bare and in a number of cases lacked a toilet, fresh drinking water or a means to call staff.

Māori were over-represented and women more likely than men to be put on their own for longer, the report said.

It recommended seclusion and restraints be reduced significantly and used only in the most extreme cases, and the use of restraint beds and chairs should be abolished.

The report was ordered by the Human Rights Commission and carried out with UN funding.

Chief Human Rights Commissioner David Rutherford said New Zealand had to improve its culture around the use of seclusion.

"The report indicates that seclusion and restraint may not always be used as a last resort option, as required by international human rights law," he said.

"The focus must now be on improving the situation. Dr Shalev's report provides an important catalyst for further discussion about these issues."

### **'Great chance' to resolve issue of children in police cells**

Dr Shalev criticised the placing of children and young people in protection and care units that are identical to adults' segregation units in prison.

Children's Commissioner Andrew Becroft, one of five officials who called for the report, said the practice of remanding children in police cells must end.

"With the new legislation before Oranga Tamariki ... this is a great chance, probably the only chance in our lifetime, to grasp the nettle on this issue and resolve it once and for all."

He said New Zealanders could not assume this country had an unblemished human rights record.

"What's crucial is we realise that we're not exempt from these international standards that a mirror is held up to our behaviour.

"Indeed it's often been said that if you walk into a prison that's the easiest way that you can properly judge a civilisation."

### **Corrections not equipped to deal with inmates' mental health**

The report found mechanical restraints were degrading, and Dr Shalev was particularly alarmed at the use of tie-down beds and restraint chairs.

"A restraint bed and a restraint chair ... are very anachronistic forms of restraint which many jurisdictions just don't use any more".

Her report criticised the way at-risk inmates are housed, describing cells as mostly identical to what solitary confinement looked like, which is prohibited by international standards.

Alcohol and Drug Assessment and Counselling clinical director Roger Brooking said this was clear evidence Corrections was failing to deal with prisoners with mental health problems correctly.

"There are no full time doctors that work in any prison in New Zealand. There is no psychiatrist. For prisoners who have mild to moderate mental health problems - conditions like post-traumatic stress disorder, ADHD, depression, anxiety - which are quite debilitating but not so visible to your average prison officer, there is very little treatment available."

Mr Brooking said responsibility for health care of prisoners should be removed from Corrections and given to the area's district health board.

### **Corrections response**

Corrections chief custodial officer Neil Beales said in the last three years only 12 of the more than 7000 inmates in at-risk units had been restrained on a tie-down bed. If they had not done so, he said, those people would be dead.

"When you are watching a person rip open their own wounds, shove faeces into those wounds, shove plastic forks into those wounds, bite through their own skin, and when you've exhausted every other avenue in order to prevent from doing that - what are you left with?"

[Prison directors] have got to ensure that, when they come back in the morning, that person is still going to be alive". "

Mr Smith told *Morning Report* Corrections would be keeping tie-down beds but they were now limited to just four prisons. It was investing \$14 million in mental health services, prisons would have mental health workers, and women's prisons already had social workers and counsellors.

In New Zealand, in the last year there was one suicide; in England and Wales there was one suicide every three days, he said.

### **Recommendations**

- Seclusion and restraints be reduced significantly and used only in the most extreme cases and for a short time
- The use of restraint beds and chairs should be abolished
- Minimum standards of living conditions
- All cells and rooms should have a means of attracting the attention of staff
- Data on the use of seclusion and restraints should be better recorded and analysed for trends
- The overrepresentation of Maori in seclusion and segregation units be investigated
- The higher use of segregation techniques on women prisoners be investigated

## Use of police cells to hold young people "unacceptable"

23 January 2017

Share this

Principal Youth Court Judge John Walker says the number of teenage offenders forced to spend the night in police cells is unacceptable, as they're no place for young people to spend the night.

Figures acquired by RNZ show young offenders spent at least 24 hours in police cells on 151 occasions from June 2015 to 2016 - an increase of nearly 200 percent on the previous year.

Teenagers between 14 and 16-years-old can be remanded in police custody if Child, Youth and Family can't provide a bed for them at a youth justice residence, however it is meant to be a "last resort option".

Judge Walker said the figures were unacceptable.

"Three, four, five days of a young person in police cells does happen... It's unacceptable. One night is bad enough, more than one night is unacceptable."

Nelson lawyer John Sandston said the practice had no place in a first-world country.

He said he had dealt with a case where a teenager was in the Nelson police station for about four days in December.

"It's ludicrous because this problem has been going on for many years."

**Table 1: The number of children and young people detained in Police cells for more than 24 hours, by average duration in Police custody, for the 2012 to 2016 financial years, broken down by region.**

Region	Financial Year Ending 30 June									
	2012		2013		2014		2015		2016	
	Number	Average duration (Days)	Number	Average duration (Days)	Number	Average duration (Days)	Number	Average duration (Days)	Number	Average duration (Days)
Auckland	73	1.7	48	1.9	27	1.8	16	1.8	42	1.7
Central	32	1.8	41	2.1	S	1.8	8	1.4	27	2.2
Midlands	53	1.8	30	1.9	12	2.1	S	1.4	9	1.9
Southern	27	1.8	35	2.0	S	1.9	18	2.1	62	2.0
Te Tai Tokerau	25	1.9	19	2.4	13	1.6	S	2.2	12	2.0
<b>Total</b>	<b>210</b>	<b>1.8</b>	<b>173</b>	<b>2.0</b>	<b>62</b>	<b>1.8</b>	<b>51</b>	<b>1.9</b>	<b>152</b>	<b>2.0</b>

In a statement, Child Youth and Family acknowledged youths spending nights in police cells was not an ideal situation.

"We are aware of the judges' concerns about placing young people in cells... every effort is made to avoid this situation."

"One issue which is impacting bed availability is the heavy use of youth justice residences for young people who are remanded in custody. We are working with police, the courts and the community to find suitable alternatives to remands in custody."

## **Calls to stop teens on remand from being placed in jails**

24 January 2017

Legal experts are calling on the government to remove legislation that allows Child, Youth and Family to place young offenders into police custody once they've appeared before a court.

Yesterday RNZ revealed the number of nights youth offenders spent in police cells had nearly tripled in a single year, with 151 nights spent in police custody in 2015-16 - up from 51 in 2014-15.

Young people aged between 14 and 16 can be remanded in police custody if Child, Youth and Family cannot provide a bed for them at a youth justice residence. It is meant to be a last resort option.

Children's Commissioner Judge Andrew Becroft said it was time to abolish this practice, once and for all.

"We've seen an erosion of good, community-based facilities - everyone in the system knows that.

"Let's be blunt: the time has come just to grasp the nettle, remove the [police custody] option once and for all, and to say to Child, Youth and Family services, it now is 'use our community-based resources'".

There should be only short-term use, of up to 24 hours, when young people are transferred around the country, he said. "It can be done."

Making this happen would require an amendment to a section of the Children, Young Persons and Their Families Act, which gives CYF the power to pass teen offenders on to police if they cannot find suitable accommodation.

CYF will become the Ministry for Vulnerable Children in April, and Judge Becroft said this change gave an opportunity to make inroads.

Dean of Otago University's law school and family law specialist Mark Henaghan said there was no good reason not to change the legislation.

"The whole purpose of the Children, Young Persons, and their Families Act - far reaching and very wise legislation - is to keep young people who may get involved in activities which we would term criminal, out of the criminal justice system.

"The minute you start putting them in police cells, you've already put them in the system."

Mr Henaghan said the new ministry should look at other options for housing offenders, even if it came at a greater cost.

"This would be a superb investment, to invest in secure places, where young people - if they do have to be held, for whatever reason - a secure place to hold them, which is humane and dignified and not a prison cell, with hardened adult criminals right next door to them or possibly even in the same cells."

Labour Party child welfare spokesperson Jacinda Ardern said housing teens in police cells had no place in a civilised society.

"Young people are treated differently in our youth justice system, and for good reason: there's an expectation we will have the potential for a successful intervention for these kids.

"The first step to that is keeping them away from the adult justice system. Now if from day one you're putting them in police cells, then you're really depleting your ability to do that."

In a statement, the Ministry of Social Development - which runs CYF - said it was always exploring alternatives to police cells.

"Keeping young people out of police cells is not just a matter of making more youth justice beds available.

"It's about having an effective range of options available and finding the right placement for each young person, which might be in the community or might be in a youth justice residence. A residence is only one option."

While it refrained from directly addressing the question of legislation change, CYF said there would be reforms on the horizon, with the raising of the youth offender age to 17 to take effect in 2019.

"The timing of the change allows for a wider set of reforms, including the overhaul of care and protection, to be fully implemented first.

"The overhaul of care and protection reforms will be implemented from 2017 and are aimed at reducing demand for youth justice residence beds and free up capacity for 17 year-olds to be included in the youth justice system," said the statement.

## **Youth justice age of 17 'enduring stain' on New Zealand's otherwise good record**

STACEY KIRK

May 12 2016

Principal Youth Court Judge Andrew Becroft won't be drawn on Government considerations over whether to raise the youth justice age to 17, but said there would be clear advantages to being able to intervene with youth court measures, before they hit the adult criminal justice system.

New Zealand's youth justice age of 17 stands "as an enduring stain on New Zealand's otherwise good youth justice record," says the Principal Youth Court Judge.

While New Zealand's youth justice system was considered internationally to be "pioneering in its approach", it had a long way to go, said Judge Andrew Becroft.

He is soon to be New Zealand's next Children's Commissioner, replacing outgoing commissioner Russell Wills on July 1.

It was in his current role as Principal Youth Court Judge, that he made the comments to the New Zealand Neurodisability Forum, hosted by the Dyslexia Foundation.

He was unable to comment on Government moves to consider raising the age, but said a "singular advantage of including 17-year-olds would be including a cohort that probably most need a thoughtful and nuanced approach" to neurodevelopmental disorders".

"It would be a fantastic addition to what's available, and the adult system doesn't have it yet, for dealing with young people with these sorts of issues."

Social Development Minister Anne Tolley unveiled the first phase of changes for a planned overhaul of Child, Youth and Family last month.

As part of that, the Government has announced the age of care for the state to remain looking after a child will be raised to 18, with any young person given the option of retaining full care to 21, and some support until they turn 25.

Ministers were also investigating raising the youth justice age to 18, so that 17-year-olds could appear in Youth Court, rather than with the adults in District Court.

Becroft said it could help particularly in addressing the issue of Maori disproportionality.

"Because all we can do to have alternative ways in dealing with Maori, I think would be an advantage.

"Clearly 17-year-olds would have a big opportunity to reduce the disproportionality in the adult criminal justice system, because we could effectively intervene using non-court interventions."

That would also be helped by a greater understanding of neurological disorders and their prevalence, he said.

He told the story of one boy who came through the court sentenced to supervision with residence - a six-month youth prison sentence, followed by supervision in the community.

He was sent to a military-style activity camp - which incorporates outdoor activities and skills with cognitive behavioural therapy - where he was "a star performer".

Despite high expectations the boy committed three serious crimes within two days of completing his sentence.

A detailed psychological report found he was "profoundly affected" by foetal alcohol spectrum disorder (FASD).

"So everything that had been done at the [camp] term, in terms of cognitive behavioural therapy and the like, was basically a prize waste of time."

The presence of neurodisabilities in the Youth Court had been "invisible for too long" he said.

While no New Zealand research had been carried out, figures from the Welsh justice system painted an alarming picture.

A 2012 study there found that while between 0.1 and 5 per cent of the population lived with FASD, that group represented 10.9 to 11.7 per cent of young people in custody.

Between 65.1 to 72.1 per cent of young people in custody had had a traumatic brain injury, though they made up to 31 per cent of young people in the general population.

For young people with communication disorders, they made up 60 to 90 per cent of the custodial population, compared to just 5 to 7 per cent of the general population.

Becroft said it would be surprising if New Zealand's figures weren't similar, and it was likely figures for FASD would be worse.

**- Stuff**



## Christchurch judge accuses Government of breaching child's rights

November 28 2016

Judge Robert Murfitt says there is an entire wing at youth justice facility Te Puna Wai that has effectively been ...

Judge Robert Murfitt says there is an entire wing at youth justice facility Te Puna Wai that has effectively been "mothballed".

A 15-year-old boy has spent a sixth day in solitary confinement in Christchurch's police cells because there is nowhere else to put him.

A judge has lashed out at the Government for its handling of the teen's situation, accusing it of breaching the United Nations Convention on the Rights of the Child.

The accusation came after a Youth Court sitting in Christchurch on Monday, where the 15-year-old was remanded in custody in police cells for a sixth day.

Judge Robert Murfitt said the boy was being held in solitary confinement because there was nowhere else to put him following the mothballing of a wing at Christchurch's youth justice facility, Te Puna Wai.

"He has no books. He has no paper. Apart from exercises he might do in the confined space of his cell he has no exercise activities. In my view, this situation is in breach of the United Nations Convention."

The judge said the boy was before the Youth Court for committing several offences, including offending on bail.

His age, personality, and background meant he did not have the self-discipline to comply with his bail conditions, and it was necessary to remand him in custody.

"The situation is extraordinarily unsatisfactory," Judge Murfitt said.

The boy was not only a youth offender, but was in the custody and guardianship of the state because of the circumstances of his upbringing.

The same state was responsible for providing for safe, secure, humane detention of youth offenders.

There was a nationwide shortage of youth justice beds, despite an "entire wing" of Te Puna Wai being vacant and "in effect mothballed" by the ministry, Judge Murfitt said.

Another facility was not suitable because of the personalities and the "contagious environment" it would pose for the boy.

For the safety of the boy and the public, it was not practical to grant bail because he would end up in further trouble.

The judge "regretfully" remanded the boy in police custody for another 24 hours pending a placement.

Judge Murfitt said he was making his comments public because it was a matter of significant public interest.

The boy's youth advocate, Kristy O'Connor, said police cells were not an appropriate place for a 15-year-old boy and the system was letting him down.

"The police do their very best, but they're . . . not trained social workers.

"A vulnerable youth should not be held for six days, let alone seven, eight, nine."

O'Connor said she was aware other children were being held in police cells last week.

Child, Youth and Family (CYF) run four youth justice residences in New Zealand, offering about 130 beds. Ten beds in the Auckland facility are undergoing maintenance.

Of those 130 beds, just 30 are in the South Island, at Te Puna Wai near Rolleston. Earlier in the year, outgoing Child Commissioner Russel Wills found Te Puna Wai was causing active harm to children.

CYF spokesman Phil Dinham said it was unusual for a young person to be in police detention for so long.

A bed had been secured for the boy and he would move to a youth residence on Tuesday.

Dinham said there had been a "sustained period of demand" for people in CYF residences, and the agency was looking at options for increasing the number of beds available.

CYF would not comment on Judge Murfitt's claim the boy's situation was in breach of the United Nations Convention on the Rights of the Child, and would not comment on the closed wing at Te Puna Wai.

In the year to June 30, 2015, CYF recorded 51 young people as having spent more than 24 hours in police custody. The year before, it was 62.

- Stuff

### **Government 'urgently' looks to increase space at Christchurch youth justice facility Te Puna Wai**

Te Puna Wai has come under fire for its handling of demand for bed space.

The Government is urgently looking at options to increase residential bed capacity at the South Island's only youth justice facility Te Puna Wai before the end of the year after a 10-bed wing at the residence was closed due to lack of use.

Earlier this week, Judge Robert Murfitt accused the Government of breaching the rights of a 15-year-old boy, who was forced to spend several days in solitary confinement in Christchurch's police cells because there was nowhere else to put him.

Child, Youth and Family youth justice support manager Phil Dinham said as indicated in 2014 the demand for beds in the youth justice residences had been falling for some time.

Te Puna Wai O Tuhinapo Youth Justice Facility in Canterbury can hold up to 40 youths.

"This was largely due to a notable drop in youth crime and youth court appearances and initiatives to keep young people who offend out of custody."

In recent times there was an increase in demand for beds due in part to the heavy use of youth justice residences for young people who were remanded in custody.

"We are working with the courts, police and others to address this situation. Operationalising more beds is one option, as well as developing further community placements."

Since 2015 Te Puna Wai, a 40 bed residence, had been operating at a "lower capacity".

The residence decreased its capacity to 20 beds in July 2015 for "operational reasons", raising it back to 30 by October 5, 2015.

The fourth wing, and ten beds, had not been in use since September 2015.

As at 12.30pm on November 30 there were 20 young men and 10 young women at Te Puna Wai.

Stuff asked the Ministry of Social Development what the timeframe was for increasing the number of youth beds at the residence.

A spokesman for the Ministry said: "No decisions have yet been made, but we are urgently looking at options to increase residential bed capacity before the end of the year. Having said that, bringing more beds into operation always takes time because it involves recruitment of staff, and engaging and involving staff from other agencies."

There was no specific limit on the number of young women or men who could be in Te Puna Wai at any one time, he said.

"The 30 operational beds are organised in three wings of 10 beds each. Allocating wings on the basis of gender is only a guideline and we are able to respond operationally when patterns of demand require it."

In October 2012 a joint review of young persons in police detention was concluded by the Human Rights Commission, Children's Commissioner and Independent Police Conduct Authority, which recommended ways to stop what "is at heart an issue of human rights".

298 Youth Health director Dr Sue Bagshaw said New Zealand needs to "actually" comply with the United Nations Convention on the Rights of the Child.

"We need to make sure no child, under the age of 18, is kept in a police or prison cell and if they're going to continue to put people in police cells when there has been no conviction, we will be breaking the Convention and that needs to stop happening ... there are better ways of dealing with young people. If the system could look at providing alternatives to Youth Justice residences and consider other ways to take care of young people on remand for instance using our national network of Youth One Stop-Shops more, then we might be able to help young people a bit better and prevent them from becoming career criminals."

Bagshaw was working toward developing a youth hub in Christchurch, which would include transitional housing to meet the needs of clients.

## **Kids in cells only as a last resort, say police**

14 May 2016

Keeping young people in cells is inappropriate and was only done for 700 children and teenagers in the last five years as a last resort, the police say.

RNZ News reported on Thursday a lack of suitable accommodation in youth justice facilities run by Child Youth and Family (CYF) had led to almost 700 children and teenagers being held in police cells in the last five years.

National Prevention Centre youth manager Inspector Ross Lienert said police had made several changes in how they dealt with youth offenders, especially when it came to holding them in custody.

Mr Lienert said police knew a prison cell was not the best place for a young person, but they also had a responsibility to stop people harming themselves or others in the community.

That sometimes meant a young person had to be held in a police cell for a short period of time, but they were closely monitored to ensure their wellbeing.

Two teenage boys spent a total of four nights last month in a police cell in Nelson because there was nowhere else for them to go.

One, a 15-year-old, was there for three nights over Easter.

CYF's general manager of high needs Nova Salomen said at the time that youth residences had a high turnover, and when beds were full social workers found alternative arrangements in the community.

The number of young people held in a cell dropped to 51 last year, which Social Development Minister Anne Tolley attributed to a joint action plan between CYF and the police.

She said changes included improved information-sharing between the two agencies, improved local transport arrangements and a better out-of-hours response.

Mrs Tolley said the government's focus on reducing and preventing crime and youth crime had led to fewer young people coming into the justice system.

CYF operates 146 youth justice beds in four centres around the country, but availability changes daily.

## **Prisons are expensive breeding grounds for criminality.**

20 October 2016

OPINION: This week the Government announced plans to spend a billion dollars on more prison beds. They say it's needed to cope with forecast rises in the prison muster – as if increases were a force of nature, like a storm or earthquake. As Finance Minister Bill English put it: "this is something that has to be done. We have to provide the capacity. We'd certainly prefer to be in a position where this wasn't happening ..."

But there is nothing inevitable about building more prisons. We have already opened five in a decade and doubled the number of beds, and the system is filled to overflowing.

It's time to start making different choices. Our history of youth justice is a reminder we have changed paths before: in less than a decade between 1988 and 1996, we cut the number of children in state institutions from 2000 to fewer than 100.

This remarkable reduction in youth detention was made possible by the Children, Young Persons and their Families Act in 1989. The law introduced a series of innovative measures to keep young people out of institutions, among them a unique New Zealand invention based on restorative justice principles: the family group conference.

Rather than sending a young person to court, you can now put the victim and offender in a room together with their whanau. They talk it out and the offender hears firsthand the harm they caused. The conference is mediated by a trained facilitator, who works with all parties to develop a mutually agreed upon plan. When a plan is agreed and completed, the case never goes to court.

Conferences are no magic bullet. The evidence suggests some reduction in reoffending, but many victims choose not to participate, and of those who do, only about half say they are satisfied with the result. The process does not address larger issues of poverty and inequality at the heart of criminal offending.

However, in one area success is clear: as part of a broad commitment to stop locking up young people, conferences provide an important diversion pathway, channelling youth away from custody and freeing tax dollars for more productive solutions. They embody the local ingenuity needed to develop new ways of dealing with crime.

The same issues that drove the closure of youth institutions exist in our adult prisons. They lock up Maori far more than other New Zealanders. Violence and abuse are rife. They are expensive breeding grounds for criminality. Yet just as we decided to dramatically reduce the number of young people in custody, we began a programme of prison expansion unparalleled in New Zealand history.

In doing so, we mimicked the American model. Our politicians passed 'three strikes' laws that have been ruinous in the US, named with a baseball metaphor that doesn't even make sense here.

American prison policy should be a warning of what to avoid, not a model to mimic. The country keeps 2.2 million people behind bars, one in every 100 adults, but remains easily the most violent developed nation on Earth. A New York Times editorial summarised the catastrophic impact: "The research is in, and it is incontestable. The American experiment in mass incarceration has been a moral, legal, social, and economic disaster. It cannot end soon enough."

Instead of continuing down this path, New Zealand can start making different choices. When we committed to closing our youth institutions, we found home-grown solutions. We should learn from this history of local innovation.

Liam Martin is a lecturer in criminology at Victoria University.

- The Dominion Post

### **Christmas at Te Puna Wai, the South Island's only youth justice facility**

27,December 2016

High security fences surround Te Puna Wai, where up to 30 young offenders spent Christmas Day.

Behind high fences and locked gates, the country's youngest offenders will decorate donated Christmas trees, tuck into roast meals and unwrap presents to celebrate the festive season.

Up to 30 youths will spend the Christmas holiday at Te Puna Wai ō Tuhinapo, one of four youth justice residences run by Child, Youth and Family (CYF) and the only one in the South Island.

"Our young people will mark the holiday season with a range of activities . . . including plenty of sports and activities that would be familiar to anyone attending a holiday programme," CYF youth justice support general manager Chris Polaschek said.

The facility sits alongside Rolleston Prison, west of Christchurch.

Te Puna Wai, which sits alongside Rolleston prison southwest of Christchurch, [made headlines in June](#) when outgoing Children's Commissioner Russell Wills handed out his first ever "detrimental" finding in his State of Care report.

Wills' report, based on interviews and site visits over a year, said management practices at the facility were causing "active harm" to children.

Te Puna Wai was blasted by outgoing Children's Commissioner Russell Wills in June for causing "active harm" to young residents.

The National Union of Public Employees (NUPE) also criticised the facility, after several staff were assaulted, some seriously.

At the time, Polaschek said the commissioner returned to the residence and identified that "significant improvements" had been made.

He said an increase in young people with "very complex problems and difficult behaviours" was to blame for the staff assaults.

"From time to time this led to behaviours that put other young people and staff in the residence at risk."

With family living rooms replaced by secure units, Christmas time at Te Puna Wai saw residents adorning donated Christmas trees and their own units with ornaments and local decorations.

Their efforts would be judged and rewarded by the residence manager.

"Each [of the four] residence[s] puts its own local spin on the festive season," Polaschek said.

A Christmas carols competition on December 23, judged again by the residence manager, celebrated the musical talents among the residents.

"The young people at Te Puna Wai do have some musical talent and interest . . . this is often the case with young people in residences," Polaschek said.

"Families are invited to attend the judging of the competition and the various sports events, as well as visiting on Christmas Day."

Each resident would receive a small, "modestly priced" gift from staff, he said.

Lunch was the main meal of the day at a Te Puna Wai Christmas, with Kiwi classics being served up.

"The menu for Christmas Day would look familiar to most New Zealanders – chicken, stuffing and roast veges for lunch, with ice cream and cheesecake for dessert."

A dinner of ham finished with fruit salad and Pavlova would close out Christmas for the young offenders.

#### **- Stuff**

### **Children's commissioner dishes out first 'detrimental' finding to Te Puna Wai**

18 June 2016

The secure unit at the South Island's only youth justice unit, Te Puna Wai o Tuhinapo, is located at Rolleston, south of Christchurch.

Christchurch's youth justice unit is again under fire as New Zealand's children's commissioner releases his worst-ever finding.

It comes as the facility's union continues to decry the state of Te Puna Wai o Tuhinapo, saying it is short-staffed and under-resourced, and employees are resigning because of "mental stress".

In the release of his office's second State of Care report, outgoing commissioner Russell Wills dished out his first ever "detrimental" finding, giving it to Te Puna Wai.

Management practices at the South Island's only youth justice unit were causing "active harm" to children, the report said.

The report is based on interviews and site visits – carried out by Wills and a team of assessors over the past year – across six of nine CYF residences, including four care and protection residences and two youth justice residences.

National Union of Public Employees (NUPE) secretary Janice Gemmell said many staff had left Te Puna Wai recently because of "mental stress", and staff were not receiving enough support from their employer.

The union has worked with several staff who have been assaulted – some seriously – and others who are under employment investigation at Te Puna Wai.

"The residence is meant to be there to provide a therapeutic environment to enable young people to be supported to make changes in their lives – unfortunately often the staff on the frontline are left short staffed or have inexperienced staff on the floor to manage the behaviours," she said.

"NUPE has raised concerns about short staffing on the floor across the residences and this is also an issue at times at Te Puna Wai."

The new residential manager at the facility seemed to be focussed on improving safety, Gemmell said.

"Unfortunately for some staff it is too late with a number of staff medically retiring out of [the Ministry of Social Development] because they are too traumatised to work any longer on the floor."

It is not the first time Te Puna Wai has faced heat for its operating issues. In June 2015, Child, Youth and Family (CYF) management visited the facility to discuss safety concerns, and months later damning government reports highlighted 600 security breaches in 10 months.

CYF youth justice support general manager Chris Polaschek said the commissioner's visit was in April or May, about the same time the issues were flagged.

"[T]he residence was experiencing an increase in young people with very complex problems and difficult behaviours. From time to time this led to behaviours that put other young people and staff in the residence at risk," he said.

"There was an additional challenge because there had also been frequent changes in the manager of the residence over the preceding couple of years."

Feedback from the commissioner was addressed by a newly-appointed manager.

It involved bringing in experienced senior staff from other residences, improving procedures and practice guidance, additional training for staff and improving mental health support for the residence.

A governance group including the unions, health and safety specialists and CYF national office residential support staff was established to oversee the plan.

"The 'State of Care' [report] reflects that the Office of the Commissioner has since returned to the residence and has identified that there have been significant improvements," Polaschek said.

- Stuff



## **Girls hospitalised after trying to inhale head lice treatment product**

Two girls were transported to Christchurch Hospital after attempting to huff head lice products at Te Puna Wai.

Two girls were transported to Christchurch Hospital after attempting to huff head lice products at Te Puna Wai.

Two teenage girls at a youth justice facility near Christchurch were rushed to hospital after attempting to huff a head lice product.

Staff at Te Puna Wai in Rolleston were treating several young people for head lice when two were seen attempting to inhale the product.

Child, Youth and Family youth justice support general manager Chris Polaschek said staff immediately contacted emergency services.

Two young people were taken to hospital as a precaution and were discharged shortly after being assessed.

The unit came under fire earlier this year when New Zealand's children's commissioner dished out his first ever "detrimental" finding, giving it to Te Puna Wai.

Management practices at the South Island's only youth justice unit had caused "active harm" to children, the report said.

The report was issued at the same time as the facility's union said the unit was short-staffed, under-resourced, and employees were resigning because of "mental stress".

- Stuff

## **Violence endemic at South Island youth justice facility**

14 October 2016

Under-resourcing at Te Puna Wai is causing "active harm" to children and mental stress on overworked staff.

Under-resourcing at Te Puna Wai is causing "active harm" to children and mental stress on overworked staff.

Violence was so rife at a youth justice centre that staff and residents were being hospitalised for their injuries and a 2015 police report warned someone could be killed. Have things improved? Newly-released reports on Christchurch's Te Puna Wai ō Tuhinapo facility lay bare a multitude of issues following a slating of the facility by outgoing children's commissioner Russell Wills in June. Ashleigh Stewart reports.

Marie\* had already been in the workforce for several decades when she took up her post at the South Island's only youth justice facility.

Her reasons were as altruistic as anyone else around her; she wanted to help troubled youth find their way.

Marie says she suffered death threats and was pushed in a swimming pool by a group of youths.

Instead, Marie found her own way into a world of violence, abuse and negligence.

Eventually, she became the subject of it.

During her tenure at Christchurch's troubled Te Puna Wai ō Tuhinapo facility, Marie says she was bitten, punched in the face and stomach, spat at, had death threats made against her and was pushed in a swimming pool by a group of youths.

A hiring freeze led to understaffing at Te Puna Wai.

Workplace support was lacklustre, and time-off was nonexistent, she says.

After all, it was all in a day's work.

Upon her resignation this year, she went straight into counselling with post-traumatic stress disorder.

An "overuse" of custody for young offenders was identified by the Expert Advisory Panel who reviewed CYF.

An "overuse" of custody for young offenders was identified by the Expert Advisory Panel who reviewed CYF.

"It's taken me about six months to feel human again," she says.

Several clusters of serious incidents have played out at Te Puna Wai since at least 2013.

In outgoing commissioner Russell Wills' second State of Care report in June this year, he dished out his first ever "detrimental" finding to the facility.

An action plan to improve staff and resident safety was introduced in 2015.

## **Appendix D: Background on Guest Speakers - National Youth Custody Launch 2017**

### **St Thomas of Canterbury - National Youth Custody Index – 2017**

**Launch - 28 June 2017 – Christchurch**

#### **Background on Guest Speakers:**



#### **Judge Peter Boshier**

##### **Chief Ombudsman**

Judge Boshier began his term as Chief Ombudsman on 10 December 2015.

Prior to this, Judge Boshier was a Law Commissioner with the New Zealand Law Commission and was also a Family Court Judge.

He was born and educated in Gisborne and attended Victoria University of Wellington, obtaining a Bachelor of Laws with Honours Degree in 1975. After a period of practice in Wellington he was appointed a District Court Judge with a specialist Family Court warrant in 1988.

Judge Boshier has a long association with Pacific judicial issues and was seconded to undertake judicial training there, based in Suva in 2002 and 2003. Judge Boshier has travelled regularly to Pacific Island countries to undertake workshops on the subject of family violence and youth justice. He holds the Samoan Matai title of Misa which was bestowed in 2000.

In 2004 Judge Boshier was appointed as the Principal Family Court Judge of New Zealand and held that position until December 2012. During that time, Judge Beecroft served on the Government's Family Violence Taskforce.

Judge Boshier is Parton of the Dwell Community Housing Trust in Wellington and the White Ribbon Domestic Violence Trust.

Judge Boshier was the guest speaker at the 2016 launch of our National Youth Custody Index. Last year he offered, and we accepted, resources to further assist us in the development of our Index.



## **Judge Andrew Becroft**

### **Children's Commissioner**

His Honour Judge Andrew Becroft was appointed the Children's Commissioner for New Zealand for a two-year period from June 2016. Prior to that he was the Principal Youth Court Judge of New Zealand from 2001 to 2016, and a District Court Judge from 1996 to 2001.

Born in Kuala Lumpur, Malaysia, Judge Becroft attended Rongotai College in Wellington and graduated from The University of Auckland in 1981 with a BA/LLB (Honours) degree. He practiced in Auckland with the firm Fortune Manning & Partners until 1986, then assisted with the establishment of the Mangere Community Law Centre and worked there until 1993. He then worked as a criminal barrister in South Auckland until his appointment to the District Court bench, sitting in Whanganui, from 1986.

Judge Becroft is a former council member of the Auckland District Law Society and the New Zealand Law Society. He is a current editor of LexisNexis o Transport Law, is the Patron of the New Zealand Speak Easy Association Inc., which assists those with various forms of speech impediment, and is the Chairperson of the Board of the Tertiary Students Christian Fellowship (NZ) Inc.

In 2009, Judge Becroft received an award from the Public Relations Institute of New Zealand as Communicator of the Year. In 2010 Judge Becroft was the recipient of a Distinguished Alumni Award from the University of Auckland.

As Principal Youth Court Judge he is strongly committed to a specialist approach to dealing with youth and child offenders, and brings to the Commissioner's role a particular focus on teenagers and adolescent development generally. Judge Becroft is privileged and challenged to be the advocate for New Zealand's 1.12 million under 18 year-olds.

Judge Becroft was the guest speaker at the 2015 launch of our National Youth Custody Index.



**David Rutherford**

**Chief Commissioner – Human Rights Commission**

David Rutherford was appointed Chief Human Rights Commissioner in September 2011. Prior to his appointment, he was the Managing Director of the Special Olympics Asia Pacific and based in Singapore.

He has held senior executive roles in building materials and agribusiness operating in New Zealand and Australia. He has been Chief Executive of the New Zealand Rugby Union and has worked as a corporate securities and commercial lawyer in both New Zealand and Canada.

Mr Rutherford has a strong history of involvement in sports and has lectured on sports law at Victoria University. He has been a volunteer board member in rugby union, netball, Paralympics New Zealand, Special Olympics International and for the Attitude Trust.

He brings a passion for the development and inclusion of people with disability in sports.

**The Youth Custody Index Team – 2017**



Joshua McVicar, Sean Willets, Damien Vincent Campbell, Anaru Shadbolt, Dominic Anisy, Te Aotahi Rice-Edwards, Oscar Sergel-Stringer. (Absent from the photo Tahuora Himona-Burcher and Eddie Morgan)