

**Formative and Short-term Outcome
Evaluation of the
Porirua District Court
Young Adult List Court Initiative**
Iti rearea teitei kahikatea ka taea

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Executive Summary

The Young Adult List (YAL) is a judicially-led initiative that is being piloted in the Porirua District Court. Porirua District Court was chosen for the trial because it is well connected with the local community and community services.

While the trial began in March 2020, the Covid-19 pandemic restrictions delayed its official launch until 31 July 2020. At the launch, local iwi Ngāti Toa gifted the name *Iti rearea teitei kahikatea ka taea* to the initiative.

The initiative separates those aged 18-25 years from older defendants appearing in the existing list court and introduces a revised court process that recognises and adjusts for special characteristics that could limit executive functioning (thinking, memory and focus). The list court also draws on the experience of the Youth Court in allowing young people to participate fully in court.

The objectives of the Young Adult List initiative are to ensure young adults:

- are able to fully engage and participate with the court process;
- are able to understand implications of particular stages of the criminal process (for example, their bail conditions); and
- are given the opportunity to be referred to the right interventions.

The Ministry of Justice commissioned Artemis Research to conduct both a formative evaluation and a short-term outcome evaluation of the Young Adult List initiative.

Findings from interviews with court participants

In March 2021, 30 defendants from YAL and 25 defendants from a comparison court of comparable size were interviewed about their court experiences.

YAL interview participants were more likely than their counterparts at the comparison court to be supported at one or more of their court appearances by a support person, and for their support person to be acknowledged by the judge.

YAL interview participants were also more likely to say they could clearly hear and understand the judge. They were also more likely to say the judge had shown them respect or at the very least had not been disrespectful. YAL participants appreciated the judge addressing them by name and making eye contact. They were also grateful for opportunities the court offered to be referred to interventions they needed.

YAL interview participants were about twice as likely to say their court experience had made them think more deeply about their future and make some positive changes in their life.

YAL participants at case review appearances had appreciated being directly asked by the judge about their progress and being commended for any progress made. They also appreciated the judge checking that they understood what tasks remained for them to do in order to get their case resolved.

Those YAL participants who had had some experience of another court preferred YAL.

The YAL information booklet was of limited value to the third of YAL participants who received it. Some had not read it and those who had were neutral about it. What was more valuable was their lawyer's explanation of YAL.

Almost all participants interviewed at both courts said they could hear and understand most of what their lawyer said on their behalf.

The main concern of participants of both courts was the time they needed to wait around the court until their court appearance.

Analysis of administrative data on case processing

Key measures about case management were compared between the Porirua YAL and a Comparison District Court of a comparable size.

The Porirua YAL court resolved a total of 252 cases over a 12-month period (6 March 2020 to 28 February 2021).

The less serious category 2 cases at the Porirua YAL are averaging one more event and taking about one and a half times longer to resolve than at the Comparison Court, whereas the more serious category 3 cases at the Porirua YAL are following a similar pattern to those at the Comparison Court.

146 category 2 cases resolved through the Porirua YAL:

- averaged 5.2 events/case, higher than equivalent cases resolved through the Comparison District Court which averaged 4.1/case.
- averaged 140 days/case, about one and a half times longer than equivalent cases resolved through the Comparison District Court which averaged 91 days/case.

And 106 category 3 cases resolved through the initiative:

- averaged 9.2 events/case, the same as equivalent cases resolved through the Comparison District Court.
- averaged 204 days/case, longer by five days than equivalent cases resolved through the Comparison District Court which averaged 199 days/case.

The percentage of total events that are warrants to arrest has decreased at Porirua YAL from 12% in the first six-months (6th March 2020 – 31 August 2020) to 8% in the second six-months (1 September 2020 – 28 February 2021). The comparable figures at the Comparison Court are 14% and 14% respectively.

Findings from interviews with key stakeholders of the YAL initiative

The majority of the 18 key stakeholders of the YAL initiative interviewed in late 2020 thought young adult defendants engaged and participated in YAL more than they otherwise would have at other comparable courts. They put this down to the YAL judges taking a less punitive approach; addressing the young adult defendants more directly; YAL professionals making a greater use of plain language in their communications with young adult defendants before, during and after court; and changes to the courtroom layout.

Stakeholders thought that YAL lawyers had prepared young adults well for what might happen in the YAL courtroom, and that this had facilitated their engagement there.

Consistent messaging to young adults from the range of YAL professionals appears to have supported young adults' good engagement and understanding. Not only were the young adults more engaged in YAL, so too were their support people present in the YAL courtroom.

The majority view was that YAL was succeeding in young adult defendants being likely to have a better understanding of the decisions made affecting them (compared with other courts). This view was supported by the greater use of plain language in the YAL courtroom by judges and lawyers.

Stakeholders thought young adult defendants in YAL generally had an improved experience of the court system. Not only did they have a better understanding of what was going on in court and be more likely to participate in it, they were also given the opportunity through referrals to service providers to acquire new skills and qualifications.

Stakeholders also thought young adult defendants in YAL who identify as Māori were among those who had an improved experience of the court system. They put this down to:

- YAL having stronger connections with the local Iwi and community, and the court being more welcoming of whānau
- the presence of Māori professionals (in the courtroom and in social services) supporting or implementing YAL
- the greater use of in-depth cultural reports
- the availability of referrals to kaupapa Māori social services (such as mentoring services)
- the greater use of alternative resolution pathways such as Te Pae Oranga.

YAL was also helping improve young adult defendants' attitudes to the criminal justice system, and contributing to some families' increased trust and confidence in the justice system.

The Porirua District Court's long standing, positive relationships with other locally-based public sector agencies, Iwi, and numerous non-government social service providers enabled the YAL initiative to have been implemented relatively quickly.

Key stakeholders attributed the YAL initiative's ongoing success to the highly committed, core team of professionals who worked flexibly together to assist young adult defendants where they could. And individual YAL team members were willing to try different ways of working.

Despite not having implemented the intended screening tool, YAL judges and other professionals in the courtroom had access to more extensive information (including about any disabilities) about young adult defendants than they otherwise would.

The use of a common workroom supported better information sharing among YAL stakeholders and reduced duplication.

Challenges to YAL identified by key stakeholders include:

- encouraging and supporting victims' involvement in the court/justice system to the extent they wish

- managing the large size of the list (and its scheduling) which has the potential to overload the court
- managing the current capacity of some service providers (for example, driver licensing, mentoring, and restorative justice providers) that are thought to be stretched to the limit.

Improvements to YAL suggested by key stakeholders include:

- support agencies being able to meet with the young adult defendant ahead of the day of their first court appearance. This would enable them to better identify the defendants' needs and draft plans for them under less time pressure.
- better preparing young adult defendants for court, especially for their first court appearance. This could take the form of a video playing on repeat in the waiting area adjacent to the court.
- making greater use of written cultural reports that can assist the judge at sentencing. Cost can be a barrier and more funding would be required.
- processing cases more quickly through the greater use of orders of to come up for sentence if called upon. This could also serve to reduce the number of court appearances for defendants. Some defendants in training courses or work are currently taking a day's leave to appear at court.
- scheduling of cases in the YAL courtroom such that those young adult defendants making their first court appearance be scheduled to appear first with case review-type appearances to follow. Scheduling cases this way was thought to make better use of Police prosecutor time, with him/her prosecuting young adult defendants on their first court appearance, and defendants on other court appearances being covered by a member of the Police Family Harm team.
- producing an operations manual that documented current operations. This could be used to help steer any future rollouts of the initiative.
- incorporating an informal meeting of the judge, Police prosecutor and defence lawyer to discuss any issues before the defendant is present (like happens in the Special Circumstances court which some stakeholders have experienced)
- giving social service professionals some formal training about court operations
- making further efforts to reduce the possibility of defendants being intimidated in the courtroom – for example, by reducing the requirement for professionals to wear formal business clothes, and by reducing the number of professionals in the courtroom.

Improvements (such as better timekeeping and the faster resolution of cases) identified by participants at both courts might be expected to apply not only to YAL and the Comparison District Court but to courts more generally.

Elements of the YAL that could be transferred to other initiatives are also identified in the report.

The YAL initiative is showing early promise in the Porirua District Court in its first year of operation. Evidence from YAL participants and key stakeholders generally suggests that defendants' experience of YAL is largely positive. The Court's strong links with the Porirua community and locally-based community services has assisted its implementation.

Further evaluation of this initiative in Porirua would provide more evidence related to the achievement of medium-term outcomes, including reduced recidivism.

1 Introduction

The Young Adult List (YAL) is part of the journey by the judiciary and the Ministry of Justice (the 'Ministry') to transform the criminal justice system.¹ It is intended that the Young Adult List will increase access to justice for participants while still maintaining the integrity of the courts system, and ensuring procedural fairness.

The YAL initiative is being piloted in the Porirua District Court. While the trial began in March 2020, the Covid-19 pandemic restrictions delayed its official launch until 31 July. At the launch, local iwi Ngāti Toa, with whom the court has developed a close relationship, gifted the name *Iti rearea teitei kahikatea ka taea* to the initiative.²

The initiative separates those aged 18-25 years from older defendants appearing in the existing list court. Research shows that cognitive skills and emotional intelligence continue to develop into at least a person's mid-20s. Therefore, by virtue of their age alone, young adults require a different approach to effectively engage in the court process. In Porirua, young adult defendants appear in a separate court list on Fridays, called the Young Adult List.

A dedicated multidisciplinary team is present at each court session to provide the young adults with wraparound support. The team is specially trained to work with young adults, and support services include Māori, Pacific and Ethnic Services, Bail Support Officers, Adolescent Specialist Probation Officers, Police Prosecutors and Adolescent Mental Health Nurses as well as existing agencies at the Porirua Court. Everyone at the court is alert to the special needs and characteristics of the young adults.

The initiative recognises that a high percentage of young adult defendants suffer from neuro-disabilities such as dyslexia, acquired brain injury and foetal-alcohol spectrum disorder, which means they need extra support to be able to effectively engage and participate in the court process.

The Young Adult List process builds upon the approach used in the Youth Court. It recognises the concerns around young adults, in particular those with characteristics that limit executive functioning (thinking, memory and focus) and adjusts the traditional District Court process accordingly. One example of this best practice implemented is that the language used in the court is simplified and all people in court avoid legal jargon, including judges and lawyers. This enables all participants, including defendants, whānau and victims, to be more likely to understand what is happening and be engaged in the proceedings.

The objectives of the Young Adult List initiative are to ensure young adults:

- are encouraged to fully engage and participate in the court process;
- are assisted to understand implications of particular stages of the criminal process (e.g. their bail conditions); and
- are given the opportunity to be referred to the right interventions.

The objectives are expected to be achieved through the following activities:

1 The initiative fits within the transformative Te Ao Mārama model announced for the District Court by Chief District Court Judge Heemi Taumaunu on 11 November 2020.

2 Court in the Act. The Youth Court of New Zealand. Young Adult List Opening Ceremony. Issue 86, September 2020, page 5.

- a separate list to allow the court to have a dedicated young adult focus;
- use of a screening tool to screen for young adult defendants that present with characteristics that may limit their executive functioning;³
- increased safe information sharing between the Youth, Family and District Courts;
- support for young adults through the court process from support services (such as from Māori, Pacific and Ethnic Services (Police Service) and Bail Support Officers (Corrections Service));
- use of plain, accessible language by court professionals in and outside of the courtroom;
- consistency of judiciary to enable young adults to build a connection with the judge;
- revised court room seating arrangements to engender defendant participation; and
- legal aid assignments allowing the continuity of legal aid service between jurisdictions.

Building from engagement with Ministry stakeholders, we have captured the links between the objectives (or goal) of the initiative, activities and outcomes (together with enablers and barriers) in the intervention logic model diagram overleaf (Figure 1).

The Ministry of Justice commissioned Artemis Research to conduct both a formative evaluation and a short-term outcome evaluation of the Porirua District Court – Young Adult List initiative.

The formative component of the evaluation focussed on how well the goals and objectives are immediately being met to assess whether adjustments are needed to the design and implementation of the initiative. The findings will also assist with developing the assessment criteria for future evaluations.

The short-term outcome component focussed on assessing current processes and the immediate impact of the initiative on participants which will help inform decisions about its continuation and its potential application in other courts and initiatives.

This evaluation is intended to be the first in a series of evaluations as the initiative matures. Another process and short-term outcome evaluation are proposed to determine the medium-term impacts of the initiative. In 2022 or beyond, a summative evaluation is proposed to show whether the initiative has achieved its intended long-term outcomes (including reduced recidivism) and to indicate its ultimate value, merit and worth.

Chapter 2 examines the perspectives of 30 YAL participants about their experiences of the YAL initiative and contrasts them with the perspectives of 25 participants of their experiences of a Comparison District Court.

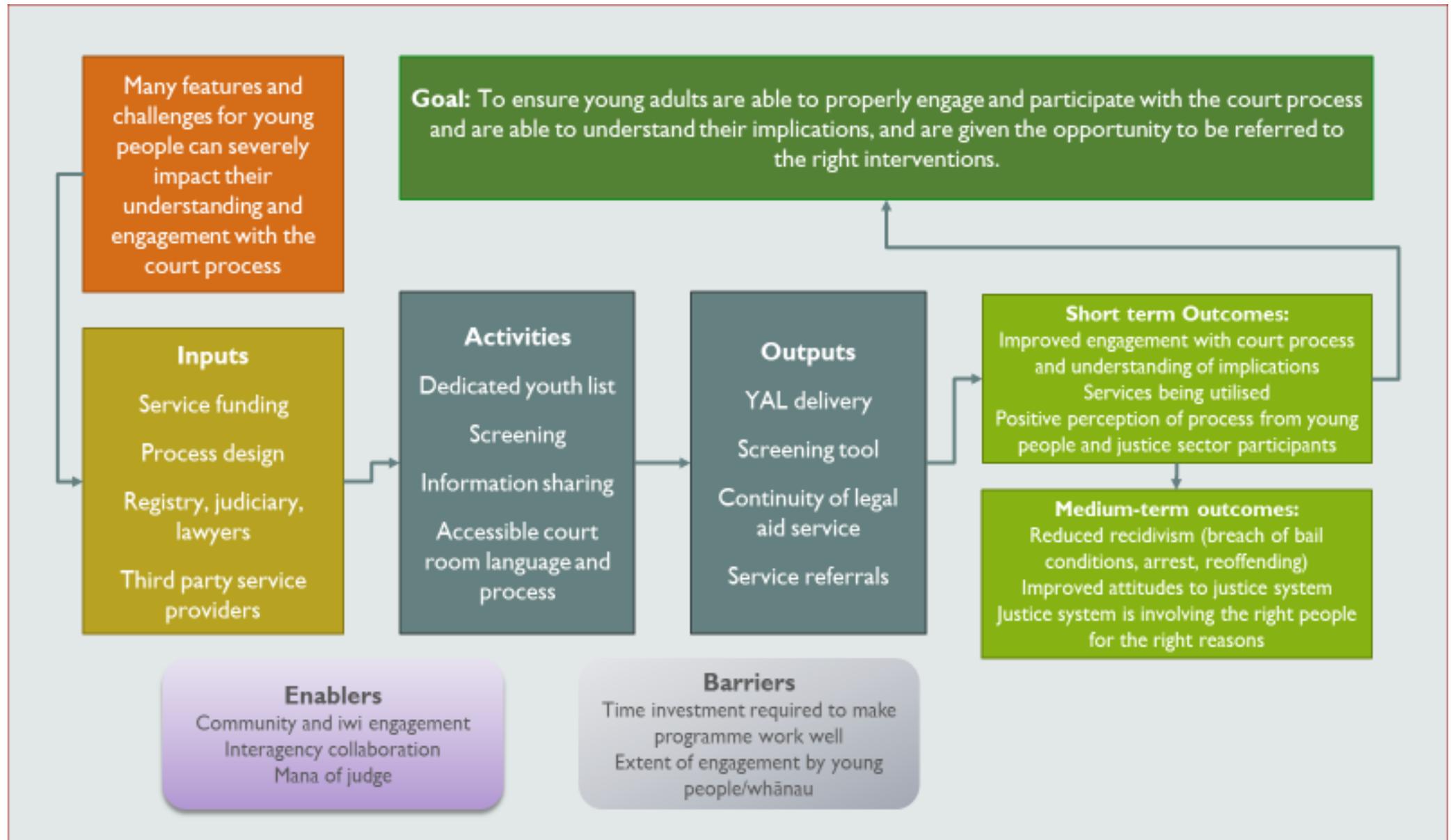
Chapter 3 provides an analysis of some administrative data provided by the Ministry

Chapter 4 examines the perspectives of 18 key stakeholders closely involved in implementing and supporting the YAL initiative.

Some concluding remarks are set out in **Chapter 5**.

3 We understand that the screening tool is still in development and is unlikely to be routinely in use until later in 2021.

Figure 1 DRAFT intervention logic model diagram of the Young Adult List Court initiative



2 Court participants' perspectives

2.1 Introduction

During March 2021, we conducted face-to-face interviews with 30 young adults from the YAL Porirua court and 25 people from the Comparison District Court.

We approached defendants as they left the courtroom to invite them to provide feedback on their experience. Most had appeared in court for case review or monitoring.

Seven in ten YAL court participants and almost four in ten comparison participants had been to court for a driving-related offence. Others had appeared for a range of personal (including male assaults female), property (burglary, theft, wilful damage etc) and drug related offences (including for supply of methamphetamine).

The age profile varied between the two groups. All YAL court participants were aged 18 to 25 years (as per the YAL entry criteria), except one who had just turned 26. Four in ten comparison participants were aged 18 to 25 years, with six in ten being older.

Almost half of YAL participants identified as NZ European, about four in ten as Māori, and one third as Pasifika. Six in ten comparison participants identified as Māori, one third as NZ European, one in six as Pasifika, and one as 'Other'.

Almost four in ten of the YAL participants and three in ten of the Comparison participants told us of having a disability (whether professionally diagnosed or not) that could have impacted on their understanding and experience of court processes.

2.2 Understanding and engaging with court processes

Correctly pronouncing their name

When their name was called about half YAL participants and all comparison participants recalled having moved to stand in the dock.

None of the YAL participants thought the judge had pronounced their name incorrectly. Two – one with a Māori surname, the other with a NZ European one – said they appreciated the judge saying their surname correctly.

Comparison participants were much more likely to have heard their name called over the loud speaker before they entered the courtroom and for the judge to have been less likely to address them by name.

Acknowledging their support people

Two thirds of YAL participants compared with one third of comparison participants were supported at one or more of their court appearances by a family member, whānau or a friend. Most commonly support for YAL participants was provided by a parent whereas for comparison participants it was commonly a friend.

According to YAL participants, their support people had all been acknowledged by the YAL judge, whereas comparison participants indicated that this had happened about half the time.

Some participants said they were pleasantly surprised by the judge's acknowledgement. It was '*primo*' according to one YAL participant.

One comparison participant whose support person (a friend) at court was not acknowledged by the judge said he would have appreciated this gesture. Another said she had not expected a judge to send her three children out of the courtroom.⁴

A small number of participants at both courts did not want support people at their court appearances because they wanted to keep the matter private.

Courtroom layout

Half of the YAL participants and all comparison participants recalled standing in the dock.

Some of those YAL participants who had been directed to stand away from the dock and closer to their lawyer indicated they preferred being closer to their lawyer without the dock apparatus between them. According to one YAL participant it could still be '*kind of awkward*' even if they could better hear and interact with their lawyer in that situation.

Comparison participants had no expectations that they would stand anywhere but in the dock. Some of those for whom it was their first appearance said they had not known where to stand and had been grateful for the security guard's direction.

One YAL participant with mental health issues said he had found it '*nerve-racking*' to stand in the dock surrounded by a large number of strangers. Another that he had felt '*a bit of my dignity gone.*' Another said that it had felt '*surreal.*'

A small number of YAL participants commented unfavourably on the large number of people in the courtroom.

Regardless of the courtroom layout, some participants from both courts mentioned they had felt anxious and nervous. One first timer said he had coped by '*zoning out*'.

Hearing and understanding their lawyer

All except one of the YAL participants and all except two of the comparison participants we interviewed said they could hear their lawyer loud and clearly in the courtroom.

The one YAL participant who said he could not hear his lawyer that well in the courtroom was not that concerned because he trusted that what his lawyer had to say to the judge would be based on their prior conversation.

One comparison participant said much the same. Another said that he had a hearing problem that he had kept to himself. His hearing problem had limited his ability to hear and understand what the lawyer had said.

4 According to this participant, her children – two teenagers and an eight-year-old - had not been disruptive.

All participants who could hear their lawyer in court said they could also mostly understand what their lawyer said.

One YAL participant with dyslexia who said she could '*somewhat*' understand her lawyer in the courtroom said her lawyer had warned her prior to entering the court that she might use terminology the defendant may not understand but that the lawyer would explain it to her afterwards. The only problem with this approach was that the participant was shy by nature and said she was hesitant to ask later.

Those in YAL seemed better informed and prepared for what would happen in court, and more willing to engage there, than those at the comparison court (who appeared quite fatalistic).

Hearing and understanding the judge

All YAL participants said they could clearly hear the judge. About one quarter of Comparison participants said they could not, which some put down to their position in the dock relative to where the judge sat. One comparison participant said it was harder to hear female judges.

Most YAL participants said they could understand what the judge was saying, with about one in five saying they could not. For example:

'It was the way they speak. It's too intelligent for me.' (male, Pasifika, first time at YAL court for assault and drug offences)

In comparison, about one in three comparison participants said they could not understand the judge.

A YAL Pasifika participant who had not been represented by a lawyer said that she had not understood what the judge had said to her.

One comparison participant said when he heard the judge use '*big words*' he simply tried to replace them with his own. Another said that while she could understand most of what was said in court, she was concerned that she might agree to something she could not understand and it could go against her.

Most participants in either court who indicated they could not understand the judge had afterwards had their lawyer explain what had happened and what the implications were.

Participants from both courts were equally likely to say they had understood their judge's decision.

Interacting with the judge

Most YAL participants relayed that their lawyer had done most of the speaking in court on their behalf. Most said they preferred it this way since they were still nervous even if the judge made an effort to make them feel comfortable.

When YAL participants were questioned directly by a judge mostly they had simply answered 'yes' or 'no'.

The minority who had spoken to the judge more than a 'yes' or a 'no' had found this quite empowering.

YAL participants who spoke to us after a case review appearance said that they had appreciated being asked directly by the judge about progress they had made. They appreciated being commended for their progress (on mostly driver licensing related tasks or counselling sessions). They also appreciated the judge checking that they understood what tasks remained for them to do to get their case resolved.

Feedback from comparison participants suggested that they were less likely than their YAL counterparts to experience a judge enquiring about their progress at a case review appearance. When it did happen though, they were appreciative of it.

'It makes you feel more respected ... when they talk to you as a person and not as a statistic.'

Comparison judges' kind words and encouragement supported these participants to stay on track. As one Comparison participant said: *'Positive actions give positive reactions.'*

A small number of comparison participants would have liked the opportunity to have spoken directly to the judge.

'Sometimes I'd like to say a few things but I can't talk directly to the judge. I need to go through the lawyer. I'd like to apologise for [needing to be] given so many chances, that I'm trying to straighten myself up.'

One said they would have liked to have written a note for the judge to say he was going forward with his life.

Being treated with respect

All YAL participants indicated that the judge had shown them respect or at the very least had not been disrespectful.

'The judge was polite, respectful ... pleasant to deal with and about as nice as a judge can be.'

By comparison only just over a half of Comparison participants thought their judge had respected them or had not been disrespectful.

YAL participants appreciated the judge addressing them by name and making eye contact.

Some relayed that they had really appreciated their YAL judge's caring attitude and guidance s/he had offered.

One YAL participant very favourably compared the judge he appeared before at YAL with other judges he had appeared before in some other courts who *'want to shit on you'* and not give you a second chance.

A lack of eye contact was the main reason Comparison participants gave for their view that the judge had not shown them respect.

'The judge didn't even make eye contact with me. It was almost like I was a fly in the room.'

One Comparison participant who had not felt respected said he had first tried to represent himself (to save money) but the judge had made it clear to him he must use quality legal advice.

One YAL participant relayed how the judge had told him he was disappointed that he had not made the progress the judge had expected and the judge had given him another option. This participant said he had been very pleased about this. He had expected the worst but had instead received further support.

Being referred to an intervention

Feedback from participants suggests that those in YAL were more likely than their comparison counterparts to be referred to an intervention (such as counselling focused on underlying causes of offending). Also, that the referrals made for YAL participants were a better fit with their needs.

Comparing YAL with other court experiences

Over half of YAL participants had had some experience of another court.

The small number who had experienced the Youth Court could see similarities with the YAL court. One preferred the YAL court on the basis that the process was easier to understand and staff were friendlier, more informative and *'not rushed off their feet.'* Another said that the process was more straight forward and his case was resolved more quickly than an earlier case on a similar matter.

Those participants who could compare their experience of YAL with another District Court courtroom had all preferred their experience of YAL. The judge had treated them more kindly and other professionals in and around the court had been more helpful.

2.3 Making changes

All except one of the YAL participants thought their experience of the YAL had made them think more deeply about their future and make some changes, whereas only about half Comparison participants thought this.

For most YAL participants the court experience had been *'a big eye opener.'* It had made them think about making better life choices and not repeating their mistakes.

'It was just one of those things that helped me switch my life around I guess, giving me that chance. I could have gone down hill from there, getting a conviction ... and not be able to get jobs and stuff like. Like I feel like it's just a sign, a part of me, that [I] can do better.'

'I don't want to go through this again. I don't want to have a record. That would make it hard to get a job.'

'I feel like I'm more responsible for myself now. That's what counselling taught me heaps. ... I've been doing a lot of walking. I hardly smoke cigarettes now. That counselling was actually good, aye. All of us were going through the same things ... I basically made new friends through the course.'

The most common behavioural changes YAL participants mentioned making were stopping or reducing their alcohol and/or drug consumption, and not driving under the influence of alcohol or drugs.

Other positive changes YAL participants mentioned included being in full-time work, not associating with the 'wrong crowd', getting into a routine, driving more safely, working towards their full driver licence, learning how to manage their anger without resorting to violence, and attending self improvement-type courses.

One YAL participant said he had learned to put himself in the right place before anything bad happens. He had a long-term goal of being a pilot and did not want to do anything that compromised that possibility.

2.4 Enablers, challenges & improvements

Enablers

According to YAL participants what was 'good' about appearing before a YAL judge was the judge being kind, compassionate and willing to give them a second chance.

'I thought it was cool how [the judge] thanked my friend. The way he went about it was quite endearing. It wasn't just thanks for being there ... [The judge] sounded like he meant it.'

'[The judge] patted me on the back for getting my full licence.'

A related 'good' factor identified by YAL participants was the opportunity afforded them to be referred to an appropriate intervention. A number of the YAL participants mentioned they had benefited from funding made available through Community Link in Court for driving lessons and tests to secure their driver licences.

A YAL participant with dyslexia (who was also struggling financially) appreciated being given the opportunity to take a driver theory test through a 'question and answer' interview-type situation (rather than needing to read the test questions and write their responses).

A number of YAL participants were grateful for being referred to counselling.

'[It's] the best counselling that I've done ... It made me think first ... before I act. It's taught me how to treat other people and all that stuff. There's like heaps of stuff they taught us in there ... It will help me with anger issues.'

Other interventions they mentioned in a positive light included the iwi panel and restorative justice processes. One was pleased to have been referred for a psychiatric assessment.

What was also identified by YAL participants as 'good' was the process of being remanded to undertake tasks prior to being sentenced with the chance of the outcome being a discharge without conviction.

A minority said going to court could never be described as 'good' but at least it was a chance to get matters sorted.

Proportionately fewer comparison participants identified a judge's less punitive approach as being a 'good' aspect of going to court. They were also much less likely than their YAL counterparts to mention the opportunity for referral to an intervention.

Approximately one third of YAL participants recalled being handed an information booklet about the YAL court.

Only one of those who had received the booklet said it was *'kind of'* helpful. She had dyslexia and had thought it great that the YAL court had made an effort to produce the booklet in recognition of people like her with learning disabilities. Most others who received the booklet were neutral about its value or had not read it. What appeared to be more helpful was their lawyer's explanation of YAL, some of it based on the booklet.

Challenges

About one fifth of YAL participants identified an aspect of the court process that they thought was 'not so good'.

Their main concern was waiting around the court – for some appearances for three hours or more - before being called. Two participants had decided to take a day's unpaid leave from work, given uncertainty related to the time of their actual court appearance.

Two identified being referred to counselling they had not needed as what was not so good. One said he had already had made a decision to change their behaviour around alcohol, or the other that he did not have a problem with alcohol.

A YAL participant with mental health issues mentioned being in the courtroom among a lot of strangers had made him very anxious.

Another had not understood why he needed to appear in person for the monitoring of his progress. It hadn't seemed necessary to him. (He thought the court could have found out by other means.)

Proportionately fewer comparison participants identified a feature that was 'not so good.' Their main concern was the number of court appearances they needed to make before getting their case resolved.

Improvements

Improvements most commonly identified by YAL participants were related to court processes more widely and not confined to YAL.

The most common source of frustration for YAL participants was the long times spent waiting around the court prior to their court appearance.⁵ One relayed how the display screen showing people's court appearance times bore little resemblance to reality. For instance, the screen might say 10.30am but you might not get called to see the judge until 4.30pm. Some YAL participants said they failed to understand why scheduled court appearance times could not better match actual appearance times, thereby making better use of everyone's time. Two YAL participants mentioned

5 Some simply accepted the need to wait around as part of their punishment. *'We're in the wrong and so the court shouldn't have to work too hard to make it right.'*

having needed to take up to a day's unpaid leave from work because of uncertainty around their actual appearance time.

Connected with this, was what some YAL participants perceived as a form of queue jumping. One participant said he'd seen a defendant '*going in and out*' of the courtroom three times before he was called.

One YAL participant suggested that it would be helpful if the court announced the timing of breaks (such as the lunch break) over the sound system so that those waiting around the court knew they too could take a break. As a first timer she said she had been petrified to leave the waiting area in case she missed being called.

Another area identified by YAL participants for improvement related to the seemingly long time it took to get their case resolved. Some thought their number of court appearances could have been reduced. It had been timely and costly each time that had needed to appear in the court.

A couple of YAL participants suggested the possibility of having fewer service groups represented in the courtroom. It had been scary standing in front of them all, especially since participants didn't know their roles.

One YAL participant would be preferred to have had his case heard in a closed hearing, with only the judge, lawyer, and a support person.

One first timer suggested having the equivalent of a receptionist (possibly a volunteer) to greet people coming to the YAL court especially for those for whom it was their first time. A receptionist could help, for example, by answering any immediate questions they might have and directing them in the right direction (to see a duty lawyer etc). This would help settle their nerves.

3 Analysis of administrative data

3.1 Introduction

This Chapter provides analysis of limited administrative data supplied by the Ministry of Justice relating to the processing of cases at the Porirua YAL and the Comparison District Court over one year.

The Comparison District Court is of comparable size to the Porirua District Court in terms of court volumes, and the demographic profile of defendants at both courts is somewhat similar.

3.2 Results

Case events and case resolution times

The Porirua YAL court resolved a total of 252 cases (146 category 2 cases and 106 category 3 cases) between 6th March 2020 and 28th February 2021 (Table 1).

One hundred and forty-six cases were of category 2 (less serious) offences and 106 were of category 3 (more serious) offences.

Category 2 cases resolved through the Porirua YAL:

- averaged 5.2 events/case, higher than equivalent cases resolved through the Comparison District Court which averaged 4.1 events/case.
- averaged 140 days/case, about one and a half times longer than equivalent cases resolved through the Comparison District Court which averaged 91 days/case.

Category 3 cases resolved through the Porirua YAL:

- averaged 9.2 events/case, the same as equivalent cases resolved through the Comparison District Court.
- averaged 204 days/case, longer by five days than equivalent cases resolved through the Comparison District Court which averaged 199 days/case.

Table 1 Number of cases, average events/case and average days/case by Court and offence category, 2020-21 (6th March 2020 to 28 February 2021)

| | | Porirua YAL | Comparison |
|--|--------------------------|-------------|------------|
| Category 2 (< two years in jail) | | | |
| 2020 - 21 | Number of cases resolved | 146 | 328 |
| | Average number of events | 5.2 | 4.1 |
| | Average number of days | 140.0 | 91.3 |
| Category 3 (two + years in jail) | | | |
| 2020 -21 | Number of cases resolved | 106 | 150 |
| | Average number of events | 9.2 | 9.2 |
| | Average number of days | 203.9 | 198.9 |

Notes

Ministry administrative data supplied on 5 May 2021.

Category 2 offences are offences with a maximum penalty of less than two years in jail such as common assault or a first or second drink driving conviction.

Category 3 offences are offences with a maximum penalty of a jail term of two years or more (but excluding Category 4 offences). Offences include aggravated assault, threatening to kill, dangerous driving or a third (or more) drink driving conviction.

Events include bail applications, breaches of bail, first appearances, unscheduled appearances, warrants to arrest, sentence monitoring, sentence reviews, judicial monitoring, YA list, YA case reviews, YA sentencing, YA sentence indications, YA discharges without conviction.

In summary, the less serious category 2 cases at the Porirua YAL are averaging one more event and taking about one and a half times longer to resolve than at the Comparison Court, whereas the more serious category 3 cases at the Porirua YAL are following a similar pattern to those at the Comparison Court.

Table 2 shows similar information but showing the results separately for 2020 (10 months) and 2021 (two months).

Table 2 Number of cases, average events/case and average days/case by Court, offence category, and year

| | | Porirua YAL | Comparison |
|--|--------------------------|-------------|------------|
| Category 2 (< two years in jail) | | | |
| March – Dec 2020 | Number of cases resolved | 96 | 237 |
| | Average number of events | 4.8 | 3.7 |
| | Average number of days | 126.6 | 82.3 |
| Jan – Feb 2021 | Number of cases resolved | 50 | 91 |
| | Average number of events | 5.9 | 5.3 |
| | Average number of days | 165.6 | 114.9 |
| Category 3 (Two + years in jail) | | | |
| March – Dec 2020 | Number of cases resolved | 61 | 107 |
| | Average number of events | 8.0 | 7.7 |
| | Average number of days | 185.1 | 200.1 |
| Jan – Feb 2021 | Number of cases resolved | 45 | 43 |
| | Average number of events | 10.9 | 12.8 |
| | Average number of days | 229.3 | 195.8 |

Notes

Ministry administrative data supplied on 5 May 2021. 2020 = 6th March 2020 to 31 December 2020. 2021 = 1 January 2021 to 28 February 2021.

See Table 1 for explanation of terms.

Warrants to arrest

Warrants to arrest are one event type collected in the Ministry’s administrative data.

The percentage of total events that are warrants to arrest has decreased at Porirua YAL from 12% in the first six-month period (6th March 2020 – 31 August 2020) to 8% in the second six-month period (1 September 2020 – 28 February 2021). The comparable figures at the Comparison Court are 14% and 14% respectively.

4 Key stakeholders' perspectives

4.1 Introduction

During November - December 2020, we conducted 14 in-depth semi-structured interviews with 18 key stakeholders who are supporting and implementing YAL.

Key stakeholders included judges, Ministry of Justice court managers, Police, Corrections staff, a defence lawyer, Capital and Coast District Health Board mental health nurses, Community Link in Court staff (Ministry of Social Development service provider), restorative justice practitioners (Ministry service providers), and a staff member of a non-government organisation.

The interviews – which were audio recorded with the stakeholders' signed informed consent - were based around the key evaluation questions i.e. about:

- the immediate impact of the YAL initiative on issues of access to justice, honouring the Crown's responsibilities to Māori and maintaining the integrity of courts;
- enablers and barriers (including the local context);
- their views and experiences of YAL compared with other list courts;
- the immediate impacts that the List is having on resourcing; and
- elements of the initiative design that could be transferrable to other initiatives.

4.2 Meeting the initiative's objectives

Young adults are engaging and participating in YAL processes

The majority of stakeholders thought young adult defendants engaged and participated in YAL more than they otherwise would have at other courts. They put this down to the YAL judges taking a less punitive approach; addressing the young adult defendants more directly; YAL professionals making a greater use of plain language in their communications with young adult defendants before, during and after court; and changes to the courtroom layout.

'I think a lot of our young people appreciate the [non-punitive] approach because their life is punitive essentially. They have a lot of stressors ... They have also not had amazing role models. They have not had amazing peer groups. So, I think it is giving these young people a chance to see that there is a different way of doing things ... and that all these young people need is a bit of support.'

'The judge ... is doing things different by actually looking up, stopping and talking directly, eyeballing the defendant ... "Okay, did you understand what was just said there?" and going through it using plain language.'

'The change of language ... plain language. The judges are doing an amazing job ...'

'Subtle changes that we've made are proving their benefit ... For example, the courtroom layout means that the defendant is now included in the process ... merely by having their lawyer next to where they're standing in the dock ... So just moving the physical positions of people has changed that feeling.'

According to one key stakeholder, the fact that a YAL judge had a conversation with a young adult made a big difference to the extent to which that person participated in the court process. Another had noted there was more interaction between the judge and the young adult in YAL than there was between the judge and defence counsel (though this was not our observation).

Stakeholders thought YAL lawyers had prepared young adults well for what might happen in the YAL courtroom, and that this had facilitated their engagement there.

'We're just sort of front footing the rehabilitative measures ... to avoid that churn (of court appearances) ... In terms of [young adults] engaging with the process, they have it all up front. The duty lawyer explains it to them. They have an input whether they agree or not, and away we go from there and everything is very clearly explained to them.'

They were of the view that consistent messaging from the range of YAL professionals supported young adults' good engagement and understanding.

It was apparent from what most key stakeholders said that most young adults were getting something positive out of their participation in the YAL court process in addition to the resolution of their case.

Not only were young adults apparently more engaged in YAL, so too were other people present in the YAL courtroom.

'I think ... the change in language is beneficial to everybody in the room, not just the participant but the witnesses and even other people in the public gallery ... So that is all about engagement ... This is a just process.'

Young adults have a better understanding of the implications of orders

The majority view of the stakeholders interviewed was that YAL was succeeding in young adult defendants having a better understanding of the decisions made affecting them (compared with other courts). One stakeholder said:

'[In] a Young Adult Court process where all the defence counsel are using the same language, the judge is using the same language, the judge is clarifying that the defendant actually understands things are going on ... you can clearly see ... that the young people understand the process, understand where they are at in the process, and understand what the expectation of the court is. I think it is certainly strides ahead of the [usual] District Court process in my mind.'

While the planned disability screening tool has not materialised YAL defence lawyers apparently 'know what to look for and what type of questions to ask' to identify defendants' likely level of understanding.

And defence lawyers were making more of an effort to explain things (such as their implications of their bail conditions) regardless or not of whether a young adult defendant in YAL had a disability.

'I think we make more of an effort ... to get [young adults] to understand the consequences and what will happen and what needs to happen and why you don't want to break the rules because you will be arrested and you could have your bail opposed which means you could

be remanded in custody and you have to ask the court to consider giving it to you again. We take more time trying to do preventive [work] I would say.'

'I think we push a little bit more to ensure that [young adults] understand. ... We often get the "Oh, well, could you actually explain that?" Or "I kind of understood everything but what did you mean by that?"'

While the greater use of plain language in the courtroom was apparent to stakeholders, it was unknown to them whether this was also occurring outside the courtroom.

Young adults are given the opportunity to be referred to the right intervention

YAL judges were commonly referring young adults to interventions or services prior to disposing of their cases (often not by way of a conviction). One stakeholder described the process:

'With this list the judge can say: "I'm not going to sentence you just yet. Hang on. We'll get you some help." So, we can get in there, wrap around agencies to help them to get that driver's licence that they then bring back to court and go "Look I've got it". So, there's no conviction, bang, we've already stopped that spiral.'

Driving-related offences are common among young adults in YAL.⁶ One of the reasons that defendants give for not having a driver's licence is not having, or not knowing how to obtain, a form of identification (such as a birth certificate). Such young adults are commonly referred to one of two providers (the Howard League and Partners Porirua) for assistance with this. Community Link in Court provides some financial assistance for driving lessons and tests.

One stakeholder questioned, though, the value of referring a recidivist drunk driver to the same intervention each time. The fact that they continued to commit the same offence suggested that they were not being referred to the 'right' intervention.

Some of the (non justice) providers at YAL (such as Community Link in Court) recognised they needed to perform a navigator type role in addition to their usual services.

'There was a young man who had been to the court two or three times, and he had not made progress on the steps that he was supposed to have. He got referred to us. We ensured that he engaged with [X provider] to progress his driver's licence and we also assisted him financially [to do his defensive driving course] ... He had to do volunteer hours as well ... He just needed someone to guide him at each step ...'

In making a referral, consideration is given to the best cultural fit for the young adult. Young Māori adults can be referred to the local iwi organisation, Ngāti Toa, for access to health services (including for alcohol and drug addiction), and to the Howard League for mentoring services. They can also be referred to Te Pae Oranga (an alternative resolution service).

Young Pasifika adults can be referred to a Pasifika counselling service.⁷

6 70% of YAL young adults we interviewed had committed driving related offences.

7 There is also a Pasifika Police liaison officer.

A positive unintended benefit of YAL is that it is giving these young adults greater awareness of local social services which they can access for support if they need them again in the future.

4.3 Helping meet access to the justice objectives

One dimension of access to justice relates to the quality of user experience of the justice system. Key stakeholders thought young adult defendants in YAL had an improved experience of the court system. They had the opportunity to better understand what was going on and be more likely to participate in it and to acquire new skills and qualifications. If they were successful, the YAL outcome recognised their achievements.

[A young adult] in our Court sitting and passing anything, a driver licence or whatever, it's highly celebrated by the Judge. ... It's really satisfying seeing, for example, a gang prospect or someone who hasn't had many successes in their life to be holding something that they've succeeded in and giving it to a Judge and then he says, "Well done, congratulations," and you can see them beaming with pride.'

Stakeholders were of the view that young adult defendants in YAL who identify as Māori had an improved experience of the court system. They put this down to:

- YAL having stronger connections with the local Iwi and community, and the court being more welcoming of whānau

'Here right now what we're doing is achieving more for Māori than we've ever achieved before, and that's because of this inclusiveness, that's because this person knows my whānau's here with me and they're going to be allowed to speak ...'

- the presence of Māori court professionals and social service providers supporting or implementing YAL

'I am Māori, I think that helps. ... [Māori young adults] become more open with you because I am Māori.'

'I am Māori. The engagement process and the whole process of the Young Adult Court is different and it is different in a positive way. So, it can only be better for Māori. If I think of a lot of the success stories coming through, the majority of those young people have been Māori or Pasifika.'

- the availability of in-depth cultural reports

'Sometimes it's these cultural reports that the judge is reading and he goes: "Ah, it wasn't here that life turned rubbish for you, it was actually back here." All this information that wouldn't have been gleaned elsewhere or otherwise they're getting out of these cultural reports.'

- the availability of referrals to kaupapa Māori social services (such as mentoring services)
- the use of alternative resolution pathways such as Te Pae Oranga.

I don't think there is any kind of preference given to alternative resolution for Māori and Pasifika ... I think the prosecutor is just open to alternative resolution for everybody. I think Māori and Pasifika have benefited from this approach.'

Stakeholders also pointed to some evidence that some young adult defendants supported by YAL had gone on to make positive life changes beyond simply not offending.

'It is all well and good to have them stop offending ... but what is a better outcome? When we talk to [X, a young adult who had been through YAL] the better outcome for him is he is now no longer in that unhealthy [gang] environment that was driving his behaviour. He is now seeing a different form of life ... He is ... working.'

YAL also appears to be helping improve young adult defendants' attitudes to the criminal justice system. And it also appears to be contributing to some families' increased trust and confidence in the justice system, which is reflected in their higher likelihood of reporting a crime within the family to the Police. A stakeholder explained:

'We get young offenders ... offending ... within, say, a family environment ... [Family members experiencing the harm] don't want to make complaints to the Police because of the effect they think it is going to have on their young person. But once they understand that actually making this complaint could end up with a positive outcome [they are coming forward to report]. ... [Family members] are setting a line in the sand around what their expectation of behaviours within their family are ... Also, they are seeing that actually at the end of it all we are going to get a better product or a better relationship as a result.'

4.4 Enablers and challenges

Enablers

The Porirua Court's long standing, positive relationships with other locally-based public sector agencies, Iwi, and numerous non-government social service providers were thought by stakeholders to have enabled the YAL initiative to have been implemented relatively quickly.

'Porirua Court is unique in terms of the relationships that it has in the community. The existing relationships meant that this pilot could get up and running pretty quickly, and the service manager here has worked with Judge [X] before so knew how to navigate what he was requesting and work with him, was able to lead the change I guess with the stakeholders well. ... I think the relationships were established by the Judge ... 10 years ago. Those relationships have been cared for and nurtured by the [court] service managers ...'

'We had worked very hard at becoming a community court as in a court that was visible and working alongside its community. So, we already had relationships with [other] agencies. We're mainstream. We're doing what every other court in the country does but that solution focused approach, which is what the Young Adult List is all about, was already there. We already had the approach going on but it was a clip on if you like to business as usual.'

The fact that one of the Ministry court managers on the YAL implementation team affiliated with Ngāti Toa (the local Iwi) may have facilitated its implementation in Porirua.

An added advantage of the choice of Porirua District Court for the YAL initiative was that the court in general is *'quite encompassing with allowing whānau engagement in the whole court process.'*

Stakeholders attributed the YAL initiative's success to the committed, core team of professionals who worked flexibly together to assist young adult defendants where they could. Individual YAL team members at the court were willing to try different ways of working. For example:

'It's a bit of a major mind shift for myself ... where I have gone into like a helping mode, if you like ... It's all very interactive ... Everybody interacts far more than we've ever done ...'

'Police Prosecutors are questioning ... some of the things they are asking for around bail conditions. Defence counsel are doing the same ... it can only be good for the participants.'

'The duty lawyers have much more active roles ... we are often the ones who negotiate plans for [young adult defendants].'

Good working relationships among YAL team members were such that if there was an issue it was placed on the table and resolved quickly. The use of a common workroom supported better information sharing and reduced duplication.

'We are able to bounce off each other, talk through some of the cases ... It is really nice because we are able to kind of say, hey, I have seen this young adult and I really think you guys might be able to provide something we can't.'

'We are avoiding the situation where we are doing double ups – for example Community Link in Court making a referral to family violence counselling and then Bail Support Services getting engaged a bit later and then making a referral to another organisation which can be frustrating for a defendant.'

One stakeholder was of the view that prior exposure by defence counsel to the Porirua Family Violence Court had eased their transition into the Young Adult List court.

'[Defence Counsel] are there to defend their clients and they have got to get that understanding of the whole big holistic picture as to what we are trying to achieve. A lot of our defence counsel saw that through the family violence court and they just transposed that over into the Young Adult Court. I think that has been a huge advantage to the Young Adult Court. ... To just walk in and place the Young Adult Court into [another] District Court environment I think you would have ... a lot of push-back.'

It was a new experience for social service providers to sometimes contribute to discussions in the courtroom. However, they indicated that the judges were encouraging and *'very responsive and happy to hear what we have to say.'*

Some stakeholders said the preparation work carried out immediately prior to a young adult defendant's first appearance had reduced churn.

'It's a bit of a one stop shop. There's a lot to do at the first appearance but we'd rather get them to appear once ... and then off they go to do all their stuff with a clear understanding of what is required of them.'

Despite not having implemented the intended screening tool, YAL judges and other professionals in the courtroom have access to more extensive information (including about any disabilities) about young adult defendants than they otherwise would.

'Their youth history, their family violence history, that they've been the victim or a witness of ancient family violence events that Police have attended in some cases ... They might have hearing issues, they might not be able to see properly, even if it's something small or big ... This Court knows about it and knows a lot more about what's going on for this young person.'

One stakeholder noted that the redesigned duty lawyer information sheet and an additional checklist had supported better information flow among defence lawyers, reduced the burden on defendants by not having to provide information more than once, and better enabled lawyers to focus on what was needed to be done for the young adult at a particular appearance.

YAL judges are able to refer a young adult defendant to a greater range of services, including Te Pae Oranga (in addition to restorative justice). Such a referral could be a more culturally appropriate option for a young adult Māori defendant, for example.

Police in YAL are working differently in that they are making less use of warrants to arrest young adult defendants for non-appearances at court. What is more likely to happen is that the case will be stood down while a duty lawyer contacts them (or a whānau member) and reminds them of their obligation, and they come into court voluntarily, usually on the following Monday.

Challenges

Arguably, one of the greatest challenges to YAL (and to any like initiative) is encouraging and supporting victims' involvement in the court/justice system to the extent they wish. One key stakeholder thought that the *'huge defendant focus means victims felt left out, ignored.'* Given that focus, victims were thought to be reluctant to engage in YAL. YAL cases were thought to be taking slightly longer to be disposed of, which, in turn, exacerbated the situation for victims. One stakeholder was of the view that *'we need to get the victim work done'* before the YAL initiative was rolled out further since *'understanding what the defendant is going through in the court isn't enough to keep the victim engaged.'*

According to this key stakeholder, a solution may lie in involving the victim early in the court process.

'Is there that ability to kind of have that exchange of information earlier in the process in the form of an RJ or an early read of the Victim Impact Statement bringing the victims' views from the rear end of things to the front?' (05)

A challenge YAL needs to be cognisant of is a perception by the public that one key stakeholder described as *'just another court for more lenient sentencing.'*

Another challenge is the large size of the list (and its scheduling) which had the potential to overload the court. This could mean that young adults were kept waiting sometimes for *'five or six hours.'*

The planned disability screening tool has not materialised though some key stakeholders said their requirements for this had likely changed.

... We probably need more like a conversational tool ... and use just little tricks like "Okay. Can you just write your name and address down for me please?"

'We find it easier just having a conversation ... A lot more comes up in conversation than it does if you are sitting there with a piece of paper ... asking questions.'

One key stakeholder described the amount of preparation work and draft plan development that needed to be squeezed in prior to a young adult's first court appearance in YAL as potentially 'overwhelming.'

'... There are drug and alcohol clinicians, the lawyer, ... the family harm person to see, getting [Māori mentor's] name and ... seeing him as well ... Possibly it is overwhelming but, in my view, it has to be done. It's better to do it all at once rather than staggered.'

The capacity of some service providers (for example, driver licensing, mentoring, and restorative justice providers) to whom large numbers of young adults are being referred by YAL was thought to be stretched to the limit. According to one stakeholder, there is a risk that key people in some small voluntary organisations will burn out.

While most stakeholders said using plain language in the YAL courtroom, they thought that the YAL judges needed to remain vigilant for times when lawyers resorted to legalese. A related issue is that some lawyers may be resistant to any sort of change.

'We do have lawyers that don't want to participate in the Youth Adult Court because they don't want to be about the defendant in my mind. They want to stick to the traditional rules where the lawyers make the decisions and carry the case.'

YAL currently benefits from having a strong core team of professionals, with little turnover. Some turnover will happen due to Police's rotation policy.

The fact that a judge cannot direct a cultural report be prepared for consideration at sentencing was identified as a gap in the current legislation. A stakeholder thought cultural reports could give a judge very helpful insights about a young adult defendant and should be able to be directed by the judge, rather than at a defence lawyer's discretion.

Other challenges to YAL identified by stakeholders included increasing whānau support at court and finding an easy means by which young Māori adult defendants of a particular Iwi affiliation could be connected with that Iwi.

4.5 Immediate impacts on resourcing

There is pressure on the size of the list. One stakeholder had observed that sometimes young adults were being kept waiting for five or six hours in the back of the court.

'The biggest tension in courts at the moment is judicial hearing time, Judge time. ... You've got to use it effectively Nationwide there's a standard ... saying for example in a Judge's List, a Judge will have no more than say forty matters ... they need more time [in YAL] than what was historically allocated per case is what I suspect.'

Judicial hearing times can be longer in the YAL than other list courts. If the list comprises 30 or 40 cases, for example, an extra minute/case adds half an hour on the day. This was thought to have a negative impact on the court registry in terms of the time involved, but it was also seen as having a positive impact in that it is supporting 'turning a first appearance into a last appearance' and reducing churn and therefore reducing overall court time each year.

The court registry was involved in a good deal of set-up work for the YAL pilot liaising with stakeholders (Police, defence counsel, contributing services, NGOs). Some of this implementation 'unseen' work needs to continue but requires additional resource.

'There was added burden on the registry as a result of the pilot ... During the establishment there is a lot of liaison with the stakeholders, the police, defence counsel, contributing service, NGOs and those sorts of things, and other agencies and stuff like that. ... There is still a little bit of that work that has to be done as we iron things out. Even around the implementation of the pilot there is some low level or detailed stuff that falls back on the Registry ... We have managed it in the pilot but ... it has proved to be that actually resources are required. So that has gone from a risk now to an issue eh.'

The court has provided a workroom for YAL professionals which they can use to progress other work when they are not needed in the courtroom. This has proved its worth in terms of supporting the cross pollination of ideas and inter-group communication.

Some of the NGOs (for example, the NGOs running driver licensing courses) and the Alcohol and Drug Service are nearing or at capacity which has a flow-on effect in terms of the progress of some defendant plans. Some stakeholders thought the Howard League is at capacity, as are restorative justice practitioners.

'... With a hundred and five referrals and the Howard League aren't funded by the Courts. Restorative Justice is the same and someone mentioned why don't the Police and the Courts come up with some funding for these small voluntary organisations that do all the work or the lion's share of work ... They'll eventually end up burning out and so that is a risk for the Young Adults Court. The lion's share of our work is driver licensing ... and young people needing to drive and a bit of education around that and we've got one person doing it in X.'

File preparation for young adults in YAL was taking a little longer.

'There is a little bit more file preparation for young adults in this court because we have to find out more information ... We have to refer to Youth Court, we have to look for this, we have to look for that. ... It might be three minutes of this and five minutes of that ... We are resourced to do the work we have come in ... but if somebody is away then we are probably under-resourced for the job, and we have always got people away because of leave and unplanned absences.'

YAL defence lawyers seem to be taking more time to explain things to their YAL clients (such as why they needed to stick to their bail conditions and the consequences if they didn't) and to their whānau.

Bail Support was thought to be quite strained resource-wise. *'We are under the pump.'*

According to stakeholders we spoke with there has been no appreciable impact of YAL on resourcing for Court Services for Victims, the Public Defence Service, Community Link in Court, or the Forensic Court Liaison Nurses.

Lawyers are seeing the value of cultural reports for their clients at sentencing, increasing the demand for them. However, they said costs associated with the preparation of cultural reports appears to be a barrier for defendants.

Some stakeholders were of the view that more cases were being resolved earlier in the YAL, reducing the numbers of Judge alone trials.

According to a Police stakeholder, there are fewer warrants to arrest for YAL defendants who fail to appear at court.⁸ This has a positive impact on the resourcing of Police custody staff. (If a person is arrested by Police in Porirua on a Friday night, they would ordinarily spend up to two nights in Police custody to await their next court appearance.)

Some stakeholders raised the issue of scheduling of cases in YAL. Stakeholders are required to be in the YAL courtroom even though they may not have a contribution to make to a particular case – which was seen as inefficient.

‘It’s good to have many different stakeholders there but each stakeholder only needs to interact with a few people and so that means there’s a fair amount of time when each of us is sitting in Court listening to cases that aren’t related to what we can support ...’

One stakeholder suggested that court appearances for monitoring/review purposes be scheduled at a different time to court appearances for other reasons. Another stakeholder thought that the introduction of YAL has placed pressure elsewhere in the District Court.

‘What [the YAL pilot] does do though, so it takes away a whole lot of other Judge time that we would have had. So, our other, our matters for everyone over twenty-five, before we’re starting to see them blow out because we can’t get them through because we’re down a whole day’s worth of Court, which is now substituted with the Young Adult List. So that would be another tension that would have to be managed very well in the Ministry.’

4.6 Suggestions for improvement

A screening or assessment tool for the identification of learning disability was expected to be developed and used as part of the new initiative. For various reasons this has not happened. Stakeholders interviewed appear somewhat divided about the value of a formal tool and who might use it.

‘Do we know whether a person has the ability to actually achieve what the court is asking them to achieve? That is the assessment that really needs to be conducted ... It is quite an important assessment.’

‘There was talk of a formalised screening tool but ... I hate formality, especially around mental health. ... People hear ‘mental health’ and they don’t want to engage ... It is easier just having a conversation.’

Stakeholders made several suggestions for improvements to YAL. They included:

- support agencies being able to meet with the young adult defendant ahead of the day of their first court appearance. This would enable them to better identify the defendants’ needs and draft plans for them under less time pressure.

8 Analysis of the administrative data confirms this (see section 3.2).

'If we could have the list prior to the day. [It] allows time for us to actually put a good plan in place instead of just really quickly in the morning. So, we would have already worked on some steps so when they get to the judge these things have sort of already happened.'

- better preparing young adult defendants for court, especially for their first court appearance. This could take the form of a video playing on repeat in the waiting area adjacent to the court.
- making greater use of written cultural reports that can assist the judge at sentencing. Cost can be a barrier and funding would be required for some defendants. (Another option might be for a cultural report to be delivered orally by a whānau member.)
- processing cases more quickly through the greater use of orders to come up for sentence if called upon.⁹ This could also serve to reduce the number of court appearances for defendants. Some feedback from some defendants in training courses or work was that they were taking a day's leave to appear at court when it may not be necessary.
- scheduling of cases in the YAL courtroom such that those young adult defendants making their first court appearance could be scheduled to appear first with case review-type appearances to follow. Scheduling cases this way would make better use of Police prosecutor time, with him/her prosecuting young adult defendants on their first court appearance, and defendants on other court appearances being covered by a member of the Police Family Harm team.
- producing an operations manual that documented current operations. This could be used to help steer any future rollouts of the initiative and continuous improvement.
- incorporating an informal meeting of the judge, Police prosecutor and defence lawyer to discuss any issues before the defendant is present (like happens in the Special Circumstances court)
- giving social service professionals some formal training about court operations
- making further efforts to reduce the possibility of defendants being intimidated in the courtroom – for example by reducing the requirement for professionals to wear business clothes, reducing the number of professionals in the courtroom.

A suggestion for improvement to the wider criminal justice system mentioned by one stakeholder was for a change to funding arrangements such that a person who needed it could access funding for attendance at a (non-mandated) non-violence programme without the need for them first to be charged with a family violence offence in the criminal court.

4.7 Elements transferrable to other initiatives

Elements of the YAL initiative that could be transferred to other initiatives include:

⁹ A conviction must be entered before a 'to come up for sentence if called upon' (within a period of up to one year) order can be imposed.

- use of plain language in court which increases understanding among young adults, their whānau and victims

'You stop and think about the language you are using ... I try to apply [the use of simple language] in the regular court because I realise that the language barriers ... communication barriers, understanding barriers, they apply everywhere.'

- use of the correct pronunciation of Māori and Pacific words
- opening of the court each day with a mihi and people introducing themselves. This was thought to promote a team approach with stakeholders.
- courts taking a more therapeutic and solution-focused approach, including being more amenable to a range of options for the disposition of less serious offences (such as driving-related ones)
- the provision of wraparound services to adults who appear before the court, regardless of their age.

'Everything that we do should really be part of the process in every court because it's pretty basic stuff. It's just providing the resources to educate people and to keep them out of the system. It's not rocket science ... Some young adults move on with the same issues to become adults, like you know, just because you cross over the threshold of twenty-five, your hearing issue isn't going to go away or the fact that you need glasses isn't going to go away or your ADHD or your undiagnosed other issues ... So yeah, the same wraparound services as we have should really extend to everybody, every court.'

- improved courtroom layout that places the defendant outside the dock and closer to their lawyer, where appropriate.
- greater information sharing between the District Court, the Youth Court and/or the Family Court. This can provide the District Court judge with more in-depth understanding of the young adult's background.

5 Concluding remarks

To recap, the objectives of the Young Adult List initiative are to ensure young adults:

- are able to properly engage and participate with the court process;
- are able to understand implications of particular stages of the criminal process; and
- are given the opportunity to be referred to the right interventions.

The formative component of the evaluation focussed on how well the goals and objectives are immediately being met to assess whether adjustments are needed to the design and implementation of the initiative.

The Porirua District Court's long standing, positive relationships with other locally-based public sector agencies, Iwi, and numerous non-government social service providers appears to have enabled the YAL initiative to have been implemented relatively quickly and well.

We do not see the need for any major adjustments to the design of the initiative and have suggested some improvements to its implementation.

We note that the use of a screening tool which was part of the original design has not been implemented.

Two improvements to YAL suggested by key stakeholders which we support are:

- investigating the possibility of support agencies being able to meet with the young adult defendant ahead of the day of their first court appearance. This would enable them to better identify the defendants' needs and draft plans for them under less time pressure.
- better preparing young adult defendants for court, especially for their first court appearance. This could take the form of a video playing on repeat in the waiting area adjacent to the court. (Feedback about the YAL booklet was that it was of limited value.)

We think key stakeholders' other suggestions (such as the scheduling of cases of similar appearance types grouped together) also warrant consideration, as well as how best to increase victim involvement in the initiative. Other challenges include managing the size of the list and the workloads of some social service providers.

The Porirua YAL court resolved a total of 252 cases to 20 February 2021. The 146 category 2 cases resolved through the Porirua YAL averaged 5.2 events/case and 140 days/case. Average events/case in YAL were higher and took, on average, about one and a half times longer than equivalent cases to be resolved through the comparison District Court.

Statistics relating to the processing of the more serious category 3 cases in YAL more closely matches the processing of equivalent cases in the comparison District Court. The 106 category 3 cases resolved through the initiative averaged 9.2 events/case and 204 days/case. Average events/case in YAL were the same and averaged only five days longer on average than equivalent cases to be resolved through the Comparison District Court.

Continuation of the initiative has implications for resourcing - for example, for the court registry to continue its liaison work with stakeholders. Some NGOs may require additional funding to meet demand for counselling and restorative justice processes.

On the other hand, Police appear to be issuing fewer warrants for non-appearances, thereby reducing the workload of Police custody staff. This view is backed up by some early results from the administrative data.

In conclusion, the initiative is showing early promise of meeting its objectives. Feedback from YAL participants and key stakeholders generally suggests defendants' experience of YAL is largely positive.

Further evaluation of this initiative in Porirua would provide more evidence related to the achievement of medium-term outcomes, including reduced recidivism, or as one key stakeholder put it *'turning a first appearance into a last appearance'* and reducing churn.

Appendix 1 Evaluation methodology

Overview of the evaluation design

The mixed-methods evaluation design was intended to consist of:

1. 50 interviews with young adult defendants who have completed their case:
 - 25 with young adult defendants who experienced the YAL initiative at Porirua District Court
 - 25 with young adult defendants who experienced usual court processes at a comparison court of a similar size.
2. 10-15 interviews with other key stakeholders (such as judges, court managers, Police, lawyers, Corrections managers, DHB clinicians)
3. An analysis of court administrative data (failure to answer court bail, breaches of court bail, warrants for arrest for breaches of court bail, referrals to health/education services etc) over a six-month period comparing the data for young adult defendants who experienced the YAL initiative and completed their case with a comparison group of young adult defendants who experienced usual court processes and completed their case.

The New Zealand Ethics Committee conferred full ethical approval of Artemis Research NZ Limited's application for the evaluation on 25 November 2020.

Limitations of the evaluation design

The Comparison District Court was chosen because it was considered to be of comparable size to the Porirua District Court in terms of court volumes. The gender and ethnic profile of defendants at both courts were somewhat similar although six in ten of comparison participants were aged 26 years or older.

No matched-pairs analysis of like cases resolved through each court was performed.

No interviews were carried out with key stakeholders from the Comparison District Court.

Interviews with defendants

After discussions with the Evaluation Steering Committee, it was agreed that to be eligible for inclusion in an interview for evaluation purposes, defendants need not have completed their court case.

In March 2021, 30 interviews were conducted with young adult defendants who had experienced the YAL court and 25 interviews were conducted with defendants who had experienced a comparison court. The interviews took place either in an interview room at the court or in a private space nearby.

Potential interview participants were approached by one (of up to three) interviewers¹⁰ soon after they had left the courtroom following an appearance there. Roughly three in every four potential interview participants approached, agreed to be interviewed.

The interviewers made it clear to all potential participants that whether they agreed to participate in an interview for evaluation purposes or not it would have no bearing on the outcome of their court case.

All gave their informed signed consent to participate. Interviews were short – averaging about 10 minutes – and were audio-recorded. (The interview guides are available on request).

Most had appeared for a case review-type appearance. None of the defendants had completed their case.

On completion of the interview, these participants were given a koha (a \$50 Warehouse voucher) for their time and sharing their views and experiences of the court process.

Interviews with other key stakeholders

Between late November 2020 and March 2021, we conducted 14 in-depth semi-structured interviews with 18 key stakeholders supporting and implementing YAL.

Key stakeholders included judges, Ministry of Justice court managers, Police, Corrections staff, a lawyer, Capital and Coast District Health Board nurses, Community Link in Court staff, restorative justice providers, and a staff member of a non-government organisation.

The interviewed – which were audio-recorded with their signed informed consent – were based around the key evaluation questions. Interviews averaged one hour in duration. (The interview guides are available on request).

Audio-recordings from the interviews with key stakeholders were transcribed for analysis.

Analysis of court administrative data

Ministry of Justice data analysts supplied an analysis of administrative data related to the processing of 252 cases resolved through the Porirua YAL court and 478 cases resolved through the comparison court in the initiative's first year (6th March 2020 to 28th February 2021).

Analysis

The qualitative interview material was coded into key themes around factors associated with the initiative. Quotes from interview participants are included in the evaluation report where they represent a frequently held view, or a unique perspective.

The findings from the qualitative data (interviews with young adult defendants and other key stakeholders) and quantitative data (from CMS) were triangulated to inform the conclusions.

10 One Māori male and two non-Māori females.