



Drug Law and the New Zealand Youth Court

International Drug Symposium: Healthy Drug Law

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o Aotearoa

1 Introduction

The connection between youth offending and drug and alcohol use cannot be denied. Drugs and alcohol are part of the personal stories of most young offenders in New Zealand. International criminological and drug literature supports the view that those young people who use illicit drugs are more likely to engage in criminal activity.¹ Further, McAllister and Makkai report that their study shows a clear link between the age at which a young person first tries marijuana and the likelihood they will engage in antisocial behaviour.² Worryingly, the age at which young people in New Zealand are using cannabis for the first time is dropping.

Youth Court judges and those within the wider youth justice system must be alive to the influence that substance abuse and dependency can have on the reasons why a young person has come before the Court. Courts must also understand the options for helping young people and their families turn their lives around, while holding them accountable for their offending at the same time.

2 Drugs, alcohol, and young offenders

Young people in New Zealand aged 14 to 16 years old commit approximately 31,000 offences each year. This figure has remained roughly stable for the last 12 years.³ Around three quarters of this offending is diverted away from court and is dealt with in the community through police alternative action programmes and warnings, and family group conferences.⁴ Around 7,000 young people each year are brought before the Youth Court for a variety of offences. Only about 4% of these offences are reported as drug offences⁵. However, most young offenders fit a common profile⁶ and part of that profile involves inappropriate and unhealthy use of drugs and alcohol. In probably 20% of cases, patterns of drug and alcohol use amount to chronic dependency.

His Honour Judge John Walker estimates that 80% of young people appearing in the Youth Court have alcohol or drug dependency or abuse issues that are connected with their offending.⁷ Judge Walker believes that, by the time these 15 and 16 year olds come to court, their dependency is already well established, with many presenting histories of drug and alcohol use that started when they were as young as 10 years old. These young people are often in households where drug and alcohol use is a normal part of life; where parents and siblings are

¹ Ian McAllister & Toni Makkai, *Antisocial behaviour Among Young Australians While Under The Influence of Illicit Drugs*, The Australian and New Zealand Journal of Criminology Vol 36 Number 2, 2003 211-222.

² Ibid 218.

³ Jin Chong, *Youth Justice Statistics in New Zealand 1995 to 2006*, Ministry of Justice 2007, 41.

⁴ Ibid 52.

⁵ Chong, above n 1, 43.

⁶ Kaye L McLaren, *Tough Is Not Enough*, Ministry of Youth Affairs, June 2000.

⁷ His Honour Judge John Walker, *Address to the ALAC Conference*, 4 May 2007.

responsible for supplying teenagers with alcohol and drugs and modelling behaviour and attitudes that promote binge drinking and substance abuse.

Judge Walker labels drug and alcohol problems amongst young offenders as an underlying cause of offending. In his view, responding to this issue in order to reduce youth crime requires a multidisciplinary, interagency, whole of community attack.

New Zealand researcher Kaye McLaren has looked at risk factors for youth offending, and whether they can usefully be addressed by interventions. In her 2000 paper she groups problems which lead young people into crime into 5 broad categories. Drugs and alcohol appear as risk factors in 4 of the 5 categories. This suggests that drug and alcohol risks are widespread to the extent that they appear in every facet of a young person's life. They are difficult for the young person to avoid. And they are difficult for the authorities and the community to deal with "criminogenically", for the obvious reason that anything other than a comprehensive approach is unlikely to remove the connection between the young person's offending, and their use of alcohol and drugs.

It is uncontroversial to say that dealing with young offenders' drug and alcohol issues is complex. A recent study of young people attending alcohol and other drug treatment services in New Zealand showed that young people attending these services presented with a range of needs including mental health issues, criminality, family conflict, and disengagement from school.⁸ The study reported that over half of the sample had criminal convictions, and over a quarter had spent time in a youth justice residence. When the same sample was narrowed to include only the more serious day and residential patients (as opposed to those attending outpatient services), it was discovered that 80% had been convicted of a crime, and 45% had been incarcerated.

The study also threw up concerns about the co-morbidity of dependence on two or three of the substances surveyed (nicotine, alcohol, and cannabis), and a worrying gap in treatment opportunities and utilisation for girls with substance dependence issues. Other comments from the authors included:

- A perceived reluctance amongst providers to record psychiatric diagnoses,
- The high rate of discharges from treatment programmes for disciplinary reasons,
- The tendency (internationally) for adult treatment services to be simply modified for young people, rather than specialist programmes being created that take a more positive youth development approach.

⁸ Schroder et al, *Profile of young people attending alcohol and other drug treatment services in Aotearoa New Zealand*, Australian and New Zealand Journal of Psychiatry 2008; 42:963-968.

3 The drugs themselves

Beer and cannabis appear to be the most common drugs use by young offenders in this country. It is our view that the two most important factors influencing this are price and availability. The amount of beer available to buy in New Zealand is about 330 million litres per year⁹, which is the 15th highest in the world, slightly behind the United States and Spain in total volume.¹⁰ Of the half of New Zealand young people (aged 12 – 17 years old) who drank alcohol in the 12 months prior to the 2004 Health Behaviours Survey, an average of more than 12 percent drank large amounts of alcohol at least once a week. The incidence of heavy drinking amongst Maori young people was measured at almost double this average. It must be noted that Maori continue to be over represented in all youth justice measurements and statistics, and that this is of great and on-going concern to all judges. Amongst all those young male drinkers surveyed in 2004, between half and three quarters had alcohol bought for them by family or friends, and up to a quarter tried to buy alcohol to take away from wine shops, wholesalers, dairies, supermarkets and sports clubs.¹¹

Cannabis is also widely used by young offenders appearing in the New Zealand Youth Court. There is evidence of new hybrid strains of cannabis are appearing, which, together with new growing techniques, and the reinvigoration of sensemilla,¹² has meant a significant increase in the potency of this drug. Also, the age at which cannabis is first used in the population is dropping, and the numbers of young people aged 13 to 16 using cannabis for the first time is increasing.

Fortunately, methamphetamine is not yet a widespread problem facing the Youth Court. ‘P’ has been seen only sporadically in the Youth Court thus far, and it is our view that any increase in young people using the drug would signal a major social catastrophe.

4 The Youth Court response

Given the reality outlined above, the Youth Court in New Zealand is forced to take drug and alcohol use and dependency very seriously. Making young people accountable for their actions, restoring their self esteem and their links to the community, is much easier in an environment where drugs and alcohol are not major distractions. Thankfully, out patient youth drug treatment programmes catering for young offenders, such as those supplied by WellTrust in Wellington, are available in most of the major metropolitan centres. Drug and alcohol treatment for young people requires youth specific intervention approaches. Residential treatment services are still lacking. Unfortunately, many areas of the country are not supplied with any of these services, delivered either residentially or for outpatients. The lack of available services to which young drug dependent offenders can be referred makes the job of the Youth Court extremely difficult.

⁹ Statistics New Zealand website <http://www.stats.govt.nz/products-and-services/hot-off-the-press/alcohol-and-tobacco/alcohol-and-tobacco-available-for-consumption-year-ended-dec07-hotp.htm>

¹⁰ Wikipedia, http://en.wikipedia.org/wiki/List_of_countries_by_beer_consumption_per_capita.

¹¹ Ministry of Health, *Health Behaviours Survey – Alcohol Use 2004*.

¹² A growing technique that minimises the seed content of plants.

One significant Youth Court initiative designed specifically to address the effects of drugs and alcohol on the process of youth justice, is the Christchurch Youth Drug Court. This is a specialist court, based on principles of therapeutic jurisprudence, and designed to enhance the opportunities for collaborative multi-agency work with young offenders. Young people with moderate to serious substance issues are screened by on-site specialists, and referred to the Youth Drug Court. The Drug Court Judge spends more time with the young person in each Court appointment, and takes a more active role in monitoring the young person's progress through their treatment and community work plans. The Court has shown good results in terms of reduced reoffending, and reduced drug and alcohol use.

5 Conclusion

The use and abuse of drugs and alcohol is a major issue for the overwhelming majority of young people appearing in the Youth Court. While the link between drugs and offending is complex and not always causal in an obvious way, the use of illegal drugs such as cannabis is a non-negotiable source of concern for the Court. For the Youth Court, the debate between "harm minimisation" and "total abstinence" is rather "academic". Youth Court judges cannot resile from their duty to eliminate illegal drug use by young people, and to assist in the elimination of the illegal supply of alcohol to young people by family and friends.

Beyond that, our mission to oversee joint processes of accountability, restoration and rehabilitation for each young person will only succeed if comprehensive, youth specific drug and alcohol services are made more widely available. If the enacting of healthy drug laws were enough to ensure that dependent young people received all the treatment they needed to return to society in a positive way, then the Youth Court could rightly be seen as the last word in therapeutic jurisprudence. The reality is, however, that the Court desperately needs the support of other agencies and community providers to give young offenders the best chance of not completing the graduation to the adult courts.