

Informal Processing of Young Offenders

EVIDENCE BRIEF

Following an offence, young offenders can be processed informally (such as with a warning, Alternative Action or Family Group Conference) or formally (through the courts). The international evidence suggests that informal processing is often more likely to reduce reoffending, although the strength of this effect is variable.

OVERVIEW

- In New Zealand law, people who offend before age 17 are known as 'young offenders' and treated differently to older offenders. From the least to most intensive processing options, young offenders may:
 - be warned or cautioned
 - receive a Police Alternative Action
 - be referred to Child, Youth and Family (CYF) for a Family Group Conference
 - be prosecuted in the Youth Court or Rangatahi Court
 - be prosecuted in the District Court or High Court (for jury trials or very serious offences).
- There is a similar spectrum of options in most countries. International research has found that informal options often lead to lower reoffending than the court-based options, particularly when combined with effective services such as family therapy.
- Reviews of the effect of informal processing have found that for every 6-20 offenders processed informally, one less will reoffend.
- Some reviews have also found that some types of informal processing are ineffective, such as courts where peer volunteers take the role of judge.

- New Zealand already makes extensive use of informal processing for young offenders, both through Police Youth Aid and through the youth justice arm of CYF. This approach is consistent with the available evidence.
- Informal processing is not always appropriate, particularly for the small number of young offenders at risk of persistent or serious offending over the lifecourse.
- When considering the appropriate level of processing for an offender, a balance needs to be struck between the desire to reduce reoffending and the need to hold the young person to account for their actions.

EVIDENCE BRIEF SUMMARY

Evidence rating:	Promising
Unit cost:	Varies by processing level
Effect size (number needed to treat):	Varies depending on processing level. Some studies find no effect, others find that for every 6-20 offenders given informal processing, one less will reoffend.
Current spend:	Unknown as spread across multiple agencies
Unmet demand:	Limited

DOES INFORMAL PROCESSING REDUCE CRIME?

International evidence

Authors of a Campbell Collaboration meta-analysis concluded that in general, informal processing of young offenders reduces reoffending in comparison to formal processing.

This conclusion was based on analysis of whether someone reoffends or not, although when measured by the severity of offending the effect is not statistically significant.ⁱ

The effect size found in the review implies that for every ten young people processed informally, one less will reoffend in comparison to if they were all processed formally. There are also separate studies into each level of processing for young offenders. The separate studies find a wide range of effect sizes.

Arrest: In a general review of the literature, a 2010 study concluded that *'the preponderance of studies found either that arrest [of young offenders] had no effect or increased subsequent delinquency'*.ⁱⁱ

Warning vs further proceedings: In a meta-analysis of 13 studies, a 2013 study reported that a simple warning reduces reoffending in comparison to more formal processing for young offenders aged 12-18. The study found that for every 6 young offenders given a warning rather than taken to court, one less would reoffend.ⁱⁱⁱ

Restorative justice vs court processing: The Family Group Conferences (FGC) can be considered a leading example of several similar international approaches that offer a young offender a restorative conference instead of proceeding through court. In an FGC, a family, young person, the victim and others develop a plan to hold the young person to account and help prevent reoffending.

There is mixed international evidence about the effectiveness of restorative justice at reducing reoffending among young offenders^{iv} (although there is clear evidence it is effective for adult offenders).^v

Informal processing with intervention programmes vs court processing: Three reviews of the evidence conclude that informal programmes that provide intervention services reduce reoffending in comparison to court processing.^{vi}

These three reviews found inconsistent evidence about the size of the effect, which likely reflects the diversity of different intervention programmes. The largest effect was found for informal processing with family therapy.^{vii}

This is consistent with the general evidence about family-based treatment for young offenders.^{viii}

Teen courts: In the United States, some jurisdictions offer a model where adolescent volunteers conduct hearings and determine sanctions. Two reviews of the evidence of this approach failed to find that it reduces reoffending.^{ix}

Youth court vs adult court: In most jurisdictions there is an ability to transfer young offenders out of the juvenile court into the adult system. Two reviews of the evidence show that transferring young offenders into adult courts increases reoffending.^x

New Zealand evidence

As noted by the Advisory Group on Conduct Problems, there is very little NZ evidence examining the effect of different processing options such as FGCs.^{xi} A 2009 review by MSD examined youth court supervision orders, but did not assess the extent to which they are effective at reducing reoffending.^{xii}

WHEN IS INFORMAL PROCESSING MOST EFFECTIVE?

Age group and risk level

A review of informal processing with intervention programmes found that it reduces reoffending for all young offenders regardless of age, but is relatively more effective for young offenders aged 12-14 than those aged 15-17.^{xiii}

The same review also found that informal processing with intervention is equally effective for young offenders with a low, medium and high likelihood of further offending.^{xiv}

Caution only vs provision of services

A general review that compared the relative effectiveness of these two approaches found that, for low-risk young offenders, a caution is more effective at preventing recidivism than the provision of programmes.^{xv}

For medium and high risk young offenders, the same review found that a caution is equally effective as the provision of programmes.^{xvi}

Provision of services under justice system supervision

A general meta-analysis of all interventions for young offenders found that overall, therapeutic services are equally effective for young people regardless of their level of formal supervision by the justice system.^{xvii}

WHAT MAKES INFORMAL PROCESSING EFFECTIVE?

In theory, formal processing could potentially **reduce** reoffending by deterring young offenders by exposing them to a greater risk of punishment.^{xviii} However, the evidence base on deterrence shows that greater severity of punishment does not tend to reduce offending.^{xix}

That formal processing might instead increase reoffending is consistent with social learning theory, which is a theory of crime with strong empirical support.^{xx}

Social learning theory emphasises how criminal behaviour can be steadily increased by positive reinforcement by anti-social peers, which can be more likely if young people are taken through a formal court process that reinforces an anti-social identity and leads young offenders to associate with each other.^{xxi}

This can be seen directly in a quotation from a young offender interviewed about his experience of the youth court in a 2011 study by the Ministry of Justice^{xxii}:

“... when I wait in the waiting room [outside court] it’s normally when I make friends, more friends and those friends are criminals.”

That formal processing appears to increase reoffending is also consistent with labelling theory.^{xxiii}

Several studies have found that, after controlling for underlying risk, formal sanctions reduce subsequent employment opportunities.^{xxiv} This can lead to a reduction in informal social control.^{xxv}

Informal processing can therefore help improve subsequent employment, earnings and tax receipt, as well as reducing reoffending.

CURRENT INVESTMENT IN NEW ZEALAND

New Zealand makes extensive use of informal processing of young offenders. In 2015, about 6,500 young people were dealt with in the youth criminal justice system. This is a substantial drop from the 14,000 young people who were dealt with in 2010.

Of these, about 4,200 were dealt with by Police without referral to CYF and the Youth Court. Frontline Police currently have three options to resolve an apprehension: warn the offender, refer them to Police Aid, or where certain conditions dictate, arrest them.¹

If the decision is made to refer the child or young person to Police Youth Aid a further set of options open up – a warning, an ‘alternative action’, or referral to an FGC.

An ‘alternative action’ plan may involve a range of activities to be undertaken by the young person such as: an apology to the victim, financial reparation to the victim, a donation to a nominated charity, community work, attending a programme or counselling related to the needs of the child or young person, re-enrolling in school or a training course.

The plan may also involve a curfew or commitments not to associate with certain peers seen to be a negative influence, or other restrictions. If a plan is not complied with, Police have the option to repeat the alternative action with additional provisions or escalate that child or young person into an Intention to Charge or Youth Court FGC.

When the offending is at a level or frequency where alternative action is not an appropriate

response, children and young people can be referred to an Intention to Charge FGC.

These FGCs determine whether prosecution can be avoided and, if the charge is admitted, what the most appropriate course of action is to avoid offending in the future. This may include seeking agreement with the child/young person, their family and the victim on programmes that support pro-social behaviours.

Where prosecution is the only appropriate option, the Youth Court becomes involved.

Fourteen youth courts are based on marae. These courts, known as Rangatahi Courts, locate part of the Youth Court process on a marae with the intention of facilitating and reconnecting young people with their culture. In this way, the marae-based Youth Court involves the wider community – whanau, hapu and iwi, in an attempt to enhance the usual Youth Court process.

Youth Courts and Rangatahi Courts have a wide range of orders available to place on young offenders. The higher-end community based orders include an order to attend a mentoring programme, a community work order, a supervision order, and a supervision with activity order.

These orders are administered by CYF, who also fund a range of services for young offenders.

In a very small number of cases (less than 100 per year), the young offender is sentenced in an adult court.

¹ Note that the Adult Diversion Scheme operated by NZ Police is not available to young offenders. In the international literature, ‘diversion’ is used as a blanket term to refer to several different types of informal processing.

EVIDENCE RATING AND RECOMMENDATIONS

Each Evidence Brief provides an evidence rating between Harmful and Strong.

Harmful	Robust evidence that intervention increases crime
Poor	Robust evidence that intervention tends to have no effect
Inconclusive	Conflicting evidence that intervention can reduce crime
Fair	Some evidence that intervention can reduce crime
Promising	Robust international <i>or</i> local evidence that intervention tends to reduce crime
Strong	Robust international <i>and</i> local evidence that intervention tends to reduce crime

According to the standard criteria for all Evidence Briefs², the appropriate evidence rating for Informal Processing of Young Offenders is Promising.

The rating of Promising reflects that several meta-analyses have found that informal processing reduces reoffending.

According to our standard interpretation, this means that:

- there is robust international or local evidence that interventions tend to reduce crime
- interventions may well reduce crime if implemented well
- further evaluation is desirable to confirm interventions are reducing crime and to support the fine-tuning of the intervention design.

New Zealand already makes extensive use of informal processing of young offenders, and this

evidence brief confirms that this is consistent with the available international evidence.

Given the high level of offending among young Māori, New Zealand evaluation of the specific forms of informal processing offered here such as Rangatahi courts and FGCs would be beneficial to confirm that these international findings are replicated in a New Zealand environment.

There will always be a tradeoff between the desire to reduce reoffending and the need to hold offenders to account in a way that reflects the severity of their offending.

Wherever it is appropriate to use an informal approach to resolve offending by a young person, this is more likely to prevent them from continuing their involvement with the Justice sector as adults.

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² Available at www.justice.govt.nz/justice-sector/what-works-to-reduce-crime/

FIND OUT MORE

Go to the website

www.justice.govt.nz/justice-sector/what-works-to-reduce-crime/

Email

whatworks@justice.govt.nz

Recommended reading

Petrosino, A., Turpin-Petrosino, C. & Guckenburg, S. (2010). Formal system processing of juveniles: effects on delinquency. *Campbell Systematic Reviews*, 2010(1).

Huizinga, D. & Henry, K. (2008). The effect of arrest and justice system sanctions on subsequent behaviour: Findings from longitudinal and other studies. In A. Lieberman (ed). *The Long View of Crime: A Synthesis of Longitudinal Research*. Springer.

Wilson, H. & Hoge, R. (2013). The effect of youth diversion programs on recidivism: a meta-analytic review. *Criminal Justice and Behavior*, 40.

Citations

ⁱ Petrosino et al 2010

ⁱⁱ Huizinga and Henry 2008, p231

ⁱⁱⁱ Wilson and Hoge 2013

^{iv} The Wong et al 2016 meta-analysis reported that diversion with RJ reduces reoffending among young offenders, but this conclusion was not supported by Schwalbe et al 2012. More general reviews of Restorative Justice overall have not reported it as being effective for young offenders (Strang et al 2013, Livingstone et al 2013)

^v See the Restorative Justice evidence brief

^{vi} Aos et al 2006, Wilson and Hoge 2013. Schwalbe et al 2012 found positive effects, but not to a statistically significant level except for family treatment.

^{vii} Schwalbe et al 2012

^{viii} See the evidence brief on family-based interventions for teens

^{ix} Schwalbe et al 2012, Gase et al 2016

^x Hahn et al 2007, Drake 2013

^{xi} AGCP 2013

^{xii} Sturrock and Preeti 2009

^{xiii} Wilson and Hoge 2013

^{xiv} Wilson and Hoge 2013

^{xv} Wilson and Hoge 2013

^{xvi} Wilson and Hoge 2013

^{xvii} Lipsey 2007

^{xviii} Hahn et al 2007

^{xix} Nagin 2013

^{xx} Pratt et al 2010

^{xxi} Dishion et al 1999

^{xxii} MOJ 2011, p36

^{xxiii} Bernberg et al 2003

^{xxiv} Huizinga and Henry 2008

^{xxv} Laub and Sampson 2006

REFERENCES

Advisory Group on Conduct Problems (2013). *Conduct Problems: Adolescent Report*.

Aos, S., Miller, M. & Drake, E. (2006). *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates*. Olympia: Washington State Institute for Public Policy.

Bernberg, J.G., & Krohn, M.D. (2003). Labelling, Life Chances, and Adult Crime: The Direct and Indirect Effects of Official Intervention in Adolescence on Crime in Early Adulthood. *Criminology*, 41(4): 1287-1318

Dishion, T. J., McCord, J., & Poulin, F. (1999). When interventions harm: Peer groups and problem behavior. *American Psychologist*, 54, 755-764.

Drake, E. (2013). *The Effectiveness of Declining Juvenile Court Jurisdiction of Youthful Offenders*. Washington State Institute for Public Policy.

Gase, L., Schooley, T., DeFosset, A., Stoll, M. & Kuo, T. (2016). The impact of teen courts on youth outcomes: a systematic review. *Adolescent Research Review*, 2016(1).

Hahn, R., McGowan, A., Liberman, A., Crosby, A., Fullilove, M., Johnson, R., Moscicki, E., Price, L., Snyder, S., Tuma, F., Lowy, J., Briss, P., Cory, S. & Stone, G. (2007). *Effects on violence of laws and policies facilitating the transfer of youth from the juvenile to the adult justice system*. Centers for Disease Control.

Howell, J., Lipsey, M. & Wilson, J. (2014). *A Handbook for Evidence-Based Juvenile Justice Systems*. Lexington Books.

Huizinga, D. & Henry, K. (2008). The effect of arrest and justice system sanctions on subsequent behaviour: Findings from longitudinal and other studies. In A. Lieberman (ed). *The Long View of Crime: A Synthesis of Longitudinal Research*. Springer.

Laub, J. & Sampson, R. (2006). *Shared Beginnings, Divergent Lives*. Harvard University Press.

Lipsey, M. (2007). The primary factors that characterise effective interventions with juvenile offenders: a meta-analytic overview. *Victims and Offenders*, 4.

Livingstone, N., MacDonald, G. & Carr, N. (2013). Restorative justice conferencing for reducing recidivism in young offenders (aged 7 to 21). *The Cochrane Library*, 2013(2).

MOJ (2011). *Youth Court Research: Experiences and views of young people, their families and professionals*. Wellington: Ministry of Justice.

Nagin, D. (2013). Deterrence in the twenty-first century. In M. Tonry (ed). *Crime and Justice: An annual review of research*, 42. University of Chicago Press.

Petrosino, A., Turpin-Petrosino, C. & Guckenburg, S. (2010). Formal system processing of juveniles: effects on delinquency. *Campbell Systematic Reviews*, 2010(1).

Pratt, T., Cullen, F., Sllers, C., Winfree, T., Madensen, T., Daigle, L., Fearn, N. & Gau, J. (2010). The empirical status of social learning theory: a meta-analysis. *Justice Quarterly*, 27(6).

Schwalbe, C., Gearing, R., MacKenzie, M., Brewer, K. & Ibrahim, R. (2012). A meta-analysis of experimental studies of diversion programs for juvenile offenders. *Clinical Psychology Review*, 32.

Strang, H., Sherman, L., Mayo-Wilson, E., Woods, D. & Ariel, B. (2013). Restorative justice conferencing using face-to-face meetings of offenders and victims: effects on offender recidivism and victim satisfaction. A systematic review. *Campbell Systematic Reviews*, 2013(12).

Sturrock, F. & Preeti, C. (2009). *Effectiveness of youth court supervision orders: measures of reoffending*. Wellington: Ministry of Social Development.

Wilson, H. & Hoge, R. (2013). The effect of youth diversion programs on recidivism: a meta-analytic review. *Criminal Justice and Behavior*, 40.

Wong, J., Bouchard, J., Gravel, J., Bouchard, M. & Morselli, C. (2016). Can at-risk youth be diverted from crime? A meta-analysis of restorative diversion programs. *Criminal Justice and Behavior*, 2016.

SUMMARY OF EFFECT SIZES FROM META-ANALYSES

Intervention type	Meta-analysis	Outcome	Reported average effect size	Number of estimates meta-analysis based on	Percentage point reduction in offending/other outcome ³	Number needed to treat ⁴
Warning	Wilson and Hoge 2013	Reoffending	Inv(OR)=0.52*	13	0.16	6
Diversion (family treatment)	Schwalbe et al 2012	Reoffending	Inv(OR)=0.57*	4	0.14	7
Diversion programme with intervention services	Wilson and Hoge 2013	Reoffending	Inv(OR)=0.58*	60	0.13	8
Informal processing	Petrosino et al 2010	Reoffending	d=0.23*	7	0.10	10
Diversion (case management)	Schwalbe et al 2012	Reoffending	Inv(OR)=0.78(NS)	18	0.06	16
Diversion (with restorative justice)	Wong et al 2016	Reoffending	OR=1.28*	21	0.06	16
Diversion programme with intervention services	Aos et al 2006	Reoffending	d=0.06*	20	0.06	17
Diversion (overall)	Schwalbe et al 2012	Reoffending	Inv(OR)=0.83(NS)	45	0.05	22
Diversion (individual treatment)	Schwalbe et al 2012	Reoffending	Inv(OR)=0.83(NS)	11	0.05	22
Diversion (with restorative justice)	Schwalbe et al 2012	Reoffending	Inv(OR)=0.87(NS)	6	0.03	29
Transfer from youth court to adult court	Drake 2013	Reoffending	d=0.13*	3	0.03	37
Diversion (teen court) ⁵	Schwalbe et al 2012	Reoffending	Inv(OR)=0.93(NS)	6	0.02	55

* Statistically significant at a 95% threshold

NS=Not significant at a 95% threshold

NR=Significance not reported

d= Cohen's d or equivalent (standardised mean difference)

OR=Odds ratio

ln(OR)=log odds ratio

r=Pearson correlation coefficient

Φ=phi coefficient (variant of correlation coefficient)

³ Assuming an untreated reoffending rate of 50%

⁴ Assuming an untreated reoffending rate of 50%

⁵ This refers to informal courts in which adolescent volunteers conduct hearings and determine sanctions.