

How we fail children who offend and what to do about it: 'A breakdown across the whole system'

Research and recommendations

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All I see is this little boy

The first thing that comes to mind are the faces. I'm not very good at names but I remember the faces. I just went yesterday to a sentencing, an 18-year-old, I didn't go in my capacity as lawyer for child, I just went to support him because he was my client when he was 13.

I visited him in [remand prison], this 18-year-old, and I sat opposite him and all I could see was the 13-year-old when I first started acting for him. He's up for sentencing for aggravated robbery.

He didn't get sentenced yesterday because the Judge didn't have all the information. He was sitting with three other co-defendants, all the same age, all similar histories. My guy that I first acted for was uplifted from care of mother and stepfather due to physical abuse by both parents at 13.

I acted for him and the youngest sibling, who at the time was 3 and he was already displaying behavioural issues at school. But 13 to 18, in the five years that I've acted for him...

I'm looking at him and all I see is this little boy and he's saying, 'Talia*, the longer I'm in here, I'm really scared that I'm going to get really hardened and it's worrying because all around me are these bad people and I feel like they're taking me down with them.'

So, he's in there because the sentencing's been put off and that will make it 10 months in custody at [adult prison].

He's scared and to me ... when I saw that, I just thought, the first thing I see is these children's faces, they are real kids and this, and each file I have are separate children with histories ...

I'm looking at him and all I see is this little boy and he's saying, 'Talia (lawyer), the longer I'm in here, I'm really scared that I'm going to get really hardened and it's worrying because all around me are these bad people and I feel like they're taking me down with them.'

* Talia is a pseudonym. This is a story that has been anonymised that she told in her interview as a stakeholder participant.



Preface

This report is about children. More specifically, it is about children, aged 10 to 13 years, who have offended, as well as those at risk of offending. Often labelled ‘child offenders,’ many of these children go on to become ‘youth offenders’ when they turn 14 (through to age 17), and some eventually enter the adult criminal justice system at aged 18 and beyond.

As will become clear, they are children who have often endured physical, sexual, or emotional abuse, constant transience, or intergenerational disconnection from their whānau, whenua, and culture. Often known to social service agencies, many children will have experienced some sort of state intervention—that, according to our research, often failed to adequately help. The consequences for tamariki Māori of generations of Te Tiriti breaches are evident in the overrepresentation of Māori in the justice system. Pasifika are also overrepresented.

While the personal, social, and economic harm these children have caused by their offending should not be minimised, it is critical to remember that these children were victims first. In the words of one of the lawyers interviewed in this research, ‘Offending does not occur in a vacuum’. Indeed, most would have never escalated to engage in offending behaviour if they and their families had not experienced significant harm themselves—all too often, intergenerationally—or had received timely, effective help that addressed their needs.

This report provides up-to-date information on the characteristics, backgrounds, and trajectories of children who have offended. In addition, it considers how it is possible that, in a developed country often heralded for its ‘world-class’ youth justice system, children grow up to commit crime despite their concerning experiences and circumstances being well-known to state services—sometimes for years before offending starts.

Opportunities for improvement in current child welfare and Family Court practices in relation to children at risk of (re)offending are explored. This report does not presume to speak from a Te Ao Māori worldview; clearly enacting real future change should adhere to a ‘by Māori for Māori’ approach. Nevertheless, it is hoped that this work will contribute to improved outcomes for children, whānau, and communities across Aotearoa NZ.

IDI disclaimer

The results in this report are not official statistics. They have been created for research purposes from the Integrated Data Infrastructure (IDI), managed by Stats NZ.

The opinions, findings, recommendations, and conclusions expressed in this report are those of the authors, not Stats NZ or individual data suppliers.

Access to the anonymised data used in this study was provided by Stats NZ under the security and confidentiality provisions of the Statistics Act 1975. Only people authorised by the Statistics Act 1975 are allowed to see data about a particular person, household, business, or organisation, and the results in this report have been confidentialised to protect these groups from identification and to keep their data safe.

Careful consideration has been given to the privacy, security, and confidentiality issues associated with using administrative and survey data in the IDI. Further detail can be found in the Privacy impact assessment for the Integrated Data Infrastructure available from www.stats.govt.nz.

Executive summary

Children who have offended (between the ages of 10 and 13 years) are at increased risk of long-term offending and a range of adverse outcomes. Better understanding of the factors associated with child offending is critical to better support children’s wellbeing, and to significantly reduce future crime and harm to communities, and criminal justice costs.

We also need to better understand the systems that respond to children with offending behaviour, particularly as the vast majority of those children are engaged with the child welfare system and Family Court. Considering Māori children are vastly overrepresented in child welfare, child offending and youth justice statistics, addressing the factors that underlie the trajectory from child welfare involvement to offending is vital to reduce entrenched social injustice and inequity.

Despite youth justice reforms since the late 1980s in New Zealand, law and practice about children, aged 10 to 13 years, with offending behaviour has been often overlooked. This limits the Family Court’s ability to use evidence-based resources to improve outcomes, and hampers systemic improvement. We therefore sought scientific and up-to-date information on the characteristics and backgrounds of children who have offended, the trajectory they often follow, and opportunities for improvement in child welfare and Family Court practices to assist children and their families more effectively. The Law Foundation and the Michael & Suzanne Borrin Foundation (in association with the University of Auckland) provided support for the research.

Study method

This was a mixed methods study exploring quantitative, qualitative and case-file data on the children’s backgrounds and experiences, and the systems responsible for child welfare and child offending:

- Integrated Data Infrastructure (IDI) data on 48,989 children from their birth in 2000 until 30 June 2019 were used to explore significant associations between different offending groups (no offending, child offending only, youth offending only, and child *and* youth offending) and a range of background factors.
- Oranga Tamariki case files on all children nationwide who had offended over a one-year period (from 1 July 2019 to 30 June 2020) and were flagged to have significant care and protection needs (under Section 14(1)(e) of the Oranga Tamariki Act 1989) were reviewed—a total of 108 children. The case-file data were analysed to explore children’s histories in action.
- Key stakeholder interviews were held with child welfare, Family Court and other professionals (lawyers, police, social workers, school leaders, psychologists, iwi representatives, lay advocates), and whānau members with lived experience of proceedings in relation to child offending ($N = 33$). Interviews were analysed to establish the day-to-day experiences and challenges of the system’s responses to children offending (and at risk of reoffending), and frontline recommendations for change.

Findings

Child offending does not occur in a vacuum

This research clearly showed that child offending does not occur in a vacuum but, in the vast majority of cases, was preceded by significant child welfare concerns. IDI data showed very high levels of abuse, reports of concern to Oranga Tamariki, out-of-home placements, stand-downs and suspensions from school, and indicators of social deprivation among children who offended. These were significantly worse relative to their non-offending peers ([Table 1](#) summarises the IDI data). It is therefore critical that efforts to improve systemic responses to child offending are not restricted to interventions focused only on offending behaviour; we must seek to prevent, or at least better address, the welfare concerns of children and their families that underlie the development of offending.

The data showed that for nearly two-thirds of children (63%), offending in childhood was a stepping stone to continued offending in adolescence. Also, the frequency of offending increased with age, highlighting the importance of preventing offending in the first place. Boys were around twice as likely to offend as girls ([Table 1](#)). The odds of Māori children and young people offending were almost three times more than for their non-Māori peers. Stakeholders and whānau noted that tamariki Māori were overrepresented in offending statistics, yet culturally appropriate approaches to respond to their needs were described as largely absent. The Office of the Children's Commissioner has been consistently recommending 'by Māori for Māori' approaches, with the devolution of functions and resources to iwi and Māori organisations. This research supports that view.

Overall, key stakeholders described a child welfare system that is currently reactive, not proactive, and fails to effectively address the needs of children even though these are often well-known to services. Indeed, the IDI data showed that there were thousands of reports of concern about children who were offending, significantly more than there were for non-offending children ([Table 1](#)). Education service data showed the children who offended were also more likely to be stood-down or suspended (even before the age of 10 years). Anonymised case vignettes are presented throughout the body of the report, showing these failures in action. Children were living in households whose complex needs meant that they were known to child welfare services, schools and police. There had often been years of reports of concern and notifications from infancy, incidents of offending by older siblings, justice-involved parents, many failed placements, and issues with school suspension and disengagement. Yet, despite their needs being known to services, the children had proceeded to offending before age 14.

Child welfare and child offending proceedings are full of missed opportunities

Themes analysed from the interview data (summarised in [Table 2](#)) described child welfare and child offending proceedings as full of missed opportunities to effectively support the wellbeing of children and families. Shortages of resources across child welfare and education led to high thresholds for assistance. This meant only a very small proportion of children and whānau were reported as receiving the support they needed. When intervention was planned, stakeholders said that engagement by child welfare professionals was often poor and inconsistent, exacerbating difficulties. Similarly, support tended to be piecemeal and focused on one aspect of a child's or family's needs, rather than being holistic and systemic. A shortage in specialist community programmes, placements, and caregivers further impeded effective help.

Stakeholders described child welfare and Family Court processes as characterised by significant delays, poor collaboration, and minimal oversight of cases. Agencies rarely worked together in a coordinated fashion, despite children's needs spanning a range of services. Moreover, the provision of effective assistance to children and families often relied on the dedication and availability of the particular professionals involved in a case, rather than systemic processes to ensure this occurred. Family Group Conferences (FGCs), once children had offended, were of variable quality, could be overly focused on offending (instead of wider welfare concerns) and produced plans that were often not well-implemented nor adhered to. Intergenerational poverty and social disadvantage underpinned, compounded and contributed to the challenges children and families faced ([Table 2](#)).

Changes can be made—from early intervention to reducing structural social harm

Recommendations based on the data and analysis, and discussed in sector hui and with advisory groups, are summarised in [Table 3](#). They emphasise opportunities for change in child welfare and Family Court proceedings, both prior to and following the onset of child offending. The study also invites us to consider, as a society, the structural and organisational factors of racism, social disadvantage and harm that need to be addressed, to allow these children and their families to flourish. It is no accident that children with offending behaviour typically do not grow up in New Zealand's more affluent suburbs. It also highlights that children with such behaviours are a subset of those experiencing suffering and harm. Effective, systemic change would not only reduce that suffering, but it would also reduce the likelihood of offending, and reduce the number of victims their offending will go on to create.

Table 1. IDI data on 48,989 children, from 2000 to 2019

| Area of analysis | IDI findings |
|--|---|
| <p>OFFENDING</p> <p>Almost two-thirds of children who offended before age 14 continued to offend up to the age of 18.</p> | <ul style="list-style-type: none"> Of the children who offended ($n = 2022$) when they were younger than 14, the majority (63%) also offended as a youth (aged 14-18). Of the children who did not offend as a child, 10% offended as a youth. This difference is statistically significant and demonstrates that, for more than half of children, offending in childhood was a stepping stone to continued offending in adolescence, highlighting the consistency of such behaviour as children grow older. |
| <p>Frequency</p> <p>Most offended only once as a child, but went on to offend significantly more often as a youth.</p> | <ul style="list-style-type: none"> The frequency of offending increased with age. While some children had repeated recorded offences, the majority of children who offended had only one recorded offence. Those who had offended as a child and as a youth offended significantly more times than did those who only offended as a youth. |
| <p>Demographics</p> <p>More males and more Māori appear in child offending statistics.</p> | <ul style="list-style-type: none"> Males were around twice as likely to offend as were females; 924 males and 348 females engaged in both child and youth offending (3.7% and 1.5% of the cohort respectively). Māori children and young people who offended were significantly overrepresented in offending statistics, relative to non-Māori. The odds of offending were almost 3 times higher for Māori compared to non-Māori. |

| Area of analysis | IDI findings |
|--|--|
| <p>CHILD WELFARE ISSUES</p> <p>Abuse and neglect</p> <p>A child abused under the age of 5 was six times more likely to offend as a child and youth, than was a child who had not been abused.</p> <p>Reports of concern/ notifications to Oranga Tamariki</p> <p>In their early lives, there were 1000s of reports of concern about children who went on to offend.</p> | <ul style="list-style-type: none"> Abuse and neglect were all associated with significantly increased risk of offending and reoffending at all age groups. Data showed that a child abused under the age of 5 was six times more likely to offend as a child and youth, than was a child who had not been abused. Neglect reported before a child was 5 was significantly associated with offending as a child and going on to offend as a young person; this was so also for those neglected before age 10 and age 14. For those who were physically abused under age 14 and also offended under 14, 77% went on to offend in adolescence, compared to 23% who had such abuse recorded but offended only as children. Sexual abuse data show clear links between being sexually abused under age 14 and offending. Emotional abuse is a debated concept, but Oranga Tamariki social worker reports showed the more emotional abuse 'events' occurred in a child's life, the more likely they were to offend or reoffend. Data on abuse and neglect are based on Oranga Tamariki social worker reports and are likely underestimated, especially rates of sexual abuse. Having a report of concern (ROC) before age 5, 10 or 14 was significantly associated with offending as a child, a youth or both. Higher numbers of reports of concern/notifications to Oranga Tamariki were associated with increased risk of child offending as well as combined child and youth offending (the 'both' group). There were thousands of reports of concern about children who were offending. In the 'both' group, there were 1151 ROCs before age 5; 2888 ages 5 to 10; and 3223 from age 10 to 14. Children in the 'both' group had an average of 2.18 ROCs before they were only 5 years old, 3.82 between aged 5 and 10, and 3.77 aged 10-14. Those who had a report of concern before age 5 and offended as a child were more likely to reoffend as a youth (73%) compared to 57% without an ROC. This pattern persisted for those who had offended as children and had reports of concern between the ages of 5 and 10 (70% vs 55%), and between 10 and 14 (72% vs 50%). |
| <p>Out-of-home placements and state care</p> <p>Children born in 2000 who had been in state care or placed out of home were significantly more likely to offend than those who had not had an out-of-home placement.</p> | <ul style="list-style-type: none"> Children who had an out-of-home placement before their 5th birthday were more likely to offend (across all age groups) compared to those who did not have a placement before their 5th birthday. Those who had offended as a child and had had a placement before age 5 were significantly more likely to also offend as a youth (82%). Being in state care before age 5 was associated with repeat offending, with 82% of children who had offended then going on to offend as an adolescent, compared to 62% who offended as children but had not been in state care by age 5. These high rates persisted: 87% of those who had been in state care aged 5 to < 10 offended as both a child and as a youth, as did 85% of those in state care aged 10 to < 14. |

| Area of analysis | IDI findings |
|--|--|
| <p>Family Group Conferences</p> <p>An FGC to help a 5-year-old took an average of 5 months from referral to it being held.</p> | <ul style="list-style-type: none"> • Most children who were offending had at least one Family Group Conference (FGC); a few had as many as 4 FGCs before age 14. • Months passed from a referral for an FGC, to the FGC being held e.g., the average length of time it took from referral of an under-5-year-old to the FGC being held was 5 months (159.5 days). For 10- to 14-year-olds, the average time from referral to FGC was lower, at 57.5 days. • Children who had an FGC before the age of 5 (147 children) and offended as a child were more likely to reoffend aged 14-18 (78%) compared to those who did not have an FGC before age 5 (62% of whom continued to offend). Similarly, 76% who had an FGC before aged 10 kept offending vs 61% without an FGC; and 78% of FGC before 14 continued, vs 58%. |
| <p>Self-harm and suicide indicators</p> <p>Rates of reoffending were higher in those who had had self-harm or suicide indicators reported.</p> | <ul style="list-style-type: none"> • Self-harm and suicide indicators up to age 19 in the cohort showed significant associations with offending. The rate of offending as both a child and as a young person in the whole cohort was around 2.6%; however, in those who had had self-harm or suicide indicators reported, it was 16.2%. Similarly, the rate of youth-only offending in the whole cohort was around 9.6%; among those who had had self-harm or suicide indicators reported, it was 32.4%. • However, numbers remain extremely small, compared to qualitative reports of much self-harm and suicidality amongst children and young people who offend. Data on self-harm and suicide indicators are based on Oranga Tamariki social worker reports and are likely underestimated. |
| <p>Justice-involved parents</p> <p>Offending could be intergenerational with risks of offending increased with a justice-involved parent.</p> | <ul style="list-style-type: none"> • Those who offended as both a child and youth were more likely to have a justice-involved parent than not (5% vs under 1%); for youth-only offenders (aged 14+), there were 14% who had a justice-involved parent compared to 6% who did not. • These rates increased if both parents had had justice involvement, with 9% of children who offended as a child and young person having two justice-involved parents, in contrast to 1.6% who did not. • A charge laid against at least one parent before the child was born was significantly associated with a child's repeat offending: 68% of those children went on to offend as both a child and a youth, relative to 53% of others who reoffended. |
| EDUCATION ISSUES | |
| <p>Suspensions</p> <p>Children who were stood down or suspended from school before age 10 were significantly more likely to offend at all age groups.</p> | <ul style="list-style-type: none"> • Children who were stood down or suspended from school before age 10 were significantly more likely to offend at all age groups. • For example, 29% of those who had offended as both a child and young person had been suspended, vs. 2.2% who had not. • For children who had offended, those who had been suspended or stood down between age 5 and 10 were also significantly more likely to reoffend: 81% also offended while aged 14-18, compared to 61% of those who offended as a child but had not been suspended age 5-10. |

| Area of analysis | IDI findings |
|---|---|
| <p>Expulsions</p> <p>Nearly half of those expelled from school before age 14 offended as both a child and young person.</p> <p>Multiple school enrolments</p> <p>The odds of offending increased 1.6 times for each extra school enrolment. Nearly a quarter of those who had been to 7 or more schools by age 14 had offended.</p> | <ul style="list-style-type: none"> Few children had been expelled from primary school, but those who had been expelled from any school by age 14 were significantly more likely to reoffend—85% of those who had offended as a child and had been expelled before age 14 offended again from age 14-18. Those expelled before age 14 comprised just 0.4% of the overall cohort (216 children); nearly half (47%) of these (102 children) had offended as both a child and as an adolescent, a statistically significant difference from those who had not been expelled before age 14 but who had offended (2%). Repeatedly changing schools was significantly associated with offending. For each additional school enrolment by age 10, the odds of offending as a child increased by a factor of 1.58. Rates of reoffending were significantly associated with increased number of school enrolments, with each additional enrolment increasing the odds of repeat offending by a factor of 1.21. Almost a quarter (24%) of those who had been to 7 or more schools by age 14 had also offended by that age. Not attending school at age 16 was significantly associated with repeat offending, with those who offended as a child and went on to offend as a youth significantly less likely to have been enrolled at school at 16. |
| <p>SOCIOECONOMIC ISSUES</p> <p>School decile</p> <p>Nine-year-olds at a decile 1 school were 2.1 times more likely to offend than their peers at a decile 10 school. Risk of offending decreased as decile increased.</p> | <ul style="list-style-type: none"> Lower school decile (as an indicator of socioeconomic deprivation) at ages 6 and 9 was associated with increased offending across all offending groups. Also, of the children who offended, those who attended a lower decile school were significantly more likely to reoffend than those who did not. The odds of offending for those who were in a decile 1 school at age 9 were, on average, 2.1 times higher than for those in a decile 10 school at age 9. Looking at the probability of repeat offending, it was 1.3 times greater for those in decile 1 schools at age 9, compared to those in decile 10 schools. |
| <p>Receiving a benefit</p> <p>Children whose parent received income support when they were aged 5, 10 or 14 were more at risk of offending and reoffending.</p> | <ul style="list-style-type: none"> An indicator of financial hardship is having a parent who is entitled to receive an income support payment. Benefit entitlement for a parent before a child was aged 5, 10 or 14 were all associated with risks of offending. Two-thirds (66%) of children who offended and whose primary caregiver was entitled to receive income support (when the child was under 14), continued to offend in adolescence. |

Table 2. The failings of the child welfare and child offending systems

| Themes | Findings |
|--|--|
| <p>1. SHORTAGE OF RESOURCES ACROSS THE CHILD WELFARE SYSTEM</p> <p>With respect to offending, that's all concentrated at Corrections in the adult population, right, so Corrections have got 250 psychologists, we have got probably on a good day with the sun shining, 10... three of those are in head office (<i>Oranga Tamariki</i> advisor, <i>Patrick</i>*)</p> <p>What do I do with this 6-year-old? I don't think they've got sufficient resources to do what he needs.... (<i>Lawyer, Mary</i>)</p> <p><i>* All names are pseudonyms</i></p> | <ul style="list-style-type: none"> • Lack of staff (e.g., social workers, FGC coordinators, psychologists, lawyers, mentors) mean risks for offending are not managed early • Shortage of community programmes • Specialist teams or programmes not available consistently or nationwide • Overworked professionals (e.g., social workers, police officers) are unable to sufficiently cater to the needs of children • Services tend to be targeted toward older youth • Lack of specialist caregivers/placements, leading to further instability |
| <p>2. HIGH THRESHOLDS FOR INTERVENTION</p> <p>These kids often start off in the Family Court, and there's no resources until they offend or until someone gets desperate and <i>Oranga Tamariki</i> is forced to take them on as clients. (<i>Lawyer, Julie</i>)</p> <p>There's a number of care and protection cases over the years that you could point to that they wait until they offend and then end up in the youth justice system rather than deliver intervention. Yeah, I've seen numerous cases of that over the years. (<i>Police officer, Nikau</i>)</p> | <ul style="list-style-type: none"> • Only children and families with the most significant and immediate needs seem to receive child welfare intervention • Many children and families do not receive support despite the known presence of child welfare concerns • High thresholds for support are also present in the education system • The lack of early intervention allows for the escalation of needs, leading to statutory intervention, such as s14(1)(e) applications • It should never get to the point of police filing s14(1)(e) applications where children's needs were long known to the child welfare system • Children may not receive effective support until older age or continued offending leads to entry into the youth justice system |

| Themes | Findings |
|--|---|
| <p>3. POOR COORDINATION AND INADEQUATE OVERSIGHT OF CHILD WELFARE CASES</p> <p>I think there's been far too narrow a focus on health delivering health, education delivering education, police trying to stop crime and Oranga Tamariki trying to stop children from being abused. <i>(Lawyer, Robert)</i></p> <p>Those families have sometimes got seven, eight agencies involved independently. There's no collaboration. There's a big gap, it's very siloed. <i>(School principal, Stuart)</i></p> <p>There are cases where I've said to the Court, I want my appointment to continue for this period of the review because there are these three things that need to happen and I basically don't trust anyone to keep an eye on it. <i>(Lawyer, Andrea)</i></p> | <ul style="list-style-type: none"> • Agencies operate in silos, preventing coordination and leading to children falling through the cracks • Social workers are often unable to keep oversight of cases due to high caseloads • Poor communication between professionals and frequent changes of social workers further impede oversight • Police involvement in s14(1)(e) cases can increase oversight • More regular reviews of cases may improve oversight • Poor coordination between agencies increases difficulties for families • Collaborative, wraparound approaches were perceived as more effectively responding to children's and families' needs • Extended monitoring by the Family Court may increase oversight of cases and ensure accountability of professionals • The wellbeing of children often depends on dedicated professionals rather than coordinated systemic responses |
| <p>4. INSUFFICIENT RESOURCING OF THE FAMILY COURT</p> <p>The Family Court has some barriers, [it's] a very, very busy court. One of the chief complaints of Family Court Judges is the lack of time to make informed and meaningful decisions. ... they are literally given minutes to make their mind up whether a child should be removed or not. <i>(Lawyer, Robert)</i></p> <p>I used to try and get care and protection kids into a Crossover Court so that they are regularly monitored because it's easy for people to stop monitoring progress and services fall off. <i>(Social worker, Hamuera)</i></p> | <ul style="list-style-type: none"> • The Family Court is under-resourced, impacting on professionals' ability to make meaningful child welfare decisions • There is a particular lack of resources in the Family Court relative to the Youth Court • There are crossover courts (court time allocated for children and young people with both child welfare matters in the Family Court and offending matters in the Youth Court) in both Auckland and Waitakere that are reportedly underutilised; participants reported that elsewhere in the North Island, crossover time is limited due to lack of dual-warranted judges (for example, no crossover time for a year; or a large region with crossover time only once a fortnight) |

| Themes | Findings |
|--|---|
| <p>5. SYSTEMIC SHORTFALLS CONTINUE ONCE CHILDREN HAVE OFFENDED</p> <p>The issue is that [serious child offending] doesn't happen very often but it's very complex, so the odd time it comes up, most people have no idea - what are we talking about here? ...how does an ordinary kind of Youth Aid Officer who hasn't really come across it before approach the system and make the right decision? <i>(Legal counsel, Sophie)</i></p> <p>The first-time offender, so they've been caught and so let's consider warnings or alternative action before we go to FGC but sometimes when you dig deeper you see that okay, yeah, it is a first-time offence that they've come into contact with police but there's all this underneath stuff going on that can't be addressed by a warning or an alternative action plan. <i>(Police officer, Vicky)</i></p> | <ul style="list-style-type: none"> • Police may be unsure how to respond to children who offend, meaning opportunities to assess children's needs can be missed • Separate Oranga Tamariki care and protection and youth justice divisions hinder more effective coordination of child offending cases • Complicated and inconsistent paperwork in relation to child offending impede efficient proceedings • There is limited expertise of how to file child offending paperwork in relation to the Family Court • Potential conflict with Oranga Tamariki may further discourage police from filing s14(1)(e) applications • The roles and responsibilities of particular agencies regarding child offending are perceived as unclear and the only available reference tool (the Child Offender Manual) was last updated in 2002 – hopelessly out of date |
| <p>6. CHRONIC DELAYS</p> <p>So, I've got an FGC today. Police referred him under 14(1) (e) because OT weren't taking any action. Police referred him in September last year for an FGC, we're getting it today [11 months later]. So, what's the problem there? Delay. It's the same with the Family Court, delay, delay, delay, not in the child's sense of time, not the action needed when it needs to be. <i>(Lawyer, Jasmine)</i></p> <p>Youth Court is structured, it's written into the legislation that these reports have to be before the court within a certain timeframe. So, it's rare in the Youth Court that a case will be adjourned for longer than two weeks. That is unheard of in the Family Court. I mean you know the timeframes are just pushed right out. <i>(Lawyer, Samantha)</i></p> | <ul style="list-style-type: none"> • Chronic delays and inefficiencies in child welfare and Family Court proceedings impede better outcomes for children with welfare and offending concerns • Delays apply to FGCs, court hearings, reports and assessments, finding placements, forming plans and implementing recommendations • Delays are particularly detrimental to children |

| Themes | Findings |
|---|---|
| <p>7. VARIABLE FGC PROCEEDINGS</p> <p>[Children who offend] are seen more under the youth justice lens as opposed to the need for them to be seen under care and protection. So, the behaviour gets looked at first as opposed to looking at what has happened to this child that has led to this behaviour. <i>(Psychologist, Pania)</i></p> <p>I didn't understand all the legal or jargon talks and expectations that they wanted, I didn't understand anything [laughter]. I wanted to know what the hell was a 333, what the hell was a 101, what does that mean, what's a court order, you know. <i>(Whānau, Maria)</i></p> | <ul style="list-style-type: none"> • FGCs can be excellent though vary in quality • Offending matters often take precedence over child welfare concerns • Children and families are not sufficiently informed of statutory proceedings or included in decision-making • The collaborative approach in the Youth Court was perceived as more favourable • Lay advocates, communication assistants & cultural leaders are invaluable to support children and whānau, but there aren't enough of them |
| <p>8. POORLY IMPLEMENTED FGC PLANS</p> <p>It's amazing how a great social worker will make a lot of things happen where another social worker might not make things happen. So, the personal responsibility is really important but also the resources. <i>(Lawyer, Andrew)</i></p> | <ul style="list-style-type: none"> • Plans are often not implemented nor adhered to • Children and families appear to be set up to fail by the system • Professionals are frustrated and want more accountability and oversight of plans |
| <p>9. EFFECTIVE ENGAGEMENT WITH WHĀNAU IS CRITICAL</p> <p>The ones that work well are where you have got a social worker who's got on side with the family and have got the trust of the family and the family realises Oranga Tamariki's not out to get them, Oranga Tamariki wants to help them <i>(Lawyer, Jasmine)</i></p> <p>We see Youth Aid staff coming in and out, social workers changing, all that does is really reinforce for this child that everyone, anytime anything good happens, people leave. Consistency is really important. <i>(Police officer, Nikau)</i></p> | <ul style="list-style-type: none"> • Intensive engagement and relationship building are fundamental to supporting children and whānau and bringing about positive change • Effective engagement was perceived as supportive, non-judgmental, and consistent • A strengths-based, Treaty approach and "the right match" are critical |
| <p>10. EARLY INTERVENTION IS CRITICAL</p> <p>If a doctor had listened to me back when she was smaller, I reckon, if she had gotten the help when she was two, I believe it would have been different, everything would have been different for my daughter. <i>(Whānau, Ana)</i></p> <p>We always talk about prevention but I'm not sure we actually do it that well. I think there are opportunities. If we're talking about risks of offending, we're talking about siblings of known offenders, we're talking about behaviours that are evident in small children at early childhood, at kindy, at early primary school years. <i>(Police officer, Nikau)</i></p> | <ul style="list-style-type: none"> • Effective assistance is required at the earliest opportunity • Such assistance must be responsive to the needs of children and families, be at a systemic, wraparound level, culturally embedded and evidence-based |

| Themes | Findings |
|--|--|
| <p>11. SOCIOSTRUCTURAL FACTORS MUST BE ADDRESSED</p> <p>How can child offending be prevented in New Zealand? Probably through addressing those key issues that are causative factors in offending ... to raise these people out of the poverty blights that they're in. There's the historical nature that goes back to colonisation cause obviously Māori particularly are overly represented in criminal figures. <i>(Police officer, Dave)</i></p> | <ul style="list-style-type: none"> • Structural issues, such as poverty, income inequality and racism, underlying child welfare concerns, must be addressed |

Recommendations

The recommendations arising out of the IDI data analysis, Oranga Tamariki case-file analysis, and stakeholder interviews were then also discussed in sector hui and across the research group. This has resulted in the following list of recommendations for action to improve systems.¹

Table 3. The child offending system: Opportunities for change

| |
|---|
| 1. Address sociostructural factors |
| <ul style="list-style-type: none">• Participants pointed to socioeconomic and structural inequalities associated with many child welfare concerns and child offending outcomes. These require sustained, cross-party and all-of-government action to 'raise these people out of the poverty blights that they're in'.• Conceptualising children's antisocial/offending behaviour in context of the hardship they and their families typically experience may serve to lead to a more accurate, empathetic public response to these children, in turn promoting social change and support for evidence-based policies. |
| 2. Assistance must be coordinated and collaborative |
| <ul style="list-style-type: none">• Ensure earlier and more holistic assessment of children's and families' needs. For example, requiring a comprehensive assessment of a child's welfare, cultural, educational, and physical health needs, as well as the needs of the family more generally, following a certain number of child welfare notifications, may promote families getting support sooner as well as the assistance they actually require.• Improve coordination and collaboration between agencies, ministries and community and iwi leadership to provide effective and culturally appropriate assistance to families when child welfare concerns first come to notice, to reduce the risk of these escalating to (e.g., strengthening parenting through support, addressing health and education issues and supporting socioeconomic needs). Improved coordination and collaboration may occur in the form of initiatives like the Children's Teams or SWiS, or iwi and community-led initiatives.• School suspensions, expulsions and multiple enrolments were associated with offending: it is critical for children to remain at school, despite the significant challenges this no doubt entails for teachers, peers and school resources. Clearly, schools need to be sufficiently resourced to ensure that the needs of these children can be adequately addressed. |

¹ It may be argued that child welfare and Family Court systems need to be extinguished, not 'improved'. The focus of this research was to explore current systems and immediate improvements possible, from the perspective of stakeholders currently trying to make these systems work. Their experiences may highlight the lessons to be learned as any new approaches are established.

3. Address resource shortages

- Increase funding for the education and child welfare system to ensure the needs of children and whānau can be effectively addressed (e.g., via allowing for more learning supports and targeted education services, social workers, FGC coordinators, lawyers, psychologists, youth workers, mentors, specialist caregivers). For example, an increase in social workers may reduce individual caseloads, thus allowing more comprehensive support of the needs of children and families, alongside a commitment to funding iwi-based and other more appropriate initiatives to transition away from Oranga Tamariki involvement.
- Prioritise early intervention instead of reactive practices within Oranga Tamariki (e.g., ensuring smaller caseloads for care and protection social workers and balancing resources to care and protection work, relative to youth justice work).
- Simplify the access of resources to meet care and protection needs, both within and beyond Oranga Tamariki (e.g., pool of money more readily available for evidence-based interventions for children).
- Increase access to programmes and initiatives supporting the systemic needs of children and families. In addition to families whose needs have met the statutory threshold, it is critical that such programmes are available to children and families whose needs have not (yet) escalated to this threshold. Examples of such programmes mentioned by participants include FFT, MST and locally developed programmes. While both FFT and MST generally cater to young people at risk of (re)offending aged over 10 years, adaptations to both programmes to cater to younger children have been developed and found to be effective in supporting the needs of children and families (Heriot & Kissouri, 2018; Swenson & Schaeffer, 2014; Turner et al., 2017). It is particularly important that the efficacy of such programmes is evaluated locally and, where shown to be effective, that they are also available in non-urban regions.
- According to participants, greater investment is needed into community placements, such as iwi-led supports or supervised group homes, in which children can be supported while still living in their community and being able to see their families.

4. Address trauma

- Emphasise the importance of trauma-informed care in social work curricula and ongoing social work practice.
- Consider how access to trauma-informed psychological and other services are distributed according to the evidence of need.
- Apply evidence-based and culturally appropriate understandings of trauma and recovery, including kaupapa Māori and Pasifika-based approaches to intergenerational trauma.

5. Better uphold Te Tiriti o Waitangi principles

- Fully implement sections 4, 5, and 13 of the Act that mandate involvement and strengthening of whānau, hapū and iwi initiatives.
- Ensure culturally safe practice, which is structured by tikanga Māori (e.g., whakawhanaungatanga) and actively adheres to Te Tiriti o Waitangi obligations (e.g., by ensuring participation, partnership, protection in all child welfare proceedings).
- Ensure local by Māori for Māori approaches allow for whānau/hapū/iwi to provide their own solutions for their own children's needs.
- Provide increased training to child welfare professionals, including those working in the Family Court, to be able to more effectively engage with children and families, and particularly those of Māori descent, and to more effectively support, rather than get in the way of, by Māori for Māori approaches.
- Increase the emphasis on culturally safe practice in social work training, legal competencies, and professional practice; such pursuits should consider the recommendations of Walker (2012).
- Increase the number of Māori Judges and kaupapa Māori processes in the Family Court.

6. Resource early assessment and therapy

- Consider provision of full cultural, health and educational assessments (e.g., Gateway assessments) and – more importantly – subsequent assistance to children in the Family Court whose families do not meet the statutory care and protection threshold, yet appear to have clear needs.
- Make increased use of s18AAA FGCs to determine and support the needs of children and families whose needs do not meet the statutory threshold.
- Provide funding for children to receive therapy (as previously provided in the Care of Children legislation) – currently the Family Court can recommend therapy for parents/carers but not for children.

7. Have time to understand what's happening and do something

Ensure the Family Court is more adequately resourced:

- Increases in child welfare professionals and available court time may reduce delays for children and families.
- This may also result in more comprehensive assessment of children's needs (i.e., via a more diverse range of the right people getting alongside the child and family) – and, more importantly, a requirement for effective, sustained assistance and intervention to be promptly made available.
- Judges may benefit from being able to spend more time familiarising themselves with cases, thus gaining greater understanding of children's and families' needs, or from information being presented in more coherent forms.

8. Conduct legislative review

- Introduce more stringent timeframes in care and protection legislation (e.g., stipulate FGCs to be held within 21 days, as opposed to the many months it is currently taking).
- Consider amending legislation to require more regular reviews of care and protection cases. This may increase oversight over children's wellbeing and serve to hold professionals to account regarding the implementation and continuity of plans. This may also ensure the continuity of plans in cases of frequently changing social workers.
- Consider increased legislative powers for the Family Court to hold responsible agencies or ministries to account for the implementation of FGC plans.

9. Commit to whānau/family participation and decision-making

- Involve lay advocates and communication assistants to support informed whānau participation and decision-making.
- Provide training to Judges and lawyers to more effectively communicate with families in the Family Court and include them in decision-making.

10. Make changes to the Family Court

- Roll out across NZ the judicially initiated 'crossover' courts (for youth offenders with care and protection issues and Family Court proceedings). Also use the crossover approach in the Family Court for all children in that court with offending issues.
- Consider the suggestions for change (e.g., Family Court proceedings able to be held on Saturdays once a month to enable whānau to attend; ability to hold proceedings on marae) in the Boulton et al. (2020) report.
- Implement the detailed recommendations in the Office of the Children's Commissioner's *Children with offending behaviour* (2020b).
- A recommendation arising from these findings may be to implement a specialised child welfare court, which may emulate the therapeutic Youth Court model. In other words, such a court may:
 - Involve Judges with a special interest in these cases and who are skilled to effectively engage with children and whānau.
 - Hold hearings more regularly than seems to be currently possible in the Family Court.
 - Have the same Judge presiding over cases and require all professionals involved in cases to regularly attend court hearings. This is likely to ensure greater oversight and accountability over the implementation of plans.
 - Emphasise the routine involvement of lay advocates and communication assistants to support families and ensure informed participation.
 - Emphasise the specialist assessment of the needs of children, for example, having a youth forensic nurse for initial evaluations; a clinical or behavioural psychologist present to provide clinical input or counselling plans; educational advisors etc.
 - Be embedded in culturally appropriate practices.
 - Have the same resources as available in the Youth Court (e.g., ready access to assessments, therapy, mentors).
 - Consider legislative tools to increase accountability of Oranga Tamariki if child welfare practices and plans are not sufficiently adhered to.

11. Enhance child offending referrals

- Provide training to professionals coming into contact with children who have offended to ensure more thorough understanding of child offending processes, which response may best support children's needs, and the roles and responsibilities of professionals and agencies involved. This may increase professionals' willingness to work together and reduce interagency conflict (e.g., between Oranga Tamariki and police).
- Update the *Child Offender Manual* so recommended actions align with current law and are clearer for staff.
- Simplify/streamline Family Court paperwork (e.g., s14(1)(e) applications).
- Consider the development of an evidence-based assessment tool that allows frontline police officers to determine how best to respond to children who have offended.

Data limitations and future action

This was the first study in Aotearoa NZ that integrated both quantitative and qualitative research methods to comprehensively investigate the current characteristics, backgrounds, and trajectories of children with offending behaviour, as well as the systemic responses to child welfare concerns and the child offending 'system'. There is, however, more to be done.

Access to the IDI data provided invaluable, up-to-date, broad and longitudinal evidence of the significant links between engagement with government systems and population-level offending. However, data analysed for the IDI are limited to data prioritised by the systems that are also failing these children. For example, the IDI does not include outcome measures of reconnection with hapū and iwi, or restoration of mana tamaiti as valued outcomes, but instead attempts 'predictive risk modelling' and potentially self-fulfilling prophecies within particular social, cultural and political contexts. The IDI dataset is comprised of administrative data gathered for government monitoring and operational requirements, not specifically for research purposes. The IDI does not therefore address the needs of specific cultural populations (for example, the ongoing comparison of Māori and Pasifika people against other ethnic groups is seen as potentially further disadvantaging them).

The Oranga Tamariki case-file summaries provided invaluable evidence of the turmoil typical of the lives of the children recently classified as under 'section 14(1)(e)'. Limitations of these data concern the validity and reliability of information written in case files, an inevitable limitation of the subjective and variable reporting practices of frontline workers (as with any case-file analysis), within the dense chaos of a legacy filing system. Further research should track those who were repeatedly brought to the attention of various systems with similarly traumatic backgrounds but who did not end up as '14(1)(e)'s. Did they get the help they needed? Or did the harm continue in poor physical, mental and/or family health outcomes, even where offending did not occur?

Our stakeholder participants gave vivid information about the coalface failures of systems from diverse professional perspectives. In addition, the whānau voices in this research were vital and we appreciate those who facilitated their safe participation in this work. The stakeholder interviewees were sharing insights—and often devastating criticisms—from within the powerful systems that children and caregivers are largely powerless to change, in order for that critique to be heard by those systems. Future action can focus on children's voices, and hearing from more whānau, to provide invaluable, child-centred insight into opportunities to improve these proceedings—if 'the system' is ready to listen and devolve.

These children are disproportionately Māori and disproportionately affected by longstanding social inequity and disadvantage. Future action and evaluation should be by Māori, for Māori—with access to any of the resources our key stakeholders longed for—to assist these children to get off the justice system pathway, and ensure the next generation can flourish. According to our participants, revitalised systems will also benefit Pasifika, other minority groups and Pākehā; our current systems regularly fail children from all groups and backgrounds.

Remember, these children are disproportionately Māori and disproportionately affected by longstanding social inequity and disadvantage...

Participants stated that iwi should be the first rather than the last port of call when support is required, but there needed to be recognition of the intergenerational inequities and lack of resources that different iwi faced, as government resources continue to go into government social services, not necessarily iwi social services.

As this participant pointed out, the difference between iwi and non-iwi support services was that support services were a temporary measure, whereas 'iwi is for life':

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

(Lay advocate, Sue*)

Finally, from our kuia participant, is a vision for action:

Build a waharoa (gateway)

A kuia talked about a boy who had offended and how local iwi – not Oranga Tamariki - could facilitate that child and whānau to connect with their own iwi, whenua, and whakapapa and begin the process of change:

That we as mana whenua here in [Tāmaki Makaurau], that we talk to his iwi, not Oranga Tamariki, that our kaumātua talk to the kaumātua from his area, and we see if we can get some common ground and find some common hapū members who might want to look after this baby, that we do the research ... and try and find a whānau connection rather than go in with Oranga Tamariki. So, we build what we call a waharoa, a gateway, for this boy to walk through from us back to his people.

*From my whenua back to your whenua, whakapapa ki te whakapapa.
My whakapapa here, my genealogy here, is going to make sure that his genealogy can go back to where it belongs to **in a way that enhances him, in a way that can allow for him to be who he is.***

* Sue is a pseudonym. Her comments, and those of the kuia, were made in their interviews as stakeholder participants in this research and have been anonymised.

1. Introduction

Children who have offended prior to age 14² are two to three times more likely to engage in serious, persistent, and violent offending in adulthood than those starting to offend in adolescence (Loeber & Farrington, 2000; Moffitt et al., 2002; Reil et al., 2021). These children are therefore at risk of engaging in serious, long-term criminality and causing significant personal, social, and economic harm.

Children who have offended are vulnerable to developing along the following pathway: engagement with the child welfare and Family Court system, child offending, youth justice system involvement, and entry into the adult criminal justice system (Ministry of Justice, 2013; Social Services Committee, 2012). Given that incarceration is a frequent outcome of this trajectory, it has been referred to as the 'prison pipeline' (Lambie, 2018b, p. 11).

Early identification and effective intervention with children at risk of offending and those who have already offended is therefore critical to prevent these children from following this pathway and to reduce the risk of a raft of other adverse outcomes. However, relatively little is known about children who offend in Aotearoa NZ, and particularly those who engage in serious and persistent offending (Ministry of Social Development, 2016). Although a large body of international and domestic research (e.g., Fergusson et al., 2000) has shown that children who offend typically have had histories of maltreatment and other child welfare concerns, such research is typically based on children born more than 40 years ago (such as those in the Dunedin Multidisciplinary Health and Development study). Generalisability to today's legal, cultural and social contexts is therefore limited, and Māori and Pacific children are underrepresented in the research cohorts. Increased methods of data collection, such as the Integrated Data Infrastructure (IDI), also offer novel ways to better understand factors associated with child offending.

Similarly, there is limited understanding as to the extent to which child welfare and Family Court proceedings are conducive to supporting the needs of children and families. While a small number of research projects have investigated care and protection processes and offered insight into some shortfalls within these (Boulton et al., 2020), an integrated investigation of child welfare proceedings and those specific to child offending has not been conducted.

Considering this, the aims of this mixed methods research were twofold. First, this research sought to explore the characteristics, backgrounds, and trajectories of children who have offended, relative to their peers with no offending histories (or who started offending only as adolescents). Second, this research sought to examine opportunities for improvement in child welfare and Family Court practices to ensure more positive outcomes for children and families and reduced risks of offending or reoffending. Overall, this research intended to produce evidence upon which policymakers and child welfare and justice services, such as Oranga Tamariki and the Family Court, can more effectively direct their resources. Funding by the Michael and Suzanne Borrin Foundation and the Law Foundation, plus assistance from the University of Auckland, supported these aims.

² *Some international researchers define those aged up to age 13 as 'children' who are offending, and thereafter as 'youth' offenders; in other jurisdictions, including Aotearoa NZ, those who offend aged 10 to 13 years are categorised as 'children', with 'youth' offending classified from the age of 14, not 13. (There is more detail on how 'child' offending is classified in the body of this report.)*

Report outline

This report first presents background information on trends and trajectories of child offending and highlights why prevention and early intervention are critical. Child offending processes in Aotearoa NZ are then outlined, followed by previous reviews of the so-called child offending system and a note on research gaps. The methodology of the study is then presented, including the use of three key data sets – data from the Integrated Data Infrastructure (IDI), data from Oranga Tamariki case files on children who have offended, and consultations with key stakeholders, including some whānau of child welfare and justice-involved children, and professionals from within the legal system, child welfare services, police, education and psychology. Integrated findings are then presented, showing IDI data about the characteristics, backgrounds and trajectories of children who offend (as compared to other offending groups); 11 themes derived from the stakeholder interview data; and anonymised case studies from the Oranga Tamariki case-file analysis. A discussion on implications and recommendations, reflections on limitations, and concluding comments complete the report.

2. Background

2.1. Trends in child and youth offending

Offending by children (aged 10 to 13) and youth (aged 14 to 17) in Aotearoa NZ has significantly declined over the last decade (Ministry of Justice, 2020b). Between 2009/10 and 2019/20, the offending rates, which measure the proportion who offend relative to the population, for children (10–13) and young people (14–16) decreased by 63% and 64% respectively (Ministry of Justice, 2020b). Child and adolescent youth court appearances decreased by 68% in the same period (Ministry of Justice, 2020b), and the number of children and young people charged in court in 2015/16 was the lowest in over 20 years (Ministry of Justice, 2017). Nonetheless, the stark overrepresentation of Māori youth and high recidivism rates remain major youth justice issues (Ministry of Justice, 2018, 2020b). Furthermore, although the proportion of serious offending among adolescents has fallen in the last five years, the reverse has occurred for children (Ministry of Justice, 2020b), suggesting serious child offending remains concerning.

2.2. Child welfare concerns precede offending behaviour

The extremely high proportion of children and young people involved in the justice system who had previous child welfare notifications is of particular concern. Virtually all (97%) children and most (88%) adolescents who were referred for a youth justice Family Group Conference (FGC) had been the subject of a report of concern to Oranga Tamariki relating to their welfare (Ministry of Justice, 2020b). This suggests that the vast majority of children and young people who engaged in serious and/or persistent offending endured adverse childhood experiences, which were likely to underlie or at least contribute to their offending (Ministry of Justice, 2020b). Further, although the majority of children with care and protection concerns do not go on to have youth justice involvement (Ministry of Social Development, 2010; Oranga Tamariki, 2020), the fact that nearly all of those who did offend seriously had prior child welfare concerns indicates that we have failed to prevent the onset, continuation, or escalation of offending for many youth.

2.3. A closer look at children with offending behaviour

Table 4. Thinking about terminology

| Terminology: 'Juvenile delinquents' or children? |
|---|
| <p>Research and professional discourse surrounding child offending often describes these children as 'child offenders/delinquents' (e.g., Loeber & Farrington, 2000; Ministry of Social Development, 2016; Social Services Committee, 2012; Wim Slot et al., 2016). Given that many researchers also work with 'youth offenders' or 'juvenile delinquents', the terms used to describe children who have offended are likely an extension of those used in youth justice settings.</p> <p>Legally, the age of criminal liability in Aotearoa NZ is 10 years, so logically children cannot be 'offenders' under that age. They could be described as 'children with behaviour that would otherwise be classified as offending, if the minimum age of criminal responsibility was lower'.</p> <p>The terms 'children who have offended' or 'children with offending behaviour' are used in this research. These terms are an attempt to acknowledge the child first, drawing attention to the fact that offending is only one of many behaviours children engage in (Reil et al., 2021).</p> <p>Considering that academic literature, professional discourse, and the state frequently represent 'children as problems rather than victims' (Stanley, 2016, p. 7), it is researchers' and practitioners' collective responsibility to highlight the victimisation and sociostructural factors (e.g., discrimination, marginalisation, poverty, racism) that underlie child offending and advocate for more considered, empathetic, and accurate accounts of such behaviour.</p> |

Prevalence

In 2018, there were 2330 children aged between 10 and 13 years apprehended for offending in Aotearoa NZ, a reduction of 55% since 2010 (Ministry of Justice, 2019b). Population adjusted data indicated that the number of children who offended per 10,000 children reduced from 216 in 2009/10 to 79 in 2019/20 (Ministry of Justice, 2020b). Our own research, presented in this report, showed that 753 children (or 1.5% of all children born in 2000) offended before turning 14. Notably, a large part of the reduction in child offending can be attributed to fewer children offending in the first place (Ministry of Social Development, 2016). However, although the declining trend is encouraging and the number of children who offend seriously is not large (Office of the Children's Commissioner, 2020b), any number of children engaging in such behaviour suggests cause for concern, given childhood offending onset is associated with increased risk of persistent offending. Moreover, considering that child offending is typically indicative of serious child welfare concerns, increased understanding of how children come to offend, despite sometimes frequent state involvement, is critical to ensuring more positive outcomes for children, families, and communities.

Offence types

The majority of children who offend commit minor to moderate crimes and only a small proportion of children engage in more serious offending (Wim Slot et al., 2016). In 2019/20, 10- to 13-year-old children who offended in Aotearoa NZ were most often apprehended for theft (28%), property damage (17%) or unlawful entry/burglary (16%). Rates of other offences were for injury-causing acts (12%) other offences (12%), public disorder (9%), and abductions/threats (6%) (Ministry of Justice, 2020b). Although most children are 'diverted' from formal justice proceedings, a proportion (8.1%) of children who have offended seriously continue to be proceeded against (Ministry of Justice, 2020b). There were 169 children formally proceeded against in 2019/20 (Ministry of Justice, 2020b). Although not a large number, each of these children has already seriously offended (so there are impacts on victims) and, as the evidence shows, each is likely to continue engaging in persistent offending through to adulthood, and potentially prison.

The long-term harm of those outcomes, to the 10-year-olds who stand before the court, to the victims of their crimes, and in the individual, family, health, social and justice costs over their lifetimes, indicates opportunities to further commit resources to addressing child welfare concerns and reducing child offending must be enacted.

Development and trajectories

Children do not randomly engage in serious and persistent offending behaviour; instead, the development of offending evolves over time, where disruptive behaviour in early childhood gradually progresses to more severe and persistent behaviour problems as children grow older and eventually escalates to offending (Loeber & Farrington, 2000; Wim Slot et al., 2016). Disruptive behaviours may include defiance, disobedience, and hostility toward authority figures, aggression, rule-breaking, frequent lying, stealing and vandalism, truancy, and early substance use (Loeber & Farrington, 2000; Tremblay, 2010).

Longitudinal studies have shown that the majority of children who have offended displayed persistent, disruptive behaviour throughout childhood, often starting in preschool (Farrington, 1995; Thompson et al., 2011; Wim Slot et al., 2016). In Aotearoa NZ, most children who offended aged between 10 and 13 years came to the notice of police due to disruptive behaviour prior to the age of 10 (Office of the Children's Commissioner, 2020b).

Risk factors

A large body of longitudinal research has identified a range of environmental risk factors associated with childhood behavioural problems and offending onset, including individual (e.g., early aggressive and antisocial behaviour, impulsiveness, low IQ and educational attainment), family (e.g., familial antisocial behaviour, parental incarceration, inadequate parenting practices, child maltreatment, exposure to domestic violence, disrupted families, large family size), and social factors (e.g., low socioeconomic status, peer associations, school and neighbourhood influences). Importantly, risk is cumulative: the more risk factors a child is exposed to, the higher the risk of developing behaviour problems and offending (Murray & Farrington, 2010). For example, findings of Aotearoa NZ's longitudinal Dunedin Multidisciplinary Health and Development study (the Dunedin Study) indicated that adults with chronic offending histories were exposed to the most adverse psychosocial circumstances in childhood, whereas those with more moderate offending histories endured fewer such experiences, and non-offending adults had very limited exposure to such risk factors (Fergusson et al., 2000).

2.4. Prevention and early intervention are critical

Poor prognoses for these children

Unequivocal evidence has demonstrated an inverse relationship between age of offending onset and criminal frequency and career length (DeLisi & Piquero, 2011; Jennings et al., 2015; Loeber & Farrington, 2000). In other words, the younger a person at first offence, the greater the risk of frequent and persistent offending. For example, findings of the Dunedin study demonstrated that adults who started offending in childhood had more frequent and serious offending rates and nearly twice as many convictions by age 26 than did those whose first offence was in adolescence (Moffitt et al., 2002).

Beyond persistent offending, these children are at risk of a raft of adverse outcomes across the lifespan. Research on 'life-course persistent' (LCP) offending, characterised by severe and persistent antisocial behaviour throughout the life-course following childhood onset, suggests that these children are at risk of poor work histories, interpersonal conflict, unskilled jobs, and poor physical and mental health (Odgers et al., 2007; Piquero et al., 2007; Piquero et al., 2011; Reingle et al., 2014).

Early intervention beats later intervention

A second important reason to address child offending is that early intervention may be more effective than intervention at later stages. A NZ report on best practice regarding conduct problems in children and young people recommended intervention before age 7, and the earlier the better (Advisory Group on Conduct Problems, 2009). Moreover, the more offences a child has accumulated, the more likely they are to repeatedly offend (Farrington, 1995; Ministry of Social Development, 2016; Moffitt, 1993).

Recent Aotearoa NZ data indicated that the majority of children and young people reoffend within two years (Ministry of Justice, 2018; Ministry of Social Development, 2016). Consequently, early intervention may reduce the number of children committing crime in the first place, reduce the accumulation of multiple offences, and steer children away from persistent criminality.

The fact that the vast majority of children and young people who have engaged in serious or persistent offending had prior child welfare concerns presents a critical opportunity to improve early intervention and prevent crime. This issue has recently been addressed by Judge FitzGerald (2018), who noted that so-called 'crossover kids' - that is, children with both care and protection and youth justice concerns (Ministry of Social Development, 2010) - have particularly poor prognoses. In fact, the Judge noted that a subset of these youth with both Family Court and Youth Court proceedings (i.e., 'dual status' youth, who are also 'crossover kids') have the worst outcomes of young people appearing in the Youth Court. In Aotearoa NZ, a 1989 birth cohort study revealed that more than half (59%) of those imprisoned by age 19-20 had Child Youth and Family Services (CYFS)³ histories (Ministry of Social Development, 2010) and, conversely, half (52%) of crossover individuals had adult offending records by age 19-20 (Ministry of Social Development, 2010).

Child offending is costly

Third, persistent offending is expensive (Loeber & Farrington, 2000). As part of their 1989 cohort study investigating the crossover between care and protection, youth justice, and Department of Correction clients, the Ministry of Social Development (2010) examined the costs accrued by each of these groups. The report highlighted that crossover clients are more costly than those with care and protection or youth justice records only (Ministry of Social Development, 2010). The report found that of the \$77 million the Department of Corrections spent on clients in this cohort, \$64.2 million (83%) was spent on those who had histories of child welfare involvement (Ministry of Social Development, 2010). Given that many of those imprisoned started to offend as children, the cumulative costs of child offending are evident.

³ Child Youth and Family Services was NZ's statutory child protection agency prior to the establishment of Oranga Tamariki/Ministry for Children in 2017.

2.5. Child offending processes in New Zealand

New Zealand legislation defines children who offend as children between 10 and 13 years (inclusive) who have committed an offence.⁴ Proceedings that respond to child offending, at times referred to as the 'child offender system' (Office of the Children's Commissioner, 2020b, p. 4), are a hybrid of the care and protection and youth justice systems and are governed by the Oranga Tamariki Act 1989⁵ (the Act) (Social Services Committee, 2012). The Act emphasises a restorative approach to offending behaviour, in which a child or young person is held accountable for their offending and is expected to make amends with victims (McLaren, 2011). In addition, the Act sets out that the underlying needs of children and young people who have offended are addressed to promote their wellbeing and prevent reoffending.

One of the guiding principles of the Act stipulates that alternative means to formal justice involvement in response to child and youth offending should be prioritised wherever practicable, as long as doing so does not jeopardise public safety. Diversion practices such as children receiving a warning, receiving an alternative action plan, or having input from care and protection child welfare services are therefore to be prioritised.

The Act stipulates that children may only be charged for the most serious offences (murder and manslaughter). In addition, 12- and 13-year-old children charged with an offence carrying a maximum term of imprisonment of at least 14 years, or children who have previously offended and are charged with an offence carrying a maximum sentence of at least 10 years' imprisonment, may be dealt with in the Youth Court. It is worth noting that since 2010, fewer than 30 children per year have been prosecuted this way (Office of the Children's Commissioner, 2020b). All other offending by children is dealt with as a care and protection matter, taking a child welfare rather than a criminal justice approach (Office of the Children's Commissioner, 2020b).

Upon apprehending a child for alleged offending, police officers have discretion to respond in a number of ways (McLaren, 2011). Children may be given a warning, receive alternative action, be referred to a youth justice coordinator, or be arrested and brought before the Family Court for the purpose of seeking a care and protection order (Child Youth and Family, 2007).

⁴ Children under the age of 10 cannot be held criminally liable for offending. They may be recorded by police as being responsible for an offence.

⁵ Previously known as the Children, Young Persons, and their Families Act 1989.

2.6. Previous reviews of the 'child offender system'

There have been three prior reviews of the responses and proceedings in relation to child offending. These include two reports by the Office of the Children's Commissioner (OCC; Maxwell & Robertson, 1995; Office of the Children's Commissioner, 2020b), one of which was published during the analyses of these research findings, and a parliamentary social services committee inquiry (Social Services Committee, 2012). Overall, these reviews provided an important overview of some of the shortfalls (e.g., delays in child welfare proceedings, inconsistent referral practices, poor collaboration between various agencies involved) in the systemic response to child offending.

This study sought to examine to what extent child welfare and court proceedings in relation to child offending may have improved in the years following the 1995 and 2012 reports. Hope for such progress was somewhat dashed by reading the 2020 OCC report, which argued that the current system 'isn't working as well as it should' (p. 4), highlighting 'longstanding deficiencies' in child offending processes and proposing that the system insufficiently addresses the needs of children who offend (p. 6). Detail regarding these 'deficiencies' was sparse, however, and the OCC report was not able to focus on shortfalls in child welfare proceedings *prior* to the onset of child offending. Our research can therefore be seen as complementing and fleshing out the concerns expressed by the OCC.

Recent advances in data collection, such as the IDI, offer novel ways to explore recent data on the characteristics, backgrounds, and trajectories of children who offend. For example, the IDI enables researchers to examine a child's interaction across multiple agencies (e.g., police, child welfare, education, health), thus shining a light on the various difficulties these children may have faced, as well as the extent of their engagement with services. Similarly, in-depth analyses of case files related to child offending have not been conducted, thus offering a rare and detailed glimpse into the lives of these children and whānau.

3. The study

This research was co-funded by the Law Foundation and the Michael and Suzanne Borrin Foundation and undertaken between 2019 and 2021. Ethics approval was granted by Statistics NZ (for the IDI analysis), Oranga Tamariki (for the case-file analysis), and the University of Auckland (for the interviews). The study was overseen by an experienced and diverse advisory group, including iwi, law, police, child welfare, and education representatives.

Study aims

This research was divided into two separate yet related parts. Part 1 sought to examine the characteristics and backgrounds of children who offend, relative to other offending groups, to gain increased understanding of the challenges these children face, the trajectories they often follow, and the factors that may have contributed to their offending. Increased and up-to-date understanding is critical to aid improved prevention and early intervention efforts. Part 2 aimed to investigate opportunities for improvement in child welfare and Family Court practices to reduce the risk of children 'falling through the cracks' and preventing an escalation of child welfare and offending concerns. The questions this research sought to address were:

- What are the characteristics, backgrounds, and trajectories of children who offend?
- How can child welfare and Family Court practices be improved to reduce the risk of children (re)offending?

It may be argued that child welfare and Family Court systems need to be extinguished, not 'improved'. The focus of this research was to explore current systems and immediate improvements possible, from the perspective of stakeholders currently trying to make these systems work. Their experiences may highlight the lessons to be learned as any new approaches are established.

4. Methods

Both quantitative and qualitative methods were used in this research. Part 1 utilised quantitative analyses of Integrated Data Infrastructure (IDI) data and qualitative analyses of Oranga Tamariki case files and key stakeholder consultations, including interviews with child welfare professionals and whānau members. Part 2 also drew on these stakeholder consultations and interviews with legal, police, health, education and child welfare professionals.

4.1. IDI

Integrated Data Infrastructure (IDI) data for all children born in 2000 were analysed to identify i) those with no recorded offending histories, ii) those who had offending records as children (aged <14 years), iii) those who had youth offending records (aged 14-18), and iv) those with offending records as both children and adolescents. Following demographic analyses, we examined to what extent various variables were associated with these groups—and may differentiate between them—to understand which factors may be particularly associated with child offending.

The IDI is a large research database holding integrated, de-identified microdata about people and households (Statistics New Zealand, 2020). Data can be linked from various sources (e.g., justice, health, social development, education), thus enabling researchers to define cohorts and analyse system-wide, long-term trends, as was necessary for this project (Milne et al., 2019). The IDI captures interactions with government agencies primarily, and relies on the data quality standards and policies of different agencies over time, so data can be variable and exclude those who have not come into contact with services (Bowden et al., 2020; Milne et al., 2019). It is nevertheless being increasingly used to explore complex social and economic issues (Statistics New Zealand, 2020).

The cohort

The cohort comprised around 49,000 children born in 2000 (ranging from 48,975 to 49,981 depending on Statistics New Zealand rounding),⁶ including children who were either born in Aotearoa NZ or who had a visa approval before their second birthday. Data were tracked from birth in 2000 until 30 June 2019.

Table 5. Cohort of children born in Aotearoa NZ or with visas approved before age 2

| Born in NZ | Rounded count | Percent |
|--------------|---------------|-------------|
| Yes | 48291 | 98.6% |
| No | 684 | 1.4% |
| Total | 48975 | 100% |

In the cohort, there were rounded counts of:

- 25,206 (51.5%) males and 23,772 (48.5%) females
- NZ European (75.5%), Māori (30.4%), Pacific (13.3%), Asian (7.7%), Middle Eastern, Latin American or African (MELAA) (0.7%) and Other (1.9%)

There would be people who identified as both European and Māori, for example, and hence were counted in both groups. The cohort has a higher percentage of Māori compared to the general population. This was not unexpected as people not born in Aotearoa NZ were excluded from the cohort, unless they had arrived before age 2 and spent the majority of their lives in Aotearoa NZ following their arrival.⁷

There is more information on the creation of the cohort in *Appendix A*.

⁶ A 'prelim' cohort was created in the Statistics New Zealand Datalab by selecting people born in 2000 and resident in NZ for at least 11 years between 1 July 2006 and 30 June 2019, totalling 54,810. Of these, 88% were born in New Zealand. Of those not born here (n = 6516), 19.5% (n = 1272) had a visa approved before 2004. The 5244 people who were not born in New Zealand and did not have a visa were then not included in the final cohort, giving a cohort N of 49,566. A further 585 people were excluded from those with visas before 2004, but approved after the age of 2, leaving the final cohort of 49,981 people. Note that sometimes this number appears higher or lower due to random rounding. It can appear as low as 48,975 simply due to the rounding required before Statistics New Zealand can release information to the public.

⁷ The 2018 census showed that 27.4 percent of people counted were not born in NZ. We had only a very small percentage (1.4%) of people born outside of NZ included in our cohort (as the table above shows), hence the percentage of Māori is up and the percentage of Asian people is down compared to the general population.

Variables investigated

The IDI variables investigated in relation to children who offend are summarised in Table 6, with information on the datasets in *Appendix A*.

Table 6. IDI variables that were investigated

| IDI variable | Notes |
|--|---|
| The cohort | Children born in the year 2000 or normally resident here, until 30 June 2019 (before their 19th birthday when they would enter the adult justice system). |
| Demography | Sex (male/female) and ethnicity (European, Māori, Pacific, Asian, MELAA, Other), as per Statistics New Zealand criteria. |
| Rates of offending | Rates of offending: <ul style="list-style-type: none"> • as a child (under 14 years) - child-only offending • as a child who then goes on to offend also as a youth (age 14 to 18) – the ‘both’ group (that is, offending as <i>both</i> a child and then as a young person) • as a young person (aged 14 to 18) only - youth-only offending (to compare with the child offending groups). |
| Frequency of offending, seriousness, justice outcomes by demographics | For those who offended, court charge data had information on frequency, seriousness, charges laid, etc; cross-tabulated by sex and ethnicity. |
| Oranga Tamariki | |
| Reports of concern (ROC)/notifications | Numbers of reports of concern/notifications about offending and non-offending children at different ages; repeat offending and ROCs. ROCs and notifications are different terms for the same records, with 98% of those with notifications also in the ROC dataset. |
| Out-of-home placements and state care | Rates of offending for those placed in out-of-home placements (e.g., residential placements, supervised group homes, foster care, emergency residential placements, boarding school/hostel placements, family/whānau placements, YSS one-to-one placements etc.) State care/custody orders (being in the ‘custody of the Chief Executive of Oranga Tamariki’) and offending. |
| Experience of abuse and neglect | Any abuse experienced by offending group/repeat offending/specific ages, as reported by Oranga Tamariki social workers, including neglect, physical abuse, sexual abuse and emotional abuse. |
| Self-harm or suicide indicators | Rates of self-harm and suicide indicators (only as reported by Oranga Tamariki social workers) by offending group. |
| Family group conferences (FGCs) | Number of FGCs for those offending; time taken from referral for an FGC until it is ‘convened’, and from being convened until it is held. |

| IDI variable | Notes |
|--|---|
| School | |
| Suspension or standdown | Ministry of Education (MOE) data on suspensions or stand-downs from school, by offending group. |
| Exclusion or expulsion from school | MOE data on exclusions or expulsions from school, by offending group. |
| School decile at age 6 and age 9 | MOE data on school decile based on socioeconomic indicators from decile 1 (10% of schools with the highest proportion of students from low socioeconomic communities) to decile 10 (the 10% of schools with the lowest proportion of such students). School decile at the time the children were age 6, and at age 9 were used. |
| Number of school enrolments up to age 14; attending school at 16+; truancy | Number of school enrolments by age 10 and by age 14; attending school at age 16+; referrals to attendance services for persistent truancy. |
| Parents | |
| Justice-involved parents with a charge filed | Ministry of Justice charges information on each parent was linked to the cohort, including charges laid against one or both birth parents before the child was born, and up to the age of 14. |
| Primary caregiver being entitled to an income support benefit | Ministry of Social Development data on a child's primary caregiver being entitled to receive an income support benefit; benefit receipt before age 5, 10 and 14 were noted. |

Note. The specific datasets for each variable are listed in *Appendix A*.

4.2 Oranga Tamariki case file analysis

Children aged 10 to under 14 years old are categorised under Section 14(1)(e) when their offending meets criteria of serious concern for the child's wellbeing. They are therefore engaged with the state child welfare agency Oranga Tamariki because of the care and protection issues associated with offending. We obtained ethical approval to review Oranga Tamariki case files, to address the question: *What do Oranga Tamariki case files tell us about the experiences of children who offend?*

Under the Oranga Tamariki Act 1989 Children's and Young People's Well-being Act, Section 14 (Definition of child or young person in need of care or protection) states that:

s(14)(1) A child or young person is *in need of care or protection* if—

(e) in the case of a child of or over the age of 10 years and under the age of 14 years, the child has committed an offence or offences of sufficient number, nature, or magnitude to cause serious concern for the well-being of the child.

These children are therefore a subset of the IDI classification of all children aged 10 to 13 who have offended; namely, a subset of those who have most persistently and/or most seriously offended. Considering the vast majority of those under this section have had extensive histories of involvement with Oranga Tamariki prior to the (e) classification, there was also a lingering question as to how things could get to the point where a s14(1)(e) care and protection application was necessary, given that intervention could have very likely occurred much earlier (Office of the Children's Commissioner, 2020c).

Exploring the backgrounds of these children, as far as they are recorded in Oranga Tamariki case files, could cast light on the types of notifications made, psychosocial backgrounds, interventions offered, relevant variables from the IDI dataset analysis and any other clues as to how behaviour escalates to serious or persistent offending. Such information could also guide future prevention and intervention.

Comprehensive information regarding accessing the data, ethics and confidentiality, file identification, data inclusion and exclusion criteria, and the data gathering process is provided in *Appendix B*. Strict ethical and confidentiality procedures were adhered to.

The sample

We obtained confidential access to digital and paper Oranga Tamariki files of children who had offended over a one-year period from July 2019 to June 2020 and were categorised under Section 14(1)(e). The digital files were in the CYRAS system (which stands for Care and Protection, Youth Justice, Residential and Adoption Services) accessed with strict confidentiality and supervision on an Oranga Tamariki laptop.

A total of 108 children were categorised as s14(1)(e) during that year, 18 from Auckland, 90 from elsewhere, including mostly boys and about 10% girls (Table 7). Ages ranged from 10 to almost 14 over the specified timeframe of review.

Table 7. Oranga Tamariki case file analysis

| Demographic ^A | n | % |
|---------------------------|------------|---------------|
| Gender^B | | |
| Male | 97 | 89.82 |
| Female | 11 | 10.19 |
| Total | 108 | 100.00 |
| Location | | |
| Auckland | 18 | 16.67 |
| Outside Auckland | 90 | 83.33 |
| Total | 108 | 100.00 |

Notes:

- A. We cannot include more demographic detail because of the risks to confidentiality – for example, a hypothetical 11-year-old girl under s14(1)(e) would likely be the only such child, even in a city as large as Hamilton or Christchurch, so naming those places would potentially reveal identity.
- B. 'Gender diverse' or 'Other' gender categories could not be included, as the number in this sample was below 5, and therefore, according to Oranga Tamariki data reporting standards, had to be suppressed. The male/female gender split is therefore indicative only, with the assumption that fewer than 5 children may identify differently.

As well as the 108 digital CYRAS files, our data analyst worked through 87 paper files⁸ that were transferred from site offices to one Oranga Tamariki office where our analyst could view them, accompanied by the lead researcher for cross-check and validation. This was to check whether the paper files had significant information (e.g., reports of interventions) not otherwise evident in the digital files, which was an important aspect to check. It was clear from viewing enough paper files that they did not contain information not otherwise accessible in the digital files.

Presenting the case-file findings

The backgrounds of children who offended, as identified in the Oranga Tamariki case-file analysis, mirrored those that were described by the professionals and whānau members in the interviews. The stakeholder interviews in some ways helped explain or hypothesise how the stories we were reading separately in the case files could have happened. Therefore, we decided to weave anonymised, illuminative compiled narratives, based on multiple, aggregated cases, from the case files into the themes arising from the interview and IDI data, in a mixed methods approach (Creswell, 2015) that was also used in Australian research on children who are both care- and justice-involved (Baidawi & Sheehan, 2019). As such, they are presented as 'case vignettes' where relevant in the *Findings* sections.

For example, to illustrate the need for early, effective intervention, case M1324 is a fictional aggregate based on the case files to show that there had been early care and protection notifications for the children's siblings prior to the birth of children like M1324, and ongoing through their lives, including about family harm incidents and siblings' offending, until they too went on to offend as teenagers. This leaves the reader to imagine how the life of such children might have been if those early notifications had been responded to with more effective help. This is a form of research rigour known as triangulation (Flick, 2004), where researchers use various forms of data (in this study, IDI data, Oranga Tamariki case files, and key stakeholder consultations) to cast light on important themes and evidence from a range of perspectives.

⁸ This was not 87 separate children's files, but 87 files; for example, one child could have four files relating to their involvement with Oranga Tamariki; another might have a single slim file containing some information from an external assessment or service. Therefore, the case-file analysis was primarily focused on the digital records, having confirmed that we were not 'missing' a lot of different information that was only in paper files.

To maintain the highest standards of confidentiality, we have had to be careful as to how these illuminative narratives are presented. They are therefore more of a story-telling illustration, perhaps of a group of children facing similar challenges, rather than an individualised case-study format. They were composed by different research team members as we analysed and re-analysed the data. We did not want anyone to read them and say, “Oh, that’s *that* specific child who offended”, but we did want people to feel like they were narratives that allowed real understanding of the types of experiences these children may have had, as recorded in their Oranga Tamariki files. The case vignettes have confidential numbers (M for male and F for female) and hypothetical age (where mentioned) is at time of file review; they bear no relationship to any Oranga Tamariki filing systems.

Many case-file narratives were similar in terms of the adverse events the children and their whānau experienced prior to joining the justice system. We carefully mixed and de-identified specifics to ensure the essence of experiences were realistic but not identifiable; we are therefore confident that the aggregate detail included in the narrative vignettes will not breach confidentiality (e.g., there was many more than one child who had a family member who was incarcerated or struggled with substance abuse).

4.3 Key stakeholder consultations

Interviews were conducted with child welfare and Family Court professionals as well as whānau members with lived experience of these proceedings in relation to child offending (Appendix C). A hui with some of the professional participants ($n = 4$) was undertaken during the final stages of data analysis to gain feedback on preliminary findings and ensure the findings derived from the data analysis accurately captured participants’ thoughts and ideas, thus ensuring credibility and confirmability of the analyses.

Professional participants

Child welfare and Family Court professionals were contacted via our professional networks and advertisements in Family Court newsletters and bulletins. The final professional sample consisted of 28 participants ($n = 28$), who practised in large cities and regional centres across the North Island and had expertise and particular interest in this research area. As can be seen in Table 8, the majority of participants were lawyers for child (most of whom also practised as youth advocates). There was an even split in gender, and Māori and Pacific participants were overrepresented relative to the general population. The majority of participants were over 50 years old.

Table 8. Professional participants

| Demographic | <i>n</i> | % |
|--------------------------|-----------|---------------|
| Profession | | |
| Lawyers | 12 | 42.86 |
| Police officers | 4 | 14.23 |
| Oranga Tamariki advisors | 3 | 10.71 |
| Psychologists | 3 | 10.71 |
| Social workers | 3 | 10.71 |
| Kuia | 1 | 3.57 |
| School principal | 1 | 3.57 |
| Lay advocate | 1 | 3.57 |
| Total | 28 | 100.00 |
| Gender | | |
| Male | 13 | 46.43 |
| Female | 15 | 53.57 |
| Other | 0 | 0 |
| Total | 28 | 100.00 |
| Ethnicity | | |
| NZ European | 14 | 50.00 |
| Māori | 7 | 25.00 |
| Pacific | 4 | 14.23 |
| Other | 1 | 3.57 |
| Total | 28 | 100.00 |
| Age | | |
| 20–30 | 1 | 3.57 |
| 30–40 | 0 | 0 |
| 40–50 | 9 | 32.14 |
| 50–60 | 8 | 28.57 |
| 60–70 | 10 | 35.71 |
| Total | 28 | 100.00 |

Whānau participants

Whānau participants were invited to participate in this research by their lay advocate. This was an opportunity the researchers were privileged to be given through the established links the lay advocate had with the whānau and the researchers. Wāhine (women) from five different whānau were interviewed ($n = 5$), all of whom had extensive past and ongoing child welfare and Family Court involvement and at least one child who had offended. Four were mothers and one was the grandmother of the children who had offended. All women were Māori and had between five and eight children. Table 9 provides an overview of the whānau participants. As with the professional participants, pseudonyms were used in order to ensure confidentiality and anonymity of whānau participants; similarly, the characteristics of the whānau participants (e.g., number of children, particular circumstances referenced in *Notes*) were randomised across the participants (that is, the issues are from the five wāhine but the exact combination is not).

Table 9. Whānau participants

| Participants | Children | Notes |
|-------------------|--|---|
| Ana | 5 children | Single mother who experienced domestic violence, raising five children on her own |
| Māori mother | 2 children involved with Oranga Tamariki | Sons sexually abused Children placed with multiple caregivers or residences around the country; two children diagnosed with post-traumatic stress disorder (PTSD) and fetal alcohol spectrum disorder (FASD) Aggravated robbery at 12 years old |
| Hinemoa | 5 grandchildren | Family completed Functional Family Therapy (FFT) |
| Māori grandmother | 2 in youth justice residence | Grandchildren placed in multiple placements and experiencing anger, anxiety, communication difficulties Two grandchildren charged with aggravated robbery and assaults, beginning in childhood |
| Jen | 6 children; all children uplifted | Daughter diagnosed with PTSD, experienced bullying and engaged in self-harming (cutting and huffing) and animal cruelty from intermediate school |
| Māori mother | | |

| Participants | Children | Notes |
|---------------------------------|---|--|
| Kourtney Māori mother | 5 children, 3 uplifted | Children experienced transience, domestic violence, engaged in self-harming, running away, acting out aggressively Children experienced multiple placements and were abused in state care Daughter attempted suicide Son engaged in car theft at 13, later diagnosed with PTSD, attention deficit hyperactivity disorder (ADHD), and FASD |
| Maria Māori mother | 8 children 1 in youth justice residence | Intergenerational conflict, children grew up with violence and child welfare involvement, multiple placements Two children offending (assaults, aggravated robberies, car theft) |

Whānau participants experienced a range of child welfare involvement, including frequent child welfare notifications, engagement in various programmes (e.g., parenting courses like Functional Family Therapy, substance use treatment), having children uplifted due to care and protection concerns, and voluntarily placing children in Oranga Tamariki care to support their wellbeing. Participants ranged from having all children in care to having 'only' some children in care, with some reporting their children had had multiple uplift experiences. All participants had at least one child whose offending led to justice involvement (e.g., care and protection FGCs or youth justice involvement). Interaction with the whole spectrum of the child welfare and youth justice system, including Oranga Tamariki, Family Court, and Youth Court involvement, was shared by all participants, which is why their input into this research was so valuable.

The wāhine appeared highly motivated to speak about their experiences, with many commenting that they hoped that this research would support families with future child welfare and Family Court/youth justice involvement to have more positive experiences. For example, Jen stated that she hoped *'nobody else goes through something like what we're going through because it's hard, it's really hard.'* While these stories were by no means a full account of the experiences of these women and their whānau, they provided a glimpse into what it can be like for a family to have involvement with state services due to child welfare and child offending concerns.

Data outputs

In addition to this report, journal articles discussing this research to contribute to peer-reviewed academic literature are in preparation. This research underpins advocacy currently underway at the highest level to improve early intervention in child welfare practices as well as improvements in Family Court proceedings in relation to child welfare and child offending cases. At the time of writing this report, advocacy has included acceptance of an invitation to present to the Auckland District Law Society Family Law Committee as well as the Family Court Association. We look forward to presenting and discussing this research with relevant stakeholders, including iwi, Oranga Tamariki, Ministry of Education, Police, the Family Court, the Law Foundation, and the Michael and Suzanne Borrin Foundation, once this report has been published.

Findings Part 1

Part 1 of this research sought to explore the characteristics and backgrounds of children who have offended, the trajectories such children often follow, and the interactions with the various systems these children may or may not have had. In particular, it sought to analyse factors associated with childhood offending onset relative to other offending and non-offending groups. This part first presents the offending characteristics of the IDI cohort and then draws on integrated data from the IDI, Oranga Tamariki case-file analyses, and stakeholder interviews to highlight factors associated with child offending.

5. Offending characteristics of the IDI cohort

5.1. Offending by age and frequency

- A minority of children and young people engage in offending

Tracked until before their 19th birthday, there were 42,219 (86.3%) in the cohort who had not offended. There were 753 (1.5%) who offended only as children (aged younger than 14 years old); 4701 (9.6%) who offended only as a youth (14 to 18 years old); and 1269 (2.6%) who offended both as a child and as a youth (Table 10).

Table 10. Offending group frequency

| Offending group | Rounded count | Percent |
|---|---------------|---------|
| Child only (<14 years old) | 753 | 1.5% |
| Youth only (14-18 years old) | 4701 | 9.6% |
| Child and youth offending | 1269 | 2.6% |
| No offending | 42255 | 86.3% |
| Total number of people in the cohort | 48978 | |

- About one-fifth of those who offended did so as both children and adolescents

Table 11. Offending groups by age group

| Offending group | Rounded count | Percent |
|----------------------------------|---------------|---------|
| Child only (<14 years old) | 753 | 11.2% |
| Youth only (14 - 18 years old) | 4701 | 69.9% |
| Child and youth offending | 1269 | 18.9% |
| Total number of offenders | 6723 | |

- The majority of children who offend reoffend in adolescence

Of the children who offended when they were younger than 14 years old, the majority (62.8%) also offended as a youth (aged 14-18). Of those who did not offend as a child, 10% offended as a youth (Table 12). This difference is statistically significant.⁹ This demonstrates that for nearly two-thirds of children, offending in childhood was a stepping stone to continued offending in adolescence, highlighting the persistence of such behaviour as children grew older.

Table 12. Relationship between child and youth offending – rounded counts

| Offended as a child | Offended as a youth | | Row total (column %) |
|----------------------|---------------------|---------------|----------------------|
| | No | Yes (row %) | |
| No | 42,255 | 4,701 (10.0%) | 46,956 (95.9%) |
| Yes | 753 | 1,269 (62.8%) | 2,022 (4.1%) |
| Column total (row %) | 42,969 (87.8%) | 5,970 (12.2%) | 48,978 |

- Nearly half of those offending aged 17 to 18 offended as children

Of the 2022 young people who offended aged 17 to 18 years, 43.6% had also offended as a child. Just 7.1% of the cohort offended for the first time at age 17-18, a statistically significant difference from those who had first offended as a child (Table 13).

Table 13. Cross-tabulation of offending while aged <14 (yes/no) and offending while aged 17-18 (yes/no)

| Offended while aged <14 | Offended while age 17-18 | | Total |
|-------------------------|--------------------------|-------------|-------|
| | No | Yes | |
| No | 43644 (92.9%) | 3312 (7.1%) | 46956 |
| Yes | 1140 (56.4%) | 882 (43.6%) | 2022 |

- Children account for one-fifth of child and youth offences

Of interest also is the age at which children committed their offences. There was a total of 24,231 occurrences of child and youth offending in this cohort, committed by 6720 individuals (Table 14). Almost one-fifth of these (19.2%) were committed by children. From 9 offences committed by 8-year-olds and 198 offences by 9-year-olds, numbers rose to 2139 committed by 13-year-olds. Most were then committed by youth from age 14-18, some of whom, as noted above, would have begun their offending much earlier. How do we prevent a 9- or 10-year-old from continuing to offend?

⁹ Differences reported are statistically significant at the $p < .0001$ level, unless otherwise stated.

Table 14. Frequency table for age at occurrence

| Age at occurrence | Rounded count | Percent |
|------------------------------------|---------------|---------|
| 8 | 9 | 0.0% |
| 9 | 198 | 0.8% |
| 10 | 342 | 1.4% |
| 11 | 723 | 3.0% |
| 12 | 1266 | 5.2% |
| 13 | 2139 | 8.8% |
| 14 | 3453 | 14.3% |
| 15 | 3951 | 16.3% |
| 16 | 3546 | 14.6% |
| 17 | 4452 | 18.4% |
| 18* | 4152 | 17.1% |
| Total number of occurrences | 24231 | |

* Note that not all people were followed until their 19th birthday (the dataset was up till 30 June 2019, for children born in the year 2000), so the number of people offending while aged 18 is underestimated.

- While 80% of children who offend do so only once, those who continue to offend as adolescents offend significantly more times than do those who only start in adolescence

The majority of the children who offended had only one recorded offence (609 children, 81.2%), 12% offended twice and 7% offended three times or more (Table 15). For those who offended as a child and then as a young person as well (the 'both' group), around 50% offended once, 20% offended twice and 30% offended three times or more. Offending rates in adolescence were significantly higher for those who began to offend as children relative to those who began to offend in adolescence.¹⁰

¹⁰ An ANOVA/linear model was performed to statistically test whether the mean number of times the people in the cohort offended while aged <14 was different between those who offended while a youth only and those who offended while a child and a youth. Data available but not shown.

Table 15. Frequency of offending for those who offended while aged <14

| No. of offences as a child | Offending group | | | | | |
|----------------------------|-----------------|-------------|----------------|-------------|-------------|-------------|
| | Both | | Child only | | Total | |
| | N | % | N | % | N | % |
| 1 | 630 | 49.8% | 609 | 81.2% | 1239 | 61.5% |
| 2 | 252 | 19.9% | 87 | 11.6% | 339 | 16.8% |
| 3 | 108 | 8.5% | 30 | 4.0% | 138 | 6.9% |
| 4 | 78 | 6.2% | 12 | 1.6% | 90 | 4.5% |
| 5 | 48 | 3.8% | 3 ^s | 0.4% | 51 | 2.5% |
| 6 - 10 | 93 | 7.4% | 6 | 0.8% | 99 | 4.9% |
| 11 - 15 | 39 | 3.1% | 3 ^s | 0.4% | 42 | 2.1% |
| 16 - 20 | 9 | 0.7% | 0 | 0% | 9 | 0.5% |
| 21 - 30 | 6 | 0.5% | 0 | 0% | 6 | 0.3% |
| 31+ | 3 ^s | 0.2% | 0 | 0% | 3 | 0.2% |
| Total | 1266 | 100% | 750 | 100% | 2016 | 100% |

Note. ^s The value in this cell was suppressed when released from Statistics New Zealand and could be any value between 1 and 5 inclusive. The value 3 has been imputed here to enable an approximate calculation of percentages.

5.2. Offending by gender and ethnicity

- Males are twice as likely to offend as females

Males were around twice as likely to offend as females (Table 16). This was a statistically significant difference and was consistent across all offending and age groups (under 14s, 14-16 years, 17-18 years).

Table 16. Offending by sex

| Offending | Male | Female |
|---------------------|---------------|---------------|
| None | 20610 (81.8%) | 21648 (91.1%) |
| Youth only | 3237 (12.8%) | 1464 (6.2%) |
| Child only | 438 (1.7%) | 312 (1.3%) |
| Both | 924 (3.7%) | 348 (1.5%) |
| Total people | 25209 | 23748 |

Note. Chi-square test found a statistically significant difference between male/female rates of offending ($\chi^2(3) = 935.5, p < .0001$).

- Males offend significantly more times than do females

As with engagement in offending, frequency of offending by sex showed that males offended significantly more times than did females. Mean number of offences for males under 14 was 2.6 (*SD* 3.4) and for females 1.8 (*SD* 1.9). Significant differences persisted for males aged 14 to 16 (mean 3.7 offences vs females 2.6 offences) and aged 17-18 (mean of 2.2 offences vs females 1.7) (detail available but not shown).

- Māori children and youth are significantly overrepresented among those who offend

Analysis of rates of offending by ethnic group are shown in Table 17. Māori children and young people who offended were significantly overrepresented, relative to non-Māori.

Table 17. Offending by ethnicity

| Offending | European | | Māori | | Pacific | |
|-----------------------|---------------|------|---------------|------|---------------|------|
| | Rounded count | % | Rounded count | % | Rounded count | % |
| None | 32613 | 88.2 | 11364 | 76.4 | 5538 | 85.3 |
| Youth only | 3240 | 8.8 | 2211 | 14.9 | 687 | 10.6 |
| Child only | 492 | 1.3 | 423 | 2.8 | 108 | 1.7 |
| Both | 645 | 1.7 | 873 | 5.9 | 159 | 2.4 |
| Total in group | 36990 | | 14871 | | 6492 | |

| Offending | Asian | | MELAA | | Other | |
|-----------------------|---------------|------|---------------|------|---------------|------|
| | Rounded count | % | Rounded count | % | Rounded count | % |
| None | 3618 | 95.5 | 312 | 91.2 | 834 | 89.1 |
| Youth only | 126 | 3.3 | 21 | 6.1 | 66 | 7.1 |
| Child only | 27 | 0.7 | 3 | 0.9 | 18 | 1.9 |
| Both | 18 | 0.5 | 6 | 1.8 | 18 | 1.9 |
| Total in group | 3789 | | 342 | | 936 | |

Percentages between each ethnic group cannot be formally tested due to people being able to be in more than one ethnic group. However, comparisons of one ethnic group against the rest can be made, i.e., Māori compared to non-Māori.

- The odds of offending were almost 3 times higher for Māori compared to non-Māori

Table 18 shows rates of offending as a child, young person or both for Māori and non-Māori in the cohort.

Table 18. Cross tabulation of offending by Māori and non-Māori

| Offending | Māori | | Non-Māori | |
|-----------------------|--------------|-------|--------------|-------|
| None | 11364 | 76.4% | 30888 | 90.6% |
| Youth only | 2211 | 14.9% | 2490 | 7.3% |
| Child only | 423 | 2.8% | 330 | 1.0% |
| Both | 873 | 5.9% | 396 | 1.2% |
| Total in group | 14871 | | 34107 | |

Note. A chi-square test found the difference between groups to be statistically significant ($\chi^2(3) = 1976, p < .0001$).

Simply put, Table 19 shows around one-quarter of Māori in the cohort offended (23.6%), compared to around one-tenth of non-Māori (9.4%). This means that the odds of offending for Māori were almost three times higher than for non-Māori (odds ratio 2.96).

Table 19. Māori/non-Māori offending in the cohort

| | Māori | Non-Māori |
|----------------|--------------|-------------|
| Offended | 3507 (23.6%) | 3216 (9.4%) |
| Did not offend | 11364 | 30888 |

Note. A chi-square test found the difference between groups to be statistically significant ($\chi^2(1) = 1750, p < .0001$).

Odds of offending for Māori = $.236/(1-.236) = 0.309$.

Odds of offending for non-Māori = 0.104.

Odds ratio = $.309/0.104 = 2.96$.

- Offending frequency was higher for Māori children and young people

As with engagement in offending, frequency of offending by ethnicity showed Māori children had offences recorded significantly more often than did non-Māori, with a mean number of 2.5 offences for those under 14 (*SD* 3.3) compared to non-Māori with a mean of 2 offences (*SD* 2.5). Mean frequency of offending for those aged 14-16 years was 4 (vs non-Māori 2.5) and aged 17-18, the means were 2.3 offences recorded for Māori and 1.8 for non-Māori. Pacific children had a mean of 1.9 offences (*SD* 2.1) compared to non-Pacific of 2.4 (*SD* 3.2), not a statistically significant difference.

A caveat about the ethnicity data is that the justice system is considered to be racist, with non-Europeans more likely to be charged than are Europeans (Children's Commissioner, 2020c; Ministry of Justice, 2019a).

5.3. Offending seriousness

- Those who offend in childhood and adolescence commit more serious offences

The 'both' group had the highest proportion of offences committed under the age of 19 that were deemed to be of medium, medium-high, and high seriousness relative to the child-only or adolescent-only offending groups (Table 20). For example, 20.9% of all offences among those belonging to the 'both' group were classed as of high seriousness compared to 5.4% of offences committed by the adolescent-only group.

Table 20. Most serious justice outcome while aged <19 by offending group

| Maximum seriousness at any time aged < 19 | Both | | Child only | | None | | Youth only | | Total | |
|---|-------------|-------------|----------------|-------------|--------------|-------------|-------------|-------------|--------------|-------------|
| | N | % | N | % | N | % | N | % | N | % |
| No charge filed | 456 | 36.0% | 744 | 98.4% | 42255 | 100% | 2937 | 62.5% | 46392 | 94.7% |
| Low | 114 | 9.0% | 3 ^s | 0.4% | 0 | 0% | 840 | 17.9% | 957 | 2.0% |
| Low - Medium | 48 | 3.8% | 3 ^s | 0.4% | 0 | 0% | 153 | 3.3% | 204 | 0.4% |
| Medium | 126 | 10.0% | 0 | 0% | 0 | 0% | 222 | 4.7% | 348 | 0.7% |
| Medium - High | 258 | 20.4% | 3 ^s | 0.4% | 0 | 0% | 297 | 6.3% | 558 | 1.1% |
| High | 264 | 20.9% | 3 ^s | 0.4% | 0 | 0% | 252 | 5.4% | 519 | 1.1% |
| Total | 1266 | 100% | 756 | 100% | 42255 | 100% | 4701 | 100% | 48978 | 100% |

Note. ^s: The value in this cell was suppressed when released from Statistics New Zealand and could be any value between 1 and 5 inclusive. The values 3 has been imputed here to enable an approximate calculation of percentages.

5.4. Justice outcome data

- It is extremely rare for a child under 14 to be charged in court

The vast majority (99.6%) of children who offended under the age of 14 (including those who went on to offend in adolescence) did not get charged in court under the age of 14. However, all of those who did get charged ($n = 9$) went on to offend in adolescence. This may suggest that more serious offending in childhood, which in turn is more likely to lead to a criminal charge, may increase the risk of persistent offending in adolescence.

- Those who offend in childhood and adolescence are far more likely to be charged between 14 and 16 than those who offend in adolescence only

Nearly half (42.4%) of those who offended as children and adolescents (i.e., the 'both' group) were charged for an offence aged 14 to 16, compared to only one in 10 (9.3%) of those who only offended in adolescence. This pattern continued for those aged 17-18, where 47.4% of the 'both' group were charged with an offence, compared to 32.6% of those who only offended in adolescence.

- Those who offend in childhood and adolescence face more serious justice outcomes

The pattern of the 'both' group (those who offended as a child and as a young person) continued in justice outcomes. Those in the 'both' group had the highest percentage of people that were convicted in adult court (41.5% of those charged with an offence) compared to those who started offending only over the age of 14 (26.5%). Similarly, those belonging to the 'both' group also the highest percentage of people with youth court proved offences (for both s282 and s283).

In terms of demographics, males had more serious justice outcomes than did females and Māori had more than non-Māori (data available but not shown).

5.5. Other IDI associations

Further IDI findings are shown in relevant topics in the rest of the report, as they relate to both the case-file vignettes and the stakeholders' information:

- Data on rates of abuse and offending and justice-involved parents are given in the 6.1.1 Families are struggling section.
- Out-of-home placement data are in 6.1.2 These children have experienced multiple placements.
- 6.1.3 How difficult it is to do well and be good has education data (school suspensions etc), self-harm and suicide data.
- Reports of concern/notification data are in 6.1.6 You could see it coming – child welfare concerns are identifiable early.
- FGCs are in 7.7 FGCs can be excellent, though often vary in quality.
- Data on school deciles and caregiver's income support are in 7.11 The sociostructural factors underlying child offending must be addressed.

6. Factors associated with child offending

This section presents interwoven findings from the IDI, Oranga Tamariki case files, and stakeholder consultations regarding factors associated with child offending. Case files and interviews with child welfare and Family Court professionals and whānau members with lived experience of interacting with these systems affirmed that children who have offended and their families endure extraordinary harm and hardship, resulting in significant child welfare concerns. As a stakeholder said, *'Offending does not occur in a vacuum.'*

These concerns are typically intergenerational and lead to cumulative and cascading detrimental impacts on children's psychosocial development, eventually culminating in offending. Notably, evidence from the interviews and the case-file analysis indicated that, despite child welfare services being aware of these concerns in the majority of cases, the provision of effective and sufficient support was often lacking. A lawyer summed up the frustration of being able to *'see it coming'*, both in terms of a child's journey to offending but also their siblings before and after them, as child welfare services apparently stand by (he refers to 'CYFS' but is talking about current clients under the newly named Oranga Tamariki):

When he was 6, 7 years old. We knew it was coming. CYFS did nothing and so he comes, and here's his younger brother come along. Guess what? They did nothing until the police made a 14(1)(e) application for him too and now he's in CYFS custody and he's in the Youth Court as well. You could see it coming and guess what? He's got two younger siblings, much younger, and they're hardly ever at school ... CYFS are doing nothing and they're coming. *(Lawyer, Shane)*

The data from the IDI analysis are interwoven with the comments of key stakeholders; this is where mixed methods (gathering both quantitative and qualitative data) is pivotal. For example, the lawyers might feel like all the kids they see have had long associations with Oranga Tamariki; the IDI data analysis shows that indeed they have. Conversely, the IDI data analysis shows that a child with many reports of concern before age 5 is significantly more likely to offend than a child who has never been involved with Oranga Tamariki; the interviewees bring to life how that might happen.

6.1. Offending does not occur in a vacuum: You can see it coming

Overall, the evidence clearly demonstrated that offending does not occur in a vacuum, but is instead set within a context of significant child welfare concerns. The concerns are identifiable early but the system fails to address them. Opportunities to respond more effectively are then addressed in *Findings: Part 2*.

Data are presented across 6 themes, which illustrate a typical journey of these children:

1. The family's struggles (including IDI justice-involved parents, abuse and neglect)
2. Multiple placements for the child (IDI out-of-home placements, state care)
3. Subsequent impact on their wellbeing and behaviour (IDI mental health, education suspensions, expulsions, many school enrolments)
4. Association with others with similar experiences and engagement in offending
5. Broader social issues (IDI data on deprivation is in *Findings Part 2*)
6. The system fails to respond effectively (IDI reports of concern)

6.1.1 'Families are struggling'

Child offending is synonymous with child welfare concerns. Participants stated that, without exception, children who have offended, and their families, experience a multitude of difficulties, including low income and unemployment. Family violence, drug and alcohol abuse, transience or housing instability (e.g., large families crammed into small houses), physical and mental health concerns, antisocial behaviour, criminality, and gang involvement, single-parent households, disconnection from extended family, culture, and the community, and current or past involvement with social and state services were features well-known to participants:

If we're talking about that wide-ranging dysfunctional background, you'd have to say that the majority of child offenders come from that and a number of other issues. I can't honestly say that there's any that haven't had that element of intergenerational dysfunction. (*Police officer, Nikau*¹¹)

Our families are struggling, there's issues and it's not always crime, there's mental health issues, there's drug and alcohol issues, there's domestic violence and poverty is a big thing. (*Police officer, Vicky*)

¹¹ All names are pseudonyms; role/identity descriptions are accurate but broad to avoid identification – hence 'Police officer' rather than 'Youth Aid Officer' and 'whānau' rather than 'Child's birth mother'.

The capacity for parents to parent effectively was often diminished considering their exposure to multiple stressors. The resulting hardship children experienced was profound (Table 21 and Case M128).

Table 21. Parenting

Stressors affect parenting

Stressors reported by interviewees included shortages in food, clothing, and resources; limited access to healthcare; high levels of dysfunction and instability (often from birth, if not in-utero); and many experienced physical, sexual, and/or emotional abuse, and neglect:

[My partner] assaults me and it's pretty bad. My baby ends up like screaming and by the time I am able to get outside of the house, I go to the neighbours and I ring the police and then I ask the neighbours to go get my baby because, well, you know, during the time we're fighting, he's like holding my child and assaulting me and so I just knew that my baby was really scared. (*Whānau, Jen*)

CASE M128¹² – SEVERE NEGLECT

Children who were simply not fed enough. Their clothes were dirty. Neighbours noticed them scavenging, someone kind gave one of them a coat. Wandering alone in places little children should not be. Out after dark and it seems no-one is looking for them. Parents have substance abuse issues; beaten and traumatised when they were children; what can they find to dull the pain? The children look sick. Someone makes a report of concern to Oranga Tamariki. They're caught stealing and are stood down from school (again). The school makes a report of concern. Social workers visit and say things. The family has gone when they next stop by. Some are groomed by older kids or adults to do things they shouldn't have to do, for a feed, for some cash. When the social workers catch up with them again, some are put into a placement. At ages 10, 11, 12, they are charged with burglary, by day, by night; they are charged with motor vehicle offences – 'unlawfully gets into a motor vehicle', unlawfully interferes, unlawfully takes...

¹² Case designations indicate M for male and F for female; numbers were randomly generated by data analyst and bear no relationship to any Oranga Tamariki case numbers or identifiers.

These welfare concerns were typically present intergenerationally, with children or younger siblings often following the footsteps of older family members. Both lawyers and police officers spoken to saw the intergenerational patterns:

So, what I find is that quite often in the Youth Court jurisdiction, you will see a name come up and it's the younger brother of the brother or sibling who's been through the system the year or two earlier. So that's, you almost see if you've got the older brother of three siblings, you can kind of think, 'Oh no, are those children going to follow this path?' (Lawyer, Colin)

The parents themselves have never had good role models and so therefore they're parenting in a style that their parents parented in, which is not conducive to raising good, well-rounded kids basically. (Police officer, Dave)

The IDI data also showed intergenerational patterns around involvement with the justice system. The vast majority of children in the cohort (93%) did not have a parent who had had charges laid against them, but having one or both parents who were justice-involved was associated with children offending, and going on to reoffend. Those who offended as both a child and as a young person were more likely to have a justice-involved parent than not (4.9% vs 0.6%); for youth-only offenders (aged 14+), there were 14.1% who had a justice-involved parent compared to 5.8% who did not, a statistically significant difference (data available but not shown). These rates increased if both parents had had justice involvement (Table 22), with 9% of children who offended as a child and young person having two justice-involved parents, in contrast to 1.6% who did not.

Table 22. Charge filed against both parents while the child was aged ≥ 0 to < 19 by offending group

| Charge laid against both parents at any time while the child was < 19 | Offending group | | | | | | | | | |
|---|-----------------|------|------------|------|-------|-------|------------|-------|-------|-------|
| | Both | | Child only | | None | | Youth only | | Total | |
| | N | % | N | % | N | % | N | % | N | % |
| No | 684 | 1.6% | 501 | 1.2% | 37191 | 88.9% | 3438 | 8.2% | 41814 | 86.6% |
| Yes | 582 | 9.0% | 246 | 3.8% | 4401 | 67.9% | 1248 | 19.3% | 6477 | 13.4% |
| Total | 1266 | 2.6% | 747 | 1.5% | 41592 | 86.1% | 4686 | 9.7% | 48291 | 100% |

Note. A chi-square test found the difference between groups to be statistically significant ($\chi^2(3) = 2393, p < .0001$).

A charge laid against a parent *before* the child was born was significantly associated with offending (6.2% vs 1.1% of the 'both' group, 2.9% vs 1% of the child-only offending group, and 15.9% vs 7.1% of the youth-only offending group). There was a significant difference between the 67.8% of the 'both' group who had a parent who had been charged before they were born, and the 53.4% who did not. Similarly, having a parent who had had a charge laid before a child was age 5 was significantly associated with repeat offending – 71.4% of children who offended as both a child and young person had such a parent, compared to 51% of the 'both' group who did not (data available but not shown).

Evidence of families 'struggling', with some siblings and parents modelling involvement with the justice system, longstanding experiences of intergenerational harm and the sense of children heading on a seemingly inevitable pathway to offending were evident in the majority of Oranga Tamariki s14(1)(e) case files, as for example:

CASES M123 + M146 – SIBLINGS WHO ARE BOTH 14(1)(E)

So, it's like they get on so well, the two siblings against the world. Police are called to the house for family violence, and everything goes OK for a bit and then it starts up again. Oranga Tamariki visit, and a parenting course and non-violence course are recommended. The kids go to daycare for a bit but they're hard to manage, angry, they attack the teddy bears, then the other kids and adults. They go to live with another family member for a while, but he's reported as being physically abusive to their cousins, so they return home to Mum. Dad has gone. They're quick learners and eager to please when they're first at school, but then Mum can't afford where they're living so they move somewhere else. The offending starts as a bit of fun, quick and clever to grab some stuff, and they're not caught. Older siblings are trying to join a gang; they help them learn some skills, but then aren't around much. One or both of them probably has FASD, no-one's assessed them for that. They get involved with cannabis, stood down from school for supplying it. Charges of burglary and theft build; they are both classified 14(1)(e).

CASE M158 – PARENTS HAD MENTAL HEALTH ISSUES AND WERE INCARCERATED

And there are the parents who have experienced trauma and violence when they were growing up. Maybe they got some help; mostly it didn't last. There were moments with the health system (when the children are born, when someone's involved in a car crash, when there are injuries from fights or attacks or unexplained events). The health people make referrals to the psychiatric people; sometimes they call Oranga Tamariki. There were moments with the education system – some time in kōhanga reo or a kindergarten; a staff member asks Mum how she's doing; she seems in a bad way. Dad was using meth and ended up in prison; Mum's trying to work. The children struggle at school; they stay home to try to look after Mum or Dad or their big sister; there's been another suicide attempt, the 'voices' said it was time to go, the voices said the kids would be better off without them, the voices told them they're a waste of space... Someone comes to stay for a bit as Mum's depression and psychosis have her trapped in bed. Dad's breached parole and is using meth again. Under 14(1)(e), there's shoplifting and charges for indecent assault and trying to burn something down. The children are really keen on a youth mentor who tries to help.

CASE M1439 – TRIES TO CARE FOR SIBLINGS

There's just such a sense of chaos. Too many people in the house. Anger and despair blowing up; police are sometimes called. Mum's having another baby and the midwife is happy, she's attending all appointments and going well. This might be the change. The stepfather/new boyfriend/new partner seems good, but their kids (or their mates) are mean. An ex shows up and there's more drama. The stepsiblings get in trouble; Oranga Tamariki get involved. They don't realise who else is in the house; the social workers for the other kids don't work at that site anymore. The stepfather/boyfriend/partner's maybe not so good; there's alcohol and violence; the mum knows this is how it goes, thinks it's probably her fault. The oldest boy or girl start missing school, they say they want to help look after some of the kids, they say they want to be social workers. It all gets worse, and they can't seem to make a difference. They're using cannabis and alcohol. They're charged with theft and burglary and wilful damage. They're under 12 years old.

As demonstrated in the IDI data, Māori children, and to a slightly lesser degree, Pacific children, are overrepresented among those who offend and, according to interviewees, typically stem from families that are disconnected from their whānau, culture and community:

Almost all of the kids I represent are Māori kids. I don't know of one of those kids that I have acted for that has been brought up in a culturally aware home. All of them are disenfranchised. *(Lawyer, Shane)*

A lot of my children, my clients, are Pasifika, and I'm thinking where in heck is the family and for the most part I have found for the children that I have acted, the ones under 14 who have been at risk of offending or who have offended, these are really disconnected Pacific families, disconnected from their culture, disconnected from their families, extended families, where we get our strength from. *(Lawyer, Talia)*

IDI data on abuse and neglect

As was evident in the case-file data and stakeholders' accounts above, there was also evidence in the IDI data of neglect and abuse in the lives of the children who offended and their families. The IDI data draws on records based on the assessment that an Oranga Tamariki social worker makes about whether or not a client has suffered abuse, including physical, sexual, emotional abuse and neglect.

The IDI data should be considered to be an underestimation of the extent of these adverse experiences, as various degrees and forms of both abuse and neglect may not always be known or obvious to social workers—as both the stakeholder interviews and case-file data show.

Nevertheless, despite likely underestimation, the IDI data indicate that experiencing any form of abuse/neglect clearly increased the risk of offending. As demonstrated in Table 23, the rates of childhood offending, youth offending, and offending during both childhood and adolescence were greater for those who experienced any abuse or neglect before age 5, than for those who did not experience abuse. For example, of those who offended as both a child and as a youth, 13.8% had recorded abuse experiences before age 5 relative to 2.2% who did not. Also, only 59.8% of children and young people who had a recorded abuse experience before age 5 did not go onto offend, compared to 87.3% of those who did not have a recorded abuse experience.

Table 23. Any abuse before age 5 by offending group

| Any abuse before age 5 | Offending group | | | | | | | | Total % |
|------------------------|-----------------|-------------|------------|-------------|--------------|--------------|-------------|-------------|---------------|
| | Both | | Child only | | None | | Youth only | | |
| | N | % | N | % | N | % | N | % | |
| No | 1026 | 2.2% | 669 | 1.4% | 41202 | 87.3% | 4317 | 9.1% | 47214 (96.4%) |
| Yes | 243 | 13.8% | 81 | 4.6% | 1053 | 59.8% | 384 | 21.8% | 1761 (3.6%) |
| Total | 1269 | 2.6% | 750 | 1.5% | 42255 | 86.3% | 4701 | 9.6% | 48975 |

Note. Chi-square test for the table (a difference in proportions between at least 2 groups): $\chi^2(3) = 1429.9, p < .0001$.

The multiplier effect of experiencing abuse under age 5 is shown in Table 24, showing that a child is six times more likely to offend as both a child and as a youth if they were abused under age 5, relative to a child who was not abused. The multiplier effect is also seen with child-only offending, where an abused child is three times more likely to offend, and with youth-only offending, where an abused child is twice as likely to offend, relative to children who have not been abused.

Table 24. Factor increase of offending if child has experienced abuse under 5

| Offending group | Multiplicative (factor) increase of being in group if experienced abuse | Chi-square test for difference in proportions |
|-----------------|---|---|
| Both | 6.3 (13.8%/2.2%) | $\chi^2(1) = 905, p < .0001$ |
| Child only | 3.3 (4.6%/1.4%) | $\chi^2(1) = 112, p < .0001$ |
| Youth only | 2.4 (21.8%/9.1%) | $\chi^2(1) = 312, p < .0001$ |

Note. There was a decreased chance of being in the 'None' group if abuse was experienced before the age of 5: $59.8/87.3 = 0.68$. Equivalently, there was an increased chance of being in the 'None' group if no abuse was experienced by the age of 5: $87.3/59.8 = 1.5$. $\chi^2(1) = 1080, p < .0001$.

Increased offending rates were also seen for those who experienced any abuse or neglect before the age of 10 or before the age of 14, relative to those who did not experience abuse (data available but not shown).

Furthermore, this pattern persisted in reoffending—of those who offended as a child, three-quarters (75%) of those who were abused before age 10 went onto offend, relative to 57% of those who did not have abuse recorded in the child welfare system before age 10 (Table 25).

Table 25. Association between any abuse before age 10 and repeat offending, for those who offended as a child

| Any abuse before age 10 | Repeat offending | | Offended while a child only | | Total |
|-------------------------|------------------|-------|-----------------------------|-------|--------------|
| | N | % | N | % | N |
| No | 753 | 56.7% | 576 | 43.3% | 1329 (65.6%) |
| Yes | 519 | 74.6% | 177 | 25.4% | 696 (34.4%) |
| Total | 1272 | 62.8% | 753 | 37.2% | 2025 |

Note. $\chi^2(1) = 62.0, p < .0001$.

In terms of data on specific forms of abuse and neglect, the patterns persist in associations with offending, and also in likely underestimation of harm, as some of the numbers are small.

Neglect. The data show a clear relationship between neglect and offending as a child, with those who experienced neglect before age 5 significantly more likely to offend as a child than those who were not neglected (Table 26). This pattern persisted for those who were recorded as experiencing neglect before the ages of 10 or 14, who were significantly more likely to offend than their peers who had not been recorded as experiencing neglect (data not shown).

Table 26. Cross-tabulation of neglect while aged <5 and offending while aged <14

| Neglect before age 5 | Offended while aged <14 | | | | Total |
|----------------------|-------------------------|--------|------|--------|-------|
| | No | | Yes | | N |
| | N | % | N | % | |
| No | 46164 | 96.20% | 1824 | 3.80% | 47988 |
| Yes | 753 | 79.18% | 198 | 20.82% | 951 |
| Total | 46917 | 95.87% | 2022 | 4.13% | 48939 |

Note. $\chi^2(1) = 677.6, p < .0001$.

Those who had had neglect recorded during childhood and who had offended as a child were also more likely to reoffend in adolescence, with 80% going on to offend aged 14-18, compared to 58% who had not been reported as experiencing neglect. The associations for neglect under 14 years are shown in Table 27, but the pattern was also evident for those neglected under 5 years old, or under 10 years old.

Table 27. Association between neglect while aged <14 and repeat offending

| Neglect while aged <14 | Repeat offending | | Offended while a child only | | Total |
|------------------------|------------------|-------|-----------------------------|-------|--------------|
| | N | % | N | % | N |
| No | 909 | 58.0% | 657 | 42.0% | 1566 (77.4%) |
| Yes | 363 | 79.6% | 93 | 20.4% | 456 (22.6%) |
| Total | 1272 | 62.9% | 750 | 37.1% | 2022 |

Note. $\chi^2(1) = 69.4, p < .0001$.

Physical abuse. Rates of physical abuse 'events' are shown in Table 28, with a significant association between a record of physical abuse before the age of 10, and going on to offend as both a child and a young person. (Associations were also evident for age 5 and age 14.)

Table 28. Physical abuse before age 10 by offending group

| Physical abuse before age 10 | Offending group | | | | | | | | Total % |
|------------------------------|-----------------|-------|------------|------|-------|-------|------------|-------|---------------|
| | Both | | Child only | | None | | Youth only | | |
| | N | % | N | % | N | % | N | % | |
| No | 1158 | 2.4% | 714 | 1.5% | 41814 | 86.7% | 4515 | 9.4% | 48201 (98.4%) |
| Yes | 114 | 14.7% | 39 | 5.0% | 438 | 56.4% | 186 | 23.9% | 777 (1.6%) |
| Total | 1272 | 2.6% | 753 | 1.5% | 42252 | 86.3% | 4701 | 9.6% | 48978 |

Note. $\chi^2(3) = 756.4, p < .0001$.

Repeat offending was also associated with physical abuse, as shown in Table 29. For those who were physically abused under age 14, there were 77% who went on to offend in adolescence, compared to 61% who did not have such abuse recorded.

Table 29. Association between physical abuse while aged <14 and repeat offending

| Physical abuse while aged <14 | Repeat offending | | Offended while a child only | | Total |
|-------------------------------|------------------|-------|-----------------------------|-------|--------------|
| | N | % | N | % | N |
| No | 1044 | 60.5% | 681 | 39.5% | 1725 (85.2%) |
| Yes | 231 | 77.0% | 69 | 23.0% | 300 (14.8%) |
| Total | 1275 | 63.0% | 750 | 37.0% | 2025 |

Note. $\chi^2(1) = 29.1, p < .0001$.

Associations with repeat offending were slightly less significant for physical abuse before age 5 (80% reoffended, 63% did not, but only 45 children, including 36 children who offended, were recorded as having been physically abused before age 5, surely an underestimation). Similarly, 153 children were reportedly physically abused before age 10, 75% of whom offended as a child and youth, vs 62% who had not been physically abused ($p = .0025$).

Sexual abuse. Table 30 shows a clear relationship between sexual abuse before age 10 and offending as a child; this was also the case for those sexually abused before age 5 and 14.

Table 30. Cross-tabulation of sexual abuse while aged <10 and offending while aged <14

| Sexual abuse before age 10 | Offended while aged <14 | | | | Total in abuse group |
|----------------------------|-------------------------|--------|------|--------|----------------------|
| | No | | Yes | | |
| | N | % | N | % | N |
| No | 46650 | 95.91% | 1989 | 4.09% | 48639 |
| Yes | 273 | 88.35% | 36 | 11.65% | 309 |
| Total | 46923 | 95.86% | 2025 | 4.14% | 48948 |

Note. $\chi^2(1) = 42.4, p < .0001$.

Rates of reoffending as a youth were significantly higher in those who were sexually abused under 14 and who had offended under 14 (Table 31).

Table 31. Cross-tabulation of sexual abuse while aged <14 and offending while aged 14 to <19

| Sexual abuse before age 14 | Offended while aged <14 to <19 | | | | Total in abuse group N |
|----------------------------|--------------------------------|--------|------|--------|---------------------------|
| | No | | Yes | | |
| | N | % | N | % | |
| No | 42489 | 87.99% | 5802 | 12.01% | 48291 |
| Yes | 483 | 74.19% | 168 | 25.81% | 651 |
| Total | 42972 | 87.80% | 5970 | 12.20% | 48942 |

Note. $\chi^2(1) = 112.8, p < .0001$.

Emotional abuse. Emotional abuse is a concept much debated in terms of how it is defined (Brassard & Donovan, 2006; Glaser, 2011), and how it can be separated from other forms of abuse – a child who is being neglected, physically or sexually abused, cannot be said to be living in an emotionally safe environment. It is clearly an ‘event’ that is reported more in the Oranga Tamariki databases than other forms of abuse and shows strong associations with all offending groups (Table 32).

Table 32. Number of emotional abuse experiences before age 14 by offending group

| Number of emotional abuse experiences before age 14 | Both | | Child only | | None | | Youth only | | Total | |
|---|----------------|-------|----------------|-------|----------------|-------|----------------|-------|-------|-------|
| | N | Row | N | Row | N | Row | N | Row | N | Col |
| | | % | | % | | % | | % | | % |
| 0 | 873 | 1.9% | 618 | 1.3% | 40383 | 88.0% | 4038 | 8.8% | 45912 | 93.7% |
| 1 | 114 | 9.4% | 51 | 4.2% | 807 | 66.7% | 237 | 19.6% | 1209 | 2.5% |
| 2 | 123 | 12.6% | 36 | 3.7% | 609 | 62.3% | 210 | 21.5% | 978 | 2.0% |
| 3 | 48 | 15.5% | 15 | 4.9% | 168 | 54.4% | 78 | 25.2% | 309 | 0.6% |
| 4 | 60 | 23.0% | 9 | 3.4% | 129 | 49.4% | 63 | 24.1% | 261 | 0.5% |
| 5 | 18 | 18.2% | 6 | 6.1% | 51 | 51.5% | 24 | 24.2% | 99 | 0.2% |
| 6 to 10 | 33 | 17.5% | 12 | 6.3% | 96 | 50.8% | 48 | 25.4% | 189 | 0.4% |
| 11 to 15 | 3 ^s | 16.7% | 3 ^s | 16.7% | 9 | 50.0% | 3 ^s | 16.7% | 18 | 0.0% |
| 16 to 20 | 0 | 0% | 0 | 0% | 3 ^s | 50.0% | 3 ^s | 50.0% | 6 | 0.0% |
| Total | 1272 | 2.6% | 750 | 1.5% | 42255 | 86.3% | 4704 | 9.6% | 48981 | 100% |

Note. ^s The value in this cell was suppressed when released from Statistics New Zealand and could be any value between 1 and 5 inclusive. The value 3 has been imputed here to enable an approximate calculation of percentages.

This table shows that as the number of emotional abuse experiences increases, the percentage of those offending also increases. For example, just under half (48.5%) of those who had 5 ‘events’ recorded of emotional abuse offended and almost 50% of the 189 children who had 6 to 10 emotional abuse events, offended, whether as a child, a youth, or both.

6.1.2 These children have experienced multiple placements, exacerbating victimisation

Children who have offended typically experienced multiple out-of-home placements (kin or non-kin) because of child welfare concerns, which, in many cases, exacerbated victimisation. The following data from whānau interviewees, Oranga Tamariki case files and the IDI all highlight that out-of-home placements are problematic.

As Kourtney recalled, in many instances, the number of placements that children endured was staggering:

The kids obviously weren't doing well in care. My eldest son, he's had over 50 placements. Luca is close to 40 placements. Nathan's probably had about 20 plus. Maverick's had two to three and my daughter, she's had around the 10, 11 mark. *(Whānau, Kourtney)*

Placements occurred both before and after child welfare involvement, and for a variety of reasons, such as changes in whānau or caregivers' circumstances, family disputes, or persistent absconding. In many cases, placements led to further harm and instability, including abuse in state care arrangements.

My daughter, when she was in the family group home, she wrote a letter. She wanted to die. She was 8 years old and she just wanted to die. Today was a bad day, a girl had hopped into her bed, an older girl, laid on top of her and started rubbing herself up against her, and she wanted to die. All my kids have actually told me that they feel like suiciding it, they felt when they've been in cars with social workers and been driven to places that it's, grab the steering wheel and go off the road and die. *(Whānau, Kourtney)*

They wouldn't give him to me. They said no, he's going to residence. I got a fright when they said that. He had been dragged along the carpet, scratched, burn marks on his arms. So from residence to residence, I think that's what broke him. *(Whānau, Hinemoa)*

Over time, placements were increasingly difficult to find for children who experienced previous placement instability and subsequently had complex difficulties:

It took such a long time to get anybody that was able to look after him, he had been placed in different areas, run away, 'cause he was called the runner, the absconder. *(Whānau, Maria)*

Because of increasing welfare concerns and difficulties finding appropriate care arrangements, participants spoke of many children experiencing placement in secure residential facilities, such as care and protection residences (*'I call them jail, because that's what they are'*- Lawyer, Shane) and later youth justice facilities. Some also attended psychiatric facilities. These were often located all around the country, severely limiting children's access to their families and communities. Overall, there was a perception that children grew up in the system:

He's had his birthdays in there, in residence, and I said you know, you're growing up in residence, you know. *(Whānau, Maria)*

The impact of placements and extensive physical abuse was evident in cases like the following s14(1)(e) account:

CASE M1413 – EXTENSIVE PHYSICAL ABUSE, INCLUDING IN PLACEMENTS

There are early visits to Accident & Emergency with falls and accidents and bruises. At the end of their 2nd or 3rd year of life, they're well-known to health, child-welfare and social services; there are many reports of concern. There are gaps in the file notes where nothing seems to be happening, and then more notifications. There are reports of adults beating each other up, and the children; sometimes they black out. There are reports of placements where boys are beaten by other boys. It's likely there's some intellectual disability; also, the concussions and compounding head injuries go untreated, unnoticed. That's affecting how well they can plan, process feelings, organise things, figure out consequences. There are porn sites they access unsupervised. The kids they know from placement start stealing together. They're charged with vehicle offences and burglary. They're charged with rape of a female under 12.

IDI data on out-of-home placements and offending

In the IDI analysis, data on placements, state care and custody orders were explored in relation to data on offending groups. As the interviewees described above, such placements did not seem to enhance children's lives. The IDI data show they also did not seem to interrupt the offending trajectory.

First, out-of-home placement data and data on offending groups were explored (Table 33). Children who had a placement before their 5th birthday were significantly more likely to offend as a child (3.2%), youth (23.5%) or both (14.7%), compared to those who did not have a placement before age 5 (child 1.5%; youth 9.4%; both 2.4%).

Table 33. Table of offending group by placement before age 5

| Placement before age 5 | Offending group | | | | | | | | | |
|---------------------------|-----------------|-------|------------|------|-------|-------|------------|-------|-------|-------|
| | Both | | Child only | | None | | Youth only | | Total | |
| | N | % | N | % | N | % | N | % | N | % |
| No | 1176 | 2.4% | 729 | 1.5% | 41871 | 86.6% | 4548 | 9.4% | 48324 | 98.7% |
| Yes | 96 | 14.7% | 21 | 3.2% | 381 | 58.5% | 153 | 23.5% | 651 | 1.3% |
| Total | 1272 | 2.6% | 750 | 1.5% | 42252 | 86.3% | 4701 | 9.6% | 48975 | 100% |

Note. Chi-square test for different distributions between placement groups ($\chi^2(3) = 579, p < .0001$).

A significant association with all types of offending was also seen for those who had a placement between age 5 and 10, with 4.1% of placement children offending as a child (vs. 1.5% non-placement), as a youth-only (27.4% vs. 9.4%) and both as a child and youth (16% vs 2.4%). Similarly, those who had been put in a placement between the ages of 10 and 14 were significantly more likely to offend than were those who had not been put in a placement at those ages (child-only offending 5.6% vs. 1.5%; youth-only offending 20.8% vs. 9.5%; both child and youth offending 32.6% vs. 2.3%).

In terms of repeat offending, those who had offended as a child and had had a placement before age 5 were significantly more likely to also offend as a youth (82% compared to 18% who had been placed before age 5 but did not reoffend, and compared to 62% of those who reoffended but had not been placed before age 5; Table 34).

Table 34. Cross-tabulation of placement by age 5 and offending while a youth for those who offended as a child

| Placement by age 5 | Repeat offending | | | | Total | |
|--------------------|------------------|--------------|------------|--------------|-------------|-------------|
| | Yes | | No | | N | % |
| | N | % | N | % | | |
| No | 1176 | 61.7% | 729 | 38.3% | 1905 | 94.2% |
| Yes | 96 | 82.1% | 21 | 17.9% | 117 | 5.8% |
| Total | 1272 | 62.9% | 750 | 37.1% | 2022 | 100% |

Note. Chi-square test ($\chi^2 (1) = 18.6, p < .0001$).

Again, this pattern persisted for children who had offended and who had had a placement while aged 5 to 10 (79.5% went on to offend from age 14+, significantly more than the 61.6% who had not had a placement). For those who had had a placement while aged 10 to 14, 85.3% continued to offend, compared to 60.4% who had not had a placement when aged 10 to 14 years.

Secondly, categories of ‘state care’ and offending were explored. State care refers to being in the custody of the Chief Executive of Oranga Tamariki (or previous names of the organisation). Being in state care before age 5 was associated with repeat offending, with 82.1% of children who had offended also offending as a young person if they had been in state care, compared to 61.7% of those never in state care by age 5. The statistically significant difference (at the $p < .0001$ level) persisted: 87.3% of those who had been in state care between age 5 and < 10 offended as both a child and as a youth (vs. 61% of non-state care children) and from age 10 to < 14 (84.6% vs. 60.6%). (Data available but not shown.)

6.1.3 ‘How difficult it is to do well and be good’ – cascading impact on children’s psychosocial and educational development

Research shows that adverse early life experiences and subsequent trauma lead to complex psychosocial and cognitive needs (Dye, 2018), placing children at risk of impeded development and cumulative and cascading difficulties. These effects were reported by whānau and a wide range of professionals.

Mental health

Children’s mental health and emotional wellbeing were severely impacted by their exposure to adverse experiences (including those in state care). Children who have offended showed signs of trauma and extreme distress, including low mood and anxiety, self-harming, suicidal ideation and behaviour, anger, aggression and behavioural difficulties. Such distress was often evident from a very young age:

She used to burn herself, so she used to self-harm, cutting herself. This all happened in her last year of intermediate

He suffers from anxiety and depression. I think he’s got, like his personal issues just from being confined in [youth justice residence] and [care and protection residence] and he was assaulted in both those places, he was placed with drug dealers, he was placed with abusers, he’s seen a lot of stuff.
(Whānau, Kourtney)

Jen described disturbing behaviour she saw by two of her sons, including bedwetting and animal cruelty by her older son and her younger son self-harming at 9 years old in the context of bullying by his peers at school:

He would literally sit in the corner, he'd smack his head against the door, or he'd bite himself or he will try to cut his hands or he'd like pinch his skin until he was bleeding. And one time, this is this 9-year-old child doing this and I said to him why do you do that, and he just said cause it makes me feel better. (*Whānau, Jen*)

Children may not feel loved or feel they belong, an experience often reinforced by being placed in (multiple) care arrangements:

She's messed up from what's happened to her. She was assaulted in three of her placements by other children in placements. She was made to feel unwanted at the placements with the caregivers' kids. All my children have felt that they didn't belong in the system, you're going for home for life with this family and they never felt like they were, they weren't part of their family. I was their family. (*Whānau, Kourtney*)

A child's self-esteem may be particularly influenced by the perceptions and verbalisations of others, as one psychologist working with children who have offended, and those at risk of offending, noted:

They've got their perception of deficit focus and, you know, 'You're naughty, you're bad, you're whatever else,' and often they've been called that by parents or teachers or whatever. (*Psychologist, Jane*)

Early psychosis, which may be trauma-related (Ackner et al., 2013), can drive offending (as suggested in Case M1422 below) or obsessive behaviour is sometimes prodromal psychosis. Diagnostic assessments can be almost impossible to access in overwhelmed mental health services. In the case files, there are notes of interventions at intermediate school age (RTL¹³ and teacher aides) or referrals to harmful sexual behaviour programmes (e.g. for child sexual assault) or challenging behaviour programmes, while diagnostic issues may still be unclear.

CASE M1422 - NEED FOR MENTAL HEALTH ASSESSMENT AND TREATMENT OF POSSIBLE PSYCHOSIS

The kids are lovely, full of cheeky energy. Someone organised some sports, much more fun than school. But somehow things were changing. Family never came to school meetings, they were always working, they were shy. Someone said their English wasn't very good and they were embarrassed. Other parents were eloquent, well-off, were just described as a bit cold, disinterested. It seemed the kids just got more withdrawn, a bit quieter. Didn't draw attention to themselves, did OK enough at school. Some disturbing self-harm was discovered aged 10 or 11, no-one sure what's going on; there's stealing stuff too, stashing it in strange places. Eventually there's talk of being 'told' to do stuff, sounds like voices (early psychosis?), or are they obsessive rituals, stealing stuff to keep bad spirits away? The people who are really good at working with kids to figure this stuff out have long waiting lists. For the ones who don't speak English so well, the waiting list is even longer. There's a knife drawn, a child sexually assaulted, a dangerous theft—the kids crash on into the youth justice system with offending that seems fully fledged yet disowned, they can't say why they did it or why they should feel bad.

¹³ RTL^B are Resource Teachers: Learning and Behaviour who work alongside schools and kura to provide system-wide, targeted or individual support for children and young people to learn, through identifying local needs and resources, planning support based on the evidence of what works, to best support children and young people with learning support needs including disabilities. <https://www.education.govt.nz/school/student-support/special-education/resource-teachers-learning-and-behaviour-service/>

Fetal alcohol spectrum disorder (FASD) can be time-consuming and costly to diagnose - especially where a psychiatrist judges 'normality' despite both an involved whānau counsellor and alcohol and drug worker expressing concerns. The context for Case M1422 below indicates that psychological trauma from violence may also compound the child's ability to learn different behaviour and, even if FASD is not formally diagnosed, behaviour in the context of offending also needs to be monitored (e.g., being quick to confess to crimes to shorten a stressful police interview; being eager to please others - including those who may not have the child's best interests at heart; not showing guilt or remorse nor understanding the consequences of their actions) (Gibbs & Sherwood, 2017; Lambie, 2020).

CASE M1442 - NEED FOR ASSESSMENT OF FASD OR EARLIER PARENTING SUPPORT?

Some staff at the hospitals where the mothers gave birth have concerns about their histories of substance use, but any sort of follow-up ends with an eventual 'Did not engage' and the files are closed. They can't find where they're living, the phone numbers keep changing, the social workers aren't supposed to visit alone as the place is too dangerous, and, anyway, haven't they already gone? There's some help from family and access to a childcare centre. There's some really challenging behaviour there, 3-year-olds who just don't seem to know how to calm down. There are applications for more support when school starts. No-one can pay for a full learning assessment or to figure out if it's FASD; some say they're just 'bad' kids, clever and lazy and defiant. They love to jump on the trampoline and go swimming and run fast and draw. But they're fighting with other kids and abusing the teachers and the parents don't show up for the urgent meetings. When Oranga Tamariki take a look, the social worker's notes haven't been sent on from the last place; the parents blame the school and say the teachers are useless. There's a parenting course that Mum gets taken to a bit, but then there's no transport, and she stops going when she gets some daytime shifts at work. The kids are suspended for fighting, for stealing, for drugs. FGCs are planned but don't seem to happen. Older gang kids give them jobs, they feel appreciated. When they're caught, they say they did it even if they didn't, just to get the police to quieten down.

This population [justice-involved with FASD] is often highly suggestible, easily manipulated, impulsive, hyperactive, distractible, socially inept, and may present as superficially charming and competent (Brown et al., 2015)

IDI data on self-harm and suicide in children who offend were extremely limited. As whānau members Ana and Jen, plus police officer Vicky commented above, there is no doubt that children self-harm in a variety of ways and experience a longing to die, in the face of the trauma and subsequent suffering that many go through. However, few have those actions formally noted within government data systems, such as mental health services, as they do not get access to such help. The IDI data on self-harm and suicide indicators record the assessment that an Oranga Tamariki social worker makes about whether or not a client is showing such indicators (that is, the same data-gathering source in Oranga Tamariki that the IDI uses for data on abuse and neglect).

Formal numbers of self-harm and suicide indicators for children in the cohort before age 5 and age 10 were too small (fewer than 6 in each age group) for Statistics NZ to release the data. Self-harm and suicide indicators up to age 19 in the cohort did show significant associations with offending. The rate of offending as both a child and as a young person in the whole cohort was around 2.6%; however, in those who had had self-harm or suicide indicators reported, it was 16.2%. Similarly, the rate of youth-only offending in the whole cohort was around 9.6%; among those who had had self-harm or suicide indicators reported, it was 32.4%.

However, numbers remain extremely small, compared to qualitative reports of much self-harm and suicidality amongst children and young people who offend. We echo the comment made by researchers exploring information on Australian children who offend (Baidawi & Sheehan, 2019), who suggested that, 'Depending on the professional or circumstances, children's self-harming behaviours were at times characterised as indicators of emotional and psychological distress, while at other times were depicted as behavioural issues, or attempts at manipulation' (p. 71). If suicidality is going to be seen as 'manipulative', it may not be surprising that it is underreported to professionals. There is also the typical characterisation (e.g., Wibbelink et al., 2017) that children and young people who offend are more likely to engage in externalising behaviours (harming others, 'antisocial' behaviour) rather than internalising behaviours (harming the self, anxiety and depression, including suicidality), which may influence how actions are defined and counted (e.g., as 'manipulation' rather than distress).

Educational achievement

Children's ability to engage in school is significantly impaired because of their exposure to adverse experiences. Poor physical health and unmet learning needs were described as further hampering children's participation in school:

We've noticed a lot in the Children's Team, particularly their health issues. So it might well be eyesight, it might well be audiology. So, these kids are unable to participate in education well because of these factors that are not being addressed from a health perspective as well. *(Police officer, Dave)*

[My son] started displaying depression and anxiety as well plus he's had really bad problems with his ears through his whole life, so his concentration in kura [school] wasn't going to be very great. *(Whānau, Jen)*

Children's impaired ability to learn resulted in ever-increasing learning gaps between them and their peers. Indeed, children's educational histories were typically marked by low achievement, victimisation from peers, challenging behaviour, truancy, and dropout or exclusions, often from as early as primary school:

They're behind in their classes and don't understand what's going on and now they've got more and more of these children up at the school with these huge gaps in their learning and they're all dropping out. *(Police officer, Vicky)*

I don't think he's 14 yet and he hasn't been to school for, um, probably three years, probably hasn't been to school since he's about 11. *(Lawyer, Jasmine)*

As noted by primary and intermediate school principal Stuart, early school dropout meant that children's ability to reach their potential was severely impacted, perpetuating a cascade of adverse consequences:

It's easy for these kids to be pushed out of the [school] system and once they go out of the system they go even further from where you want them to be, cause there's no place for them. *(School principal, Stuart)*

Children's trauma and distress often leads to the development of severe anger and behavioural difficulties, including oppositional defiance, property damage, and fighting. Such behaviours were often already evident in preschool or primary school, with a lawyer for child recalling the case of a child getting stood down due to aggressive behaviour at age 6:

I've got a 6-year-old who has had a minder with him every second of every day at school. Why? You don't look for a minute, he took a little girl and put her in the toilet and locked the door. That's 6. And, unfortunately, he's able to do more than we would want him to be able to do at 6. How do you fix that? *(Lawyer, Mary)*

These Oranga Tamariki case examples highlight the many challenges there can be for children at school, including the impact of the behaviour of their parents (who may in turn have had difficult engagement with schools and services in their childhoods):

CASE F143 – WITHDRAWAL FROM SCHOOL DUE TO ADVERSE CIRCUMSTANCES

The girls seem at risk of being harmed from very young, but some of the carers think it's all pretty standard as they went through it too. There are reports to Oranga Tamariki by members of the public when carers are seen being verbally and physically abusive to the children – do they notice it more when it's happening to little girls? The mothers have had it with the likes of social workers – when the mothers were little, the social workers just made trouble for the family. There are so many people in the house, all the kids sharing one room or the lounge, it's the only way to pay the rent. The social workers start asking about who's supposed to be at school. There's a fuss when Dad and his mates walk them to the school with their patches on. The social workers get the school camp paid for, but the girls run off and get in trouble. There are reports they are self-harming and drinking, they're hanging out away from school, they're being sexually assaulted. They get labels like oppositional defiant disorder (ODD) and start getting suspended, then expelled. Offending flourishes – theft, drug offences, wilful trespass, resisting police.

CASE M1320 – STILL TRUANTING, SCHOOL TRYING TO ENGAGE

There are probably criteria met for ADHD, ADD, ASD, ODD – some formally diagnosed, some just well-known to teachers who feel so frustrated that more help isn't available – the school's budget for any extra help is blown. One boy tries and tries but he just can't get enough in the classroom; there's likely some deafness, concussions, he's hungry and tired. He feels stupid and ashamed, hits out, runs away. By age 10, he already has been charged with many counts of 'unlawfully interferes with motor vehicle'; another boy by age 11 is charged with trespass, disorderly behaviour, common assault. There are Oranga Tamariki meetings and school meetings and things are supposed to change. The teachers get the kids' hearing checked, untreated glue ear, assaults, infections have caused long-term damage. The truancy people get to know the kids, and like them, but fewer schools are willing to even consider them – isn't he the latest kid from *that* family? They steal stuff and crash a car.

IDI data on educational issues

There is a range of data in the IDI on school suspensions and expulsions, number of school enrolments and referrals to truancy services for the cohort, that were analysed in relation to offending as a child, youth and both. These data confirm the interviewees' impressions that disengagement in education was often seen with children who were offending.

Suspensions and standdowns. IDI analysis showed that suspensions and standdowns while aged 5 to 10 years were significantly associated with offending, with rates of child-only, youth-only and both child and youth offending all higher for children who had been suspended or stood-down than they were for children who had not. For example, more than a quarter of youth-only offenders had been suspended between age 5 and 10 (26.7%) compared to 9.7% without a suspension at that age; the difference grew to 29.3% of those who had offended as both a child and young person had been suspended, vs. 2.2% who had not (Table 35).

Table 35. Suspension or standdown while aged >=5 to <10 by offending group

| Suspension or standdown while aged >=5 to <10 | Offending group | | | | | | | | Total |
|---|-----------------|-------|------------|------|-------|-------|------------|-------|---------------|
| | Both | | Child only | | None | | Youth only | | |
| | N | % | N | % | N | % | N | % | |
| No | 1074 | 2.2% | 702 | 1.5% | 42006 | 87.0% | 4521 | 9.4% | 48303 (98.6%) |
| Yes | 198 | 29.3% | 48 | 7.1% | 249 | 36.9% | 180 | 26.7% | 675 (1.4%) |
| Total | 1272 | 2.6% | 750 | 1.5% | 42255 | 86.3% | 4701 | 9.6% | 48978 |

Note. Chi-square test ($\chi^2(3) = 2424.2, p < .0001$).

The pattern continued as the period of suspensions extended – 23% of the 'both' offending group had been suspended between age 5 and age 14 (vs. 1.1% who had not been suspended), 7% of those who offended as a child had been (vs. 1.1%) and 28.8% of youth-only offenders (vs. 8.2%).

For children who had offended, those who had been suspended or stood down between age 5 and 10 were also significantly more likely to reoffend: 81% also offended while aged 14 to 18, compared to 61% of those who had offended as a child but had not had an age 5-10 suspension.

To understand the scale of suspensions in the cohort, only 678 children were stood down before age 10 (1.4% of the cohort), but more than one-third (36.7%) of those were offending (Table 36).

Table 36. Cross-tabulation of standdown or suspension before age 10 and offending before age 14

| Suspension or standdown before age 10 | Offended while aged <14 | | | | Total |
|---------------------------------------|-------------------------|--------|------|--------|---------------|
| | No | | Yes | | |
| | N | % | N | % | |
| No | 46524 | 96.32% | 1776 | 3.68% | 48300 (98.6%) |
| Yes | 429 | 63.27% | 249 | 36.73% | 678 (1.4%) |
| Total | 46953 | 95.87% | 2025 | 4.13% | 48978 |

Note. Chi-square test ($\chi^2(1) = 1834.1, p < .0001$).

Similarly, those who offended as a youth (age 14-18) comprised only 9.26% of the cohort (4224 young people); but more than half (1749 young people) had been stood down or suspended before they turned 14, a significant difference between the groups.

Exclusions and expulsions. Rates of exclusions and expulsions from school were also investigated. These are understandably extremely low for children aged 5 to 10 – just 30 children in the cohort had been expelled so young, but 30% of these (9 children) had gone on to offend as a young person. The rate of repeat offending in those who offended as a child and were expelled by age 10 was therefore 100% - all 9 went on to offend again.

Those expelled before age 14 comprised just 0.4% of the cohort (216 children); 47.2% of these (102 children) had offended as both a child and as a young person, a statistically significant difference from those who had not been expelled before age 14 (2%).

Repeat offending was also significantly associated with exclusions and expulsions before age 14 - 85% of those who had offended as a child and had been expelled before age 14 offended again from age 14-18; 61% of those who had offended as a child but had not been expelled from school before age 14 offended from age 14-18 (data available but not shown).

Number of school enrolments by age 10 was determined by linking the cohort to the data on the schools the child was enrolled in, up to and including the day of their 10th birthday (from data moe.student_enrol). The likelihood of childhood offending increased as the number of school enrolments increased; this was statistically significant (Likelihood ratio test: $\chi^2(1) = 605.4, p < .0001$). It was found that for each additional enrolment, the odds of offending while a child increased by a factor of 1.58 (95% CI: 1.53-1.64). Of children who had been in 5 schools or more by their 10th birthday, 80% did not offend as a child but almost one-fifth (19.25%) did (Table 37).

Table 37. Number of school enrolments by age 10 by offending while aged less than 14 years old

| Number of school enrolments by age 10 | Offended while aged <14 years old | | | | Total |
|---------------------------------------|-----------------------------------|---------------|-------------|--------------|--------------|
| | No | | Yes | | |
| | N | % | N | % | |
| 1 | 34452 | 97.05% | 1047 | 2.95% | 35499 |
| 2 | 8139 | 94.89% | 438 | 5.11% | 8577 |
| 3 | 2457 | 90.90% | 246 | 9.10% | 2703 |
| 4 | 789 | 84.84% | 141 | 15.16% | 930 |
| 5+ | 516 | 80.75% | 123 | 19.25% | 639 |
| No enrolments found | 600 | 95.69% | 27 | 4.31% | 627 |
| Total | 46953 | 95.87% | 2022 | 4.13% | 48975 |

Exploring the number of school enrolments by age 14, those who offended by that age had been to 7 or more schools (402 children, or 23.47% of the cohort who had attended that many schools).

Rates of reoffending were significantly associated with increased number of school enrolments, with each additional enrolment increasing the odds of repeat offending (offending as a child under 14 and also as a young person from 14 to 18) by a factor of 1.21. Not attending school at age 16 was significantly associated with repeat offending, with those who offended as a child and went on to offend as a young person significantly less likely to have attended school while aged 16 or older (79.9% repeat offending for those not in school vs 57.1% for those in school at age 16+).

Truancy referrals. Schools can refer students who are consistent truants to attendance services, who work with the child and the schools to understand why the child is not at school and what to do. IDI data were drawn from MOE student interventions data and showed that a referral to attendance services while aged 5 to 10 was associated with repeat offending (62% of those not referred offended vs 73.5% of those who were referred). For children aged 10 to 14 who were referred to attendance services, 77% repeatedly offended (vs 60.5% who were not referred). Referral to services seems to not interrupt the offending trajectory or it may be an indicator of the severity of the child's behaviour (that leads to them being referred).

Development of behavioural problems and offending

Participants explained that the onset and perpetuation of aggressive and antisocial behaviour could be seen as part of the cascading effects on the child's psychosocial and educational development. This may be in part due to a sense of control and self-efficacy children derive from such behaviour, increasing the likelihood of offending:

You start off doing a petty crime, shoot, you're really good at it, everybody else thinks you're good at it, so that increases your own sense of mastery and self-esteem and before you know it you start getting into other stuff. *(Psychologist, Pania)*

While most children who offend predominantly engage in minor crime (e.g., shoplifting), a small minority commit more serious offences, including fire-lighting, ram-raid robberies, sexualised behaviour, car theft, assaults, and aggravated robberies:

Yeah, he wouldn't go back to school. He just went over and beyond just getting into trouble, stealing cars, being in stolen cars, aggravated robberies, one at 13, one at 14. And then high-speed chases, um, you know all those types of things. *(Whānau, Maria)*

6.1.4 Association with others who have endured similar harm

Children are often drawn toward socialising with children, young people, and adults who have endured similar experiences (e.g., due to peer rejection from peers who have not experienced such hardship). This further escalates their vulnerability to victimisation and engaging in increasingly concerning behaviours, such as roaming around streets or running away from home, and drug use (e.g., alcohol, huffing petrol, cannabis, or methamphetamine):

She put 12 holes in my wall. Then she started running away. She would have been 13 going on 14, police got involved. They were picking her up cause she was just found in the bushes sniffing petrol with her friends. *(Whānau, Ana)*

Ana said her daughter then started to engage with an older man, leading to methamphetamine use and potentially further victimisation:

She started venturing out and, I think that maybe seeing her friends with boyfriends, so she wanted, she was going onto that next level, but unfortunately it was with a man. I'm not too sure what happened there and that's when she started doing meth, because she was running away to his apartment. *(Whānau, Ana)*

Children may perceive such relationships as serving a protective function, such as against bullying, as Ana goes on to explain happened with her daughter:

A lot of her friends that my daughter will make, they're in gang, oh, like their family are gang affiliated, whereas my, and I think this is where the bullying comes in, cause she was bullied, and she wants to be around people who can protect her. *(Whānau, Ana)*

Associating with 'antisocial peers' is noted in typical case-file data:

CASE M113 - ABUSE, PLACEMENTS AND OFFENDING WITH PEERS

Four, five, six Care and Protection notifications were received before these kids were aged 2. Oranga Tamariki opened files; there were many file notes and many more notifications. There were uplifts and placements with kin and non-kin. There was physical abuse by an approved caregiver; they were returned to a parent who couldn't cope and lashed out. They were shifted to another place and that was good. But then there was some violence and they ended up somewhere else. The abuse was sexual too or was it 'just boys will be boys'? At 10 and 11 years old, they're drinking at night with some of the street people. They know someone who committed suicide or was it an accidental overdose? They haven't been at school for ages and they're offending with their peers, most still under 14 and hence 14(1)(e), but some of their older mates have already been to prison and got a place in the gang.

Association with peers and older persons who have had similar experiences may represent a key factor in the onset and escalation of offending behaviour:

My son said that, cause he didn't want to go to school and he was wagging school and they met up with another couple of friends that said oh you want to come, they went to go steal a car and then ever since then it was a buzz. (*Whānau, Maria*)

Children further burdened by neurocognitive difficulties, such as FASD, may be particularly impressionable and vulnerable to engaging in concerning behaviour. Catering to the wellbeing of such children was perceived as particularly challenging:

Those are really hard because whatever you do, if they get into the wrong situation, you know, their mate might challenge him to say, 'Hey let's do this', you know, and he doesn't want to be seen to be dropping his nuts or anything like that. So, he will go along with it, doesn't think of the consequences. (*Lawyer, Manu*)

The case example of M1414 combines many of these themes, with evidence of struggling families, challenging behaviour in placements, multiple cascading impact on all aspects of their wellbeing, associating and offending with others, and likely neurocognitive difficulties from birth:

CASE M1414 - VERY COMPLEX CHILD, MULTIPLE SEVERE OFFENCES

The first notifications to Oranga Tamariki were in the first year of life, in the context of methamphetamine, alcohol, violence, desperation. As early as age 7 or 8, they were involved in theft. They were carrying weapons to school. They were caught viewing pornography and trying to get other kids in a placement to copy the actions. They were using drugs at school, and stood down, then suspended, then expelled. In early teens, there was sexual offending, apparently without understanding or care that any harm or distress had been caused. Later, multiple siblings/relatives disclosed sexual assault by family members. The 14(1)(e) status included drug offending, sexual assaults, burglary, weapons; the health status included self-harm and suicidality, head injury sequelae, rage and despair.

6.1.5 The bigger picture – child welfare and criminality are social issues

These typical trajectories—from growing up in a struggling family through to early offending, were located within wider social contexts. Sociostructural concerns, such as colonisation, racism, and poverty, and limited provision of resources, clearly increase the risk of disenfranchisement and subsequent development of psychosocial issues:

How can it be prevented, in New Zealand particularly, probably through addressing those key issues that are causative factors in offending. So, if you look at the poverty aspect, there's a good article in the paper today about trying to survive on a benefit, there's the historical nature that goes back to colonisation cause obviously Māori particularly are overly represented in criminal figures. (*Police officer, Dave*)

I guess I think about racism and I think about generational racism and the fact that resources have not been provided for those families. (*Lawyer, Julie*)

While participants were clear that poverty does not automatically lead to child offending, they did consider it to be a fundamental risk factor. For example, *'poverty is all over this'* was a typical comment from participants.

CASE M1317 – HOMELESS FAMILY

They were in good jobs but then the place closed down and there weren't many other options. Maybe it was worth trying to move to a bigger town. Maybe that went OK for a while, but then that place closed down and there was some alcohol to cope, and the relationships started getting really strained, especially when others came to stay when their work was gone too. There's trouble finding a place, but then Oranga Tamariki helps. But people don't want them in their street; they're reported to noise control; their housing case managers get complaints; they're offered other properties. They're left to figure it out. The kids have been in a bunch of schools now, they're way behind, they'd rather not show up. There's a car, a garage, a living room that now sleeps six. It's cold and damp. The kids are bored but don't even know what school they could go to if they wanted to. They're lost and angry and find some ways to steal and it all gets worse, and they end up with the cops showing up and then they're really in trouble and how is being 14(1)(e) supposed to help?

The exceptions to the rule

Although the vast majority of children who offend have experienced extreme hardship and subsequently follow the trajectory described above (child welfare concerns impede children's psychosocial development, leading to difficulties at school, peer rejection, behavioural problems, association with peers with similar difficulties, and eventual offending), it is of note that there are occasional exceptions. For example, there was no evidence of prior child welfare concerns for less than 1% of the 108 s14(1)(e) children in the Oranga Tamariki files:

CASE M1450 - NO PRIOR HISTORY, SEVERITY OF CRIME HIGH

There are only a few of those classified 14(1)(e) who have no Oranga Tamariki history prior to their severe offending. No bulging files of prior notifications about them or their families. No prior police involvement or obvious trouble at school. The severity of their offences has led to the 14(1)(e) criteria being met. There are offences against persons or property. There are assessments of abuse or neglect, of experiences of loss or grief or trauma that may have underpinned the actions; maybe nothing very obvious is found. Files may note the child is remorseful; there are commitments to never doing such a thing again. Full engagement with an intervention programme is noted, or a course of treatment is considered to have been successfully completed. There is hope that the story ends here, aged 10 to 13, that it was a one-off, a wrong decision made, an isolated incident, that any disturbance has subsided or been repaired. There is hope.

It is important to note, however, that while there are exceptions to the rule, the experiences of the vast majority of children who offend were marked by significant child welfare concerns. Indeed, the extent of violence, neglect, and subsequent difficulties children with Oranga Tamariki case files experienced was sobering. Nearly all of the files we examined had the hallmarks of such hardship, often from a very young age if not birth, with ongoing victimisation and welfare concerns, increasing behavioural problems, and eventual offending as children grew older. Even the less than 1% of the 108 files from the calendar year we examined that had had no prior Oranga Tamariki engagement (such as M1450) may have had harm occurring that did not reach a 'report of concern' threshold; psychological abuse behind closed doors can be sustained and devastating (Berg, 2014; Fortson et al., 2016).

Also, it is important to note that the Oranga Tamariki cases reviewed were the total population of children under s14(1)(e) over one year, but that is only a minority of all children who have experienced early abuse and adversity. For example, in Table 23, the cross-tabulation of children who had experienced any type of notified abuse before age 5 with those who had offended before age 14 found 81.6% of abused children did NOT offend (1437 children did not offend before age 14, out of the 1761 under 5-year-olds who had had abuse notified). The 18.4% who did offend (324 children) are the minority. A further 384 young people (21.8% of those who were abused under 5) then started offending from age 14 years.

We were not able to compare case files of children with significant abuse histories who did not go on to offend (particularly to try to see what prevented an offending outcome, or to understand what negative outcomes, other than offending, they experienced) as that was not what our ethics application to Oranga Tamariki included. Such a resource-intensive project (given the manual searching required, and unclear information about interventions in CYRAS) would be welcomed in future. The troubling aspect is that nearly one in five children who experienced abuse before age 5 went on to offend as children, despite their early engagement in child welfare services, and Part 2 explores some of the possible reasons why.

6.1.6 'You could see it coming' – child welfare concerns are identifiable early, yet the system fails to sufficiently address them

Child welfare concerns, and thus the precursor to the development of behavioural problems and engagement in offending behaviour, are clearly identifiable from a young age (e.g., at preschool). Participants remarked that it was typically obvious when children experienced adversity at home:

There's usually marital problems, drug addiction, alcohol, abuse, you know, all of those key factors and transience, moving around, poverty. So, all of those things exist within those kids and we can see that when they come into school and there's often, you know, the family are not sort of talking or communicating or they're separated or they're working hard, they're running two jobs, siblings are parenting the kids while the parents go to work, you know, it's all that sort of stuff going on really. Yeah, and then you'll see it in trauma, anxiety and so some of our kids will present with behaviours that are antisocial within the school setting, so you've got violent behaviours to deal with and you've got the other sort of kids who just manage their trauma by being very quiet and not dealing with it. But we usually can pick up quite early on these kids that are on that pathway. *(School principal, Stuart)*

School's actually a good indicator. They don't settle at school or even at preschool, they can't socialise, they can't interact, they are distracted very easily you know the ADHD sort of symptoms, all that sort of stuff. You can see it developing. *(Lawyer, Andrea)*

A lack of—or inadequate—child welfare engagement failed to prevent the onset of child offending. As psychologist Pania put it, working with a young person within youth justice (aged 14+), instead of much earlier, was a failure of the system:

When we were in court it was acknowledged that the system had failed this young person because of the significant care and protection history and nothing was done. *(Psychologist, Pania)*

Participants stated that virtually all children who offended were known to Oranga Tamariki due to extensive child welfare concerns, often from a very young age, suggesting that opportunities were missed to effectively provide support or interventions to address these concerns and prevent child offending. Lawyers who had practised in the Family Court as well as the Youth or District Court noted that the vast majority of defendants had histories of extensive Oranga Tamariki notifications and inadequately addressed care and protection concerns. This was also apparent in the case-file analysis; for example, there were at times four bulging paper files about one child (bearing in mind the child is not even 14 years old yet). This was sobering, in terms of having such a full 'career' of engagement with care and protection services while still a child.

Stakeholders could see that failure to effectively respond to child welfare and child offending concerns could therefore lead to persistent and serious offending in adolescence and adulthood for a significant minority, as outlined in Table 38. Notably, participants said that ineffective child welfare assistance also applied to children in the care and protection system (i.e., those with statutory involvement, but not yet offending). The IDI data analysis on numbers of reports of concern (including before the age of 5) and associations with child and youth offending further highlights these concerns.

Table 38. Narrative of inadequate child welfare engagement leading to child offending.

| Summary comment | Interviewees' experiences |
|--|---|
| <p>Hundreds of pages of case notes</p> | <p>I had one boy, my very first 14(1)(e) ever. I went and got the CYRAS notes, I got 1999 pages of CYRAS notes. Notifications going back 10 years for that family. There was youth suicide, sibling suicide, there was drugs, alcohol. There was sexual abuse and there was offending, by this young person, and then the police made their application. As soon as the police made their application, then CYFS made their application but there had been 10 years of f***ing notifications going on in respect of this family and this boy ... so he came in at 11. <i>(Lawyer, Shane)</i></p> <p>Oranga Tamariki have been involved in 95% of cases. You know they know the mum, they know the dad, they know the older sibling, they've been working with them since they've been at a young age, they've been engaged, not engaged, taken steps or taken little steps, made referrals. Nine out of ten times they'll have two or three hundred pages of case notes and that's from a report of concern to interventions to what steps have been taken to closing the file to another report of concern to, it just builds up. <i>(Lawyer, Colin)</i></p> |
| <p>Nothing is done</p> | <p>[There's a] lack of follow-through that tends to happen. I think when you look at care and protection there's clear early signs, you know, through the notification of concerns and so forth but we seem to just miss the implementation of 'OK, how do we respond to that?' By the time they come to Youth Court, there's a clear care and protection history but nothing has been done. <i>(Psychologist, Pania)</i></p> <p>Sometimes you read through the CYRAS notes and you think why wasn't something formal done in terms of court orders for not just this particular child but the whole family, especially when you end up printing off the CYRAS and you come up with a whole ream of paper. <i>(Lawyer, Manu)</i></p> <p>When we were in court it was acknowledged that the system had failed this young person because of the significant care and protection history and nothing was done and I remember there had been a disclosure of sexual victimisation by the child at the age of 8, so can you imagine the impact that that would have had on that young person that clearly came through when he was in YJ and he engaged with the therapy. <i>(Psychologist, Pania)</i></p> |
| <p>The cycle continues</p> | <p>When he was 6, 7 years old. We knew it was coming. CYFS did nothing and so he comes, and here's his younger brother come along. Guess what? They did nothing until the police made a 14(1)(e) application for him too and now he's in CYFS custody and he's in the Youth Court as well. You could see it coming and guess what? He's got two younger siblings, much younger, and they're hardly ever at school. They're not even in CYFS custody. CYFS are doing nothing and they're coming. I see them outside court all the time. Mother's a piece of work. They're feral, running around eating chocolate and stuff and just shit for breakfast and you just know that they're coming too. What will they do? Nothing. They'll come in too brother, they'll come in too. <i>(Lawyer, Shane)</i></p> |
| <p>Support is required earlier</p> | <p>I can think of an example of a child who has been in the Family Court for five years, maybe longer, and as soon as he turned about 10, he started offending but of course didn't get taken into Youth Court because of his age and he's now in Youth Court in a major way and resources are just being started to apply to him at age 14. He needed it when he was 5, not 14. <i>(Lawyer, Julie)</i></p> <p>As I read the [child's] file, it was apparent there was cumulative harm, multiple notifications, the writing was on the wall from way back, that this mum needed a heap more support and a much more intensive intervention than what Oranga Tamariki were doing. <i>(Lawyer, Jasmine)</i></p> |

IDI evidence of reports of concern and offending

The interviewees' sense that 14(1)(e) children had been well-known to the child welfare system was confirmed by the IDI data.

Reports of concern (or notifications, both terms have been used across the years covered by our cohort) are where someone has reported care and protection concerns to Oranga Tamariki about a child.

Data on the rates of notifications/reports of concern (ROCs) in the cohort overall were established, including prior to a child's 5th birthday, between ages 5 and 10, and before age 14. Then the rates of ROCs amongst offending groups (child-only, youth-only, both child and youth offending) were compared to the rates amongst those with no offending. This showed that having a report of concern as a child was strongly associated with offending.

In this cohort, there were 4713 reports of concern about children before they were age 5; most had one notification (56.3%) but 10% had three, almost 6% had four notifications and some had as many as 16 (Table 39).

Table 39. Number of Reports of Concern by age 5 for those who had an ROC by age 5

| Number of ROCs before age 5 | N | % |
|-----------------------------|-------------|-------------|
| 1 | 2652 | 56.3% |
| 2 | 1041 | 22.1% |
| 3 | 471 | 10.0% |
| 4 | 279 | 5.9% |
| 5 | 126 | 2.7% |
| 6 to 10 | 132 | 2.8% |
| 11 to 15 | 9 | 0.2% |
| 16+ | 3 | 0.1% |
| Total | 4713 | 100% |

Between ages 5 and 10, there were 7581 notifications in this cohort, including 20.5% with two notifications, another 20% with three or four, and almost 10% with 6 to 10 notifications. In the age group from age 10 to < 14 years, there were a further 6687 reports of concern, with 49.5% having one notification, 20.1% with two, around 20% with three to five notifications, almost 7% with up to 10 notifications each, and a few who had had 16 to 20 notifications in these few years of their lives (data available but not shown).

Associations between reports of concern and offending

Children with no offending records had the lowest mean number of reports of concern and the lowest distribution (median and percentiles), followed by those who engaged in youth-only offending, then child-only offending. The highest number of reports of concern was for those who offended as both a child and a youth (Table 40). In other words, higher numbers of reports of concern were associated with increased risk of child offending as well as combined child and youth offending. As the data show, there were more than 1000 ROCs about children before age 5, almost 3000 ROCs about children aged 5 to 10, and more than 3000 ROCs for those aged 10 to 14 who had offended as children and who went on to offend up to age 18.

Table 40. Number of ROCs by offending group

| Offending group | Total number in group | While aged <5 | | While aged >=5 --<10 | | While aged >=10 --<14 | |
|-----------------|-----------------------|------------------------------|----------------------|------------------------------|----------------------|------------------------------|----------------------|
| | | Number with at least one ROC | Total Number of ROCs | Number with at least one ROC | Total Number of ROCs | Number with at least one ROC | Total Number of ROCs |
| None | 42255 | 3060 | 5416 | 5085 | 12662 | 4239 | 8393 |
| Youth only | 4701 | 930 | 1916 | 1419 | 4285 | 1266 | 3038 |
| Child only | 753 | 192 | 420 | 330 | 1000 | 330 | 908 |
| Both | 1269 | 528 | 1151 | 756 | 2888 | 855 | 3223 |
| Total | 48978 | 4710 | 8903 | 7590 | 20835 | 6690 | 15562 |

Note. Totals in this table differ slightly from Table 39 due to the random rounding in the multiple tables used to derive this comparison (e.g., 4710 under 5-year-olds in this table vs 4713 in previous table).

Children who had a report of concern/notification before their 5th birthday were significantly more likely to offend as a child, young person or both than were children who did not have a report of concern before age 5 (Table 41). This pattern continued for those who had reports of concern/notifications between age 5 and 10, and between age 10 and 14 – those with reports of concern at any of those ages were significantly more likely to offend than were those without reports of concern (data analysed but not shown).

Table 41. Report of concern before age 5 and offending group

| ROC before age 5 | Offending group | | | | | | | | | |
|------------------|-----------------|-------------|------------|-------------|--------------|--------------|-------------|-------------|--------------|-------------|
| | Both | | Child only | | None | | Youth only | | Total | |
| | N | % | N | % | N | % | N | % | N | % |
| No | 744 | 1.7% | 558 | 1.3% | 39195 | 88.5% | 3771 | 8.5% | 44268 | 90.4% |
| Yes | 528 | 11.2% | 192 | 4.1% | 3060 | 65.0% | 930 | 19.7% | 4710 | 9.6% |
| Total | 1272 | 2.6% | 750 | 1.5% | 42255 | 86.3% | 4701 | 9.6% | 48978 | 100% |

Note. A chi-square test for different distributions between ROC groups found the difference between groups to be statistically significant ($\chi^2(3) = 2542.2, p < .0001$).

Looking at only those who did offend as children, the associations between reports of concern and repeat offending can be explored (that is, comparing the ‘child-only’ offending group with the ‘both’ offending group). Children who had offended as a child and who had had a report of concern before age 5 were significantly more likely to also offend as a youth (aged 14+) – around 73% compared to 57% (Table 42).

Table 42. Cross-tabulation of ROC by age 5 and offending while a youth for those who offended as a child

| Report of concern by age 5 | Repeat offending | | | | Total | |
|----------------------------|------------------|--------------|------------|--------------|-------------|-------------|
| | Yes | | No | | N | % |
| | N | % | N | % | | |
| No | 744 | 57.1% | 558 | 42.9% | 1302 | 64.4% |
| Yes | 528 | 73.3% | 192 | 26.7% | 720 | 35.6% |
| Total | 1272 | 62.9% | 750 | 37.1% | 2022 | 100% |

Note. A chi-square test found the difference between groups to be statistically significant ($\chi^2(1) = 51.4, p < .0001$).

This pattern persisted for those who had offended as children and had reports of concern between the ages of 5 and 10 (69.6% vs 54.8%), and between 10 and 14 (72.2% vs 49.8%); that is, those who offended before age 14 and who had had reports of concern before age 14 were significantly more likely to continue offending at age 14+ than were those without reports of concern.

Children could have many reports of concern: for the 'both' group, they had an average of 2.18 ROCs before they reached age 5 (*SD* 1.59); an average of 3.82 between age 5 and 10 (*SD* 3.20) and almost 4 ROCs (3.77 mean, *SD* 2.84) aged 10 to 14. That is a lot of concern expressed (data available but not shown).

System failing to respond

The IDI data reinforced the interviewees' sense that 'the system' had failed these children and families - so many notifications occurred and yet the trajectory from child to youth offending was associated with those notifications (whereas we might hope that the converse would be true - that those with the most reports of concern would be *less* likely to continue offending because of the help and intervention they received).

Interviewees explained that even families that did receive some Oranga Tamariki support often required much more assistance. Assessments of a family's difficulties were typically piecemeal, resulting in 'band-aid', short-term interventions that failed to respond to a family's complete circumstances. For example, women who experienced domestic violence were referred to parenting programmes as opposed to being supported in a more holistic manner:

Because there was quite a lot of domestic violence that started happening after that, Oranga Tamariki got involved and then they said to me, 'Oh, why don't you go do this parenting programme?' (*Whānau, Jen*)

Similarly, plans to improve the welfare of children were often limited to targeting children's behavioural needs rather than the underlying concerns that may have led to these behaviours. For example, intervention for a child who came to the attention of police for absconding from home focused around her running away and keeping her in school. Her mother Ana believed that services neglected to do a more thorough, specialist assessment that may have identified her needs more comprehensively:

Yeah, it was more focused around trying to keep her home and they were more focused about school, putting her into school. To tell you the truth, my number one was getting her head checked, I just wanted her to see a psychologist. She should have seen one years beforehand ... so she didn't see a psychologist then, not when they first got involved. They just put plans in place for her but that didn't work 'cause she just ran away anyway. (*Whānau, Ana*)

Clearly, unless child welfare concerns are effectively addressed, children are at risk of following a concerning yet predictable trajectory:

Issues will continue to arise and will manifest, it will start at primary school, you can see the kids at primary school where its heading, it's that whole, show me the 3-year-old and I can tell you what they're going to be doing. We can see them. *(Lawyer, Jasmine)*

We're dealing with those families where there's family violence, there's abuse, neglect, mental health, gangs, criminality, where there's all those factors that unless those factors are addressed, the children are just going to be that next generation. *(Social worker, Lisa)*

Overall, participants highlighted that child welfare concerns were typically identifiable early. Nonetheless, families felt that they were not sufficiently helped despite such concerns often being known to child welfare agencies. A lack of or inadequate child welfare involvement was therefore perceived by participants to be a key contributing factor to children's eventual engagement in offending behaviour.

Part 1 summary: Offending does not occur in a vacuum – you can see it coming

This part demonstrated that children who have offended have clear histories of child welfare concerns, which is consistent with prior research findings. Overall, child offending was seen by the stakeholders we consulted, from whānau to frontline legal, justice, educational, child welfare, social services and mental health professionals, as having its roots firmly planted in child welfare concerns, which are often evident from a very young age. The Oranga Tamariki case-file information – even with so much potentially identifying detail stripped out to preserve confidentiality – overwhelmingly presented early concerns about the child, and often their older siblings. Such concerns were followed by cumulative and cascading detrimental consequences regarding children's psychosocial development, impacting their mental and physical health, participation at school, and increasing their vulnerability to engage in antisocial behaviour and associate with others with similar difficulties. As social worker Lisa, who had extensive experience working with children at risk of (re)offending, stated, child offending is the '*symptom at the end of it really*', a view echoed by other participants, including this police officer:

When you go and dig underneath and go and visit with the family and talk to the school and collect some background information, you see that there's a lot of other things going on which may explain why they are offending. *(Police officer, Vicky)*

Children who have offended and their families typically experience significant and often intergenerational hardship and, for Māori whānau, these concerns can be seen as the product of sociostructural problems, including poverty, racism and discriminatory criminal justice practices, and the ongoing effects of colonisation (Office of the Children's Commissioner, 2020c). In turn, children's healthy psychosocial development is considerably impeded, leading to cascading difficulties (e.g., mental health concerns, low educational attainment, peer rejection, association with persons who have endured similar harm) that, for some children, eventually lead to offending behaviour. Some children experience (multiple) out-of-home placements, in which they often endure further victimisation, exacerbating their difficulties and concerns. However, although the needs of these children are identifiable early and are often known to state agencies (e.g., schools, child welfare services), effective assistance to children and their families is not provided in too many cases. Inadequate child welfare involvement therefore fails to prevent the onset or escalation of child offending. These findings are summarised in Table 43.

Table 43. Summary of findings: Children who have offended have clear, significant, and unaddressed child welfare concerns

| Offending does not occur in a vacuum | |
|---|--|
| Themes | Findings |
| Children who have offended and their families endure extraordinary harm and hardship, resulting in significant child welfare concerns that eventually culminate in child offending | |
| 1. Families are struggling | Hardship includes low income and unemployment, family violence, substance abuse, transience, housing instability, physical and mental health concerns, antisocial behaviour and criminality, disconnection from culture, and intergenerational involvement with state services |
| 2. Children experience multiple placements | Multiple placements often exacerbate child welfare concerns due to instability and further victimisation |
| 3. Cascading impact on children's development | Adverse experiences lead to cumulating difficulties, including mental health and learning difficulties, peer rejection, low academic achievement and school dropout, and antisocial and offending behaviour |
| 4. Association with others with similar problems | Association with others with similar problems can lead to further victimisation or exacerbation of behavioural concerns |
| 5. The bigger picture: Child welfare and criminality are social issues | Sociostructural concerns, such as colonisation, racism and discrimination, poverty, and limited provision of resources, increase the risk of disenfranchisement and subsequent development of psychosocial issues, including substance abuse, family violence, and offending |
| 6. You could see it coming: the system fails these young people | Child welfare, educational and health concerns are identifiable early (e.g., at pre- or primary school) yet rarely sufficiently addressed. Inadequate child welfare involvement fails to prevent the onset or escalation of child offending |

Next, the second part of the *Findings (A breakdown across the whole system: Opportunities to do better)* outlines participants' evidence regarding the systemic failures and opportunities for improvement in child welfare system and Family Court practices to support the needs of children and families more effectively.

Findings Part 2

Part 2 highlights opportunities for improvement in child welfare and Family Court practices to reduce the risk of children 'falling through the cracks' and preventing an escalation of child welfare and offending concerns. This part draws on integrated stakeholder consultation, case-file, and IDI data.

7. A breakdown across the whole system: Opportunities to do better

Having identified the hardship that the vast majority of children who go on to offend have experienced, as well as the cascading trajectories of harm these children experience, Part 2 focuses on investigating opportunities for improvement in child welfare and Family Court practices to ensure more positive outcomes for children and their families who come into contact with these systems.

Part 2 draws on the Oranga Tamariki case files, IDI data analysis and interviews with child welfare and Family Court professionals, as well as whānau members, to present participants' evidence that the onset and perpetuation of child offending can be attributed to systemic failure to respond to child welfare concerns promptly and effectively. It also highlights opportunities for improvement in child welfare and Family Court proceedings in relation to children at risk of (re)offending and their families. As outlined in Part 1, children and families with welfare needs often do not receive the support they require despite their concerns being known to the child welfare system. In turn, there is opportunity to address children's needs far before a child engages in offending behaviour, and often long before Family Court—let alone Youth Court—involvement may be required. Participants generally perceived the problem to be primarily in the child welfare system rather than the Family Court, as children who came before the Family Court due to offending behaviour often had long histories of child welfare notifications:

It's too late by the time I see them. I've seen it in kids as young as 3, in preschool, the ones that step on the kittens' heads, who whack other children and I'm thinking that's one that I can identify straight away unless there are some supports, even at early childhood, that ECE [early childhood education] level, then I will see that child again. *(Lawyer, Talia)*

Question is whether it's gaps in the Family Court actually or gaps in Oranga Tamariki practice to be fair because, the reality is, that you see this trajectory into this conveyor belt. The kids that head in that conveyor belt are generally your care and protection kids. *(Lawyer, Jasmine)*

The kind of child seen 'as young as 3' that lawyer Talia spoke of or who seem on the 'conveyor belt' to offending, according to lawyer Jasmine, is typified by Oranga Tamariki Case M1321. Children might be referred at age 3 by ECE and the file subsequently closed. Then they're reported in an Oranga Tamariki case file again at age 12 when starting to offend, with a range of supports and services offered but rejected at that time.

CASE M1321 - HARD TO GET HELP BUT ALSO HARD TO ENGAGE WITH THE AVAILABLE HELP

The first Care and Protection notifications involving these children is when they are 2 or 3 or 4 years old; parents aren't coping, caught up in meth, alcohol, no addiction-treatment programmes available even when they try. Services make some attempts to engage, and some referrals are made. Maybe there's an uplift, a placement, some extended family helps out and it all settles down. School's not great, they're way behind, they don't go much. Shoplifting, fighting, showing porn sites to other kids in school, it's getting worse. There's a really good FGC, excellent plan, people get involved. Their grandparents/relatives/carers take charge and nod at everything the professionals say. But it's complicated. They miss Mum, they run away. They test the limits and go too far; the carers cannot cope. After the next FGC, they're getting really hard to 'place'. The social worker (or psychologist, lawyer, teacher) who they liked has left. The next one makes them feel bad. Their parents don't show up for visits; the kids say they don't care. Offending is escalating. They refuse to go to anything that's offered.

The reported rejection of supports offered in the Oranga Tamariki file highlights the challenges with engagement that are already evident by age 8 or 10 or 12. Even the question of whether a child is able to think through that rejection remains unanswered; for example, there were notes mentioning possible FASD or intellectual disability being unable to be verified as the child or caregivers refused to participate effectively in an educational assessment. It is also impossible to know what could or should have happened for these children and their whānau when they were aged 2 or 3 and first involved in services.

Prior to discussing possible shortfalls within child welfare and Family Court practices in this section, it must be remembered that child welfare involvement may be effective in preventing the onset of offending for many children. As already noted, the majority of children in care do not go on to offend or have youth justice involvement (Oranga Tamariki, 2020). Similarly, participants recognised that it is simplistic to attribute failure to any one agency or ministry, considering the needs of these children and families typically span across a range of agencies, including child welfare, education, and health, and are often the accumulation of intergenerational hardship, abuse, and trauma:

I think it's probably too simplistic to just point the finger at Oranga Tamariki given shortage of resources, overworked [staff], and actually the fact that these families are incredibly complex. (Lawyer, Andrew)

Oranga Tamariki themselves are working under incredibly tight resourcing, huge caseloads, massive time constraints. (Lawyer, Aaron)

Participants acknowledged the inherent difficulty of effecting change among families, often with complex and intergenerational histories of concerns, and particularly so in the context of the evidence base of persistent structural issues such as poverty, homelessness, and the ongoing effects of colonisation (Ministry of Justice, 2019a; Office of the Children's Commissioner, 2020c). Nonetheless, the fact that the vast majority of children who offend seriously have child welfare histories indicates that there are opportunities to improve early intervention efforts to reduce the risk of these children escalating into the youth justice and adult criminal justice systems.

These findings outline the factors that contribute to poor outcomes for children involved with the child welfare and Family Court systems. The shortage of child welfare resources (Theme 1) results in high thresholds for intake and what participants described as a 'watch-and-wait' approach (Theme 2). Evidence of insufficient oversight of child welfare cases was highlighted (Theme 3) and linked to the Family Court being under-resourced (Theme 4). Further delays once offending had begun were identified (Theme 5) and delays in many aspects of Family Court engagement were described as 'horrendous' (Theme 6). FGCs could be excellent but variable (Theme 7), with delays evident from both interview and IDI data, and concerns were expressed about poor implementation of FGC plans (Theme 8). The section concludes by exploring solutions in terms of better engagement with children and whānau (Theme 9), earlier and more effective intervention (Theme 10), and the need to address the sociostructural problems underlying child welfare concerns (Theme 11), as shown in the IDI data on social deprivation and offending. Notably, considering child offending is synonymous with child welfare concerns, these findings seek opportunities for improvement in child welfare and Family Court proceedings in relation to children with welfare concerns, including those who have offended, while specific points in relation to child offending are made throughout.

7.1. THEME 1: 'Let's bring in some new people' – there is a shortage of child welfare resources

Stakeholders highlighted shortages in child welfare resources and services which meant that support can only be provided to a proportion of children and families with complex needs. Shortages were present across professionals, agencies, and programmes, as well as caregivers and placements.

Lack of professionals, services, and programmes

Oranga Tamariki resources were described as scarce and difficult to access. Participants stated that there appeared to be a huge shortage of Oranga Tamariki staff, such as social workers and FGC coordinators, despite the Act mandating that FGC coordinators, in particular, were available:

There's no coordinator for FGCs in [this regional centre] at all, and we've only got a couple in the [other] office, so there is a real resource problem there, and I think they've only got one legal counsel for two busy sort of offices in [other named regional centres], and they've lost a number of social workers as well so there's a real resource problem and I understand that but the Act is very clear that they have to have all those persons in place. So there needs to be a fundamental change in head office thinking about resources. *(Lawyer, William)*

Specific issues raised included shortages of staff at Oranga Tamariki (social workers, psychologists/counsellors) and shortages of services in the community (mentors, lawyers, police, programmes for children with complex needs) including a lack of specialist caregivers and placements, and capacity issues at care and protection residences.

Shortage of staff at Oranga Tamariki

- **Social workers** burdened by too high caseloads, thus drastically limiting the ability to effectively engage with families and contributing to high rates of burnout and turnover.
- **A shortage of psychologists and counsellors** able to work with children, stating that effective intervention by Oranga Tamariki was often constrained by a dearth of psychological and other specialists. For example, Oranga Tamariki advisor Patrick raised concern about the shortage of psychologists working for child welfare services, such as Oranga Tamariki, and particularly so in comparison to the resources allocated to the Department of Corrections:

With respect to offending, that's all concentrated at Corrections in the adult population, right, so Corrections have got 250 psychologists, we have got probably on a good day with the sun shining, 10. Two of those are in head office, no, three of those are in head office, the rest of them, you know like so there's not enough child-facing psychologists available to do something, yeah, to do what's needed. *(Oranga Tamariki advisor, Patrick)*

Shortage of services in the community

- **Overwhelming demand for community services** means that children with complex needs are often required to go on long waiting lists to see specialists or attend programmes. Some may not be accepted at all due to agencies not having any more capacity to take on new referrals:

In the current system, there is no-one to refer those kids to. The waiting lists for professional assistance are horrendous and outrageous and so kids slip between the cracks. If there's a kid who just isn't coping but is regressive rather than aggressive, they would be left. I mean to try and get a social worker to deal with something which is not absolutely critical is lengthy. To get kids into the assessment at [a CAMHS] is next to impossible unless you've got a kid who's really acting out. (Lawyer, Julie)

For example, a specialist Oranga Tamariki team of social workers (Engaging Challenging Youth) to engage at-risk children and youth is only available in certain areas, rather than widespread across the country or at least present in all areas of high need. Moreover, high demand for this service means that many children and young people who may benefit from this team miss out on receiving support even in areas where the service is available. Lawyer Julie pointed out that this resource is *'stretched too thinly and doesn't include a number of kids who should be in there'*, such as children under 12 years.

- **Lack of mentors.** Participants stated that young people benefitted from positive role models, but that a shortage of mentors meant that children and young people often miss out on receiving such support.

Mentors seem to be a huge issue at the moment. The Ministry contract out mentors but if you're trying to get a mentor to work with a young person for more than two, four hours a week, almost impossible. They're not there. The funding, resourcing, so that's another huge barrier. (Lawyer, Colin)

- **Shortage of lawyers** and particularly so in the regions:

It's beyond shortage. It's frightening. If a person in [our region] wants to do basic application, there are only a couple of lawyers [here] altogether that are taking on new work. The rest of us can't. We just don't have the capacity. (Lawyer, Mary)

- **Limited police resources** also impede more effective responses with children at risk of (re)offending, and particularly in areas in which there are high rates of domestic violence/family harm incidents. A highly experienced police officer stated that police in Auckland often have backlogs of family harm incidents to attend and that the needs of children who may witness such harm often fell under the radar due to police officers needing to prioritise further incidents:

We don't deal with a lot of child offending. We are so busy that it falls into insignificance really. I often look at the polls for the family harm episodes and the staff check on the children and often it says they seem happy and just accepting it as another event rather than looking at cumulative harm. (Police officer, Dave)

- **A lack of services catering to children with complex needs** further hinders more effective early intervention efforts:

When you've got a young offender who's before the Family Court, I just think that they're dinosaurs. They just don't know what to do with a young offender. Most of the programmes [in the regions] are scheduled to target 13-, 14-, 15-, 16-year-olds. There's a big gap you know when you've got 8-, 9-, 10-, 11-, 12-year-olds ... There's nothing there for those kids and they just fall through the cracks. (Lawyer, Samantha)

Lawyer for child Andrew gave the example of a 5-year-old who was excluded from a programme for children exposed to family harm due to aggressive behaviour, wondering what other service was supposed to take on such children. Similarly, he recalled the case of an older child, who was not accepted into intervention programmes due to behavioural concerns and potential impacts on other children and staff:

So many of those organisations have criteria, which is understandable, that they don't want their staff put at risk. I've got a 13-year-old boy who has done an aggravated robbery which might involve standing over someone for their skateboard and saying, 'Give me your skateboard or I'll smack you over,' and he's with his mates, well that's an aggravated robbery, and they say, 'Well, we won't touch him,' you know, and that's a hard, suddenly a really, really hard person to place. Those are the sort of kids when they're in that situation that there need to be organisations who have got the balls to take them on board. Given the right circumstances and the right people, they can be turned around and that boy I've known since he was about 10. (Lawyer, Andrew)

Participants often described feeling at a loss about how children could receive the support they require:

What do I do with this 6-year-old? I don't think they've got sufficient resources to do what he needs. I have said to the [Oranga Tamariki] supervisor that we need to get a report from a psychologist because unless we find out what's going on with this kid, he's going to be raping little girls by the time he's 8. (Lawyer, Mary)

This concern regarding limited services for younger children was also reflected in police practices. For example, while specialist Youth Aid and Youth Engagement services within the police cater to the needs of young people at risk of (re)offending, these services did not typically extend to younger children.

Lack of specialist caregivers and placements

Shortages in specialist caregivers and placements for children with complex needs mean it is often extremely difficult to find suitable placements, whānau or otherwise, in which children are safe and secure and are able and prepared to stay:

We don't have enough people out there who are able to take care of kids with problems. Our Oranga Tamariki area has no caregivers, no-one sitting there waiting. So, how do you find them? (Lawyer, Mary)

The Ministry really struggle with those placements because caregivers like to have young 4-year-old, 3-year-old children, you know, not many caregivers put their hand up to say, 'Yeah, I'll have a 13-year-old offender at my place as a caregiver, thanks.' So, that's been the real big problem is that gap there. (Lawyer, Colin)

The lack of available placements or caregivers extended to children in care in general. For example, a lawyer mentioned a case of a toddler who had been in temporary placements since birth due to an inability to find a permanent caregiver, thus strongly affecting his ability to form a secure attachment and subsequent psychosocial development.

Interviewees reported that **extended family members** were often reluctant to take children into their care, due to families already struggling or being concerned regarding any disruption this could cause to other family members (*'They don't want to be in a pressure cooker, being harassed by those dysfunctional family members'* - Lawyer, Andrea). Similarly, participants spoke of cases in which generally stable placements broke down due to a shortage of respite facilities, which may provide caregivers and young people with a break before continuing to live together (*'If there was the opportunity for more respite and that sort of thing, then that would count for a lot'* - Lawyer, Andrew).

As a result of these placement difficulties, children often had to be placed in **secure residential facilities**, which are generally designed to be a temporary placement facility for children with care and protection concerns or reserved for youth with serious offending histories:

I've got a kid at the moment who I'm just tearing my hair out, it's like an IQ of about 70, just wants to live with mum. There is no way he's going to be able to live with mum, but he's been in residence for I don't know how long. Even the cops are like, 'What is this kid doing in residence?', but his care and protection social worker is like, 'Well, we haven't got a placement for him.' *(Lawyer, Andrew)*

Capacity issues also relate to care and protection residences: Participants believed secure residences should only be used as last resort due to children often being removed from their community as well as the risk of children becoming 'institutionalised' (because, for some children, a residence was the safest, most routine setting they had ever lived in). Yet they shared the perception that for some cases, secure residences were the only option due to needing to protect the safety of young people, their families, and communities. However, while care and protection residences were supposed to be available for children for whom no appropriate whānau or non-whānau placement was able to be found, capacity issues with residential placements mean that often there are not any beds available. Furthermore, participants described great difficulty in having referrals accepted by care and protection residences, despite the presence of significant child welfare concerns:

In my 20 years, I've managed to get like four people in there. This isn't really criminal offending, this is care and protection stuff. This kid really needs serious help, 'No, it doesn't meet our requirements, it doesn't meet our threshold.' It's like, 'Crikey, what do they have to do to realistically get in there?' *(Lawyer, Colin)*

Moreover, secure residences could be far from a child's community, thus any referral to such services had to consider the negative effects of removing a child from their community.

Mismatch between the capacity of community placements (e.g., supervised group homes) and the complex needs of children who were placed in such facilities. For example, a lawyer for child and youth advocate said that community placements now tended to be filled with youth with highly complex issues, which those placements were not designed for. While such placements often broke down, this also meant that there was a shortage of placements for children whose behaviour had not yet escalated to such an extent. Indeed, participants expressed that there was a huge gap in placements for children with complex needs who had not yet escalated to more serious offending or were too young to be placed in facilities reserved for older youth. For example, lawyer Colin recalled the case of a child whose offending was not serious enough to warrant placement in a youth justice facility, but he did not meet criteria for a care and protection residence. As a result, this boy was put in a motel with a minder due to a lack of available caregivers:

So, when you come to the Family Court, child offenders, it's like 1) they're not going to put you on any of these placements because you're not meeting the criteria; 2) you can't go to [a care and protection residence] because their thresholds, you're never going to get in there; 3) oh, what other options have we got, any Child, Youth and Family caregivers? Yes, but not many. So, we end up with this ridiculous situation that the Ministry funds trackers to stay with them in motels. *(Lawyer, Colin)*

As with the shortage of programmes catering to children with highly complex needs, participants also commented that services had turned down referrals for placements for children who had offended due to the extent of their needs and subsequent safety concerns:

We get these high-end kids with these high-end complex needs and the older they get the more difficult it is to place them. There might be placement vacancies but because their behaviours are so challenging, those agencies won't accept them or they don't have the staff trained to deal with those kids. I don't know why Oranga Tamariki hasn't come up with a solution to that, you know. *(Lawyer, Manu)*

Cascading consequences of placement difficulties

The difficulties to place children due to shortages in available facilities meant that children were exposed to further instability due to numerous short-term placements (e.g., motels):

There are some good providers out there but trying to get people into some of those options is just so difficult. If [placements] are full, then we really struggle. Pretty much to make things work you need a stable environment, routine, structure, but if you can't even give them a placement to start that, how do you expect them to change? So we keep popping them, 'Oh, that caregiver can have you for two weeks and then we'll put you with the emergency caregiver for another two weeks but you've got to stick to your plan.' So, it's sort of unless you can provide some stability around that, it's hard to see how things can advance. *(Lawyer, Colin)*

The lack of permanent placement often meant that children were unable to participate in certain programmes, as these required children to live in a stable home environment, thus delaying engagement with support services. For example, lawyer Mary spoke of a child about to be stood down from school at age 5. He was not accepted when referred to a child and adolescent mental health service (CAMHS) because they did not think they could do anything with him until he had some degree of stability in his home life. If he had such stability, however, he might not have needed the CAMHS referral. Moreover, considering the limited availability of placements that could potentially offer such stability (and the exacerbated instability that may be caused by removing a child from their home environment or current placement), inflexible criteria to provide support and delayed engagement with support services may compound children's difficulties.

Tamariki and whānau who do not engage with services

There is no doubt that even where there are available services, they may be refused by tamariki and whānau. The Oranga Tamariki case files listed many services and referrals made, with comments such as that a child's mother had both asked for help and also refused it, with attempts to contact after failed appointments made 'to no avail', or with parents changing phone numbers. In Theme 7.9 (below), the question of engagement is discussed, with the point being made that whānau have often been 'burnt' by histories of inadequate involvement from services (including from the parent's own childhood), or that services are not necessarily structured to allow time to be taken to build trusting relationships over time.

Theme 1: Let's bring in some new people: There is a shortage of child welfare resources

Overall, participants expressed concern that the system was bursting at the seams. Overwhelming demand on social workers, support services, and programmes means that only a proportion of children and families receive the support they require to ensure children's wellbeing.

The net effect of limited child welfare resources is that thresholds for child welfare assistance are extremely high, with some participants describing the current system as taking a 'watch-and-wait' approach (explored more in Theme 2). Child welfare concerns may then escalate, leading to the removal of children from their home environment in (too) many cases.

Limited support and availability of specialist caregivers and placements mean that out-of-home placements often break down, meaning children may experience further harm and instability. Some children may be placed in numerous placements, with others ending up in secure residential facilities.

In addition to the harm resulting from being separated from their family, the continued placement instability severely affects children's psychosocial development, exacerbating their mental health concerns.

7.2. THEME 2: High thresholds and a 'watch-and-wait' approach

This theme presents participants' evidence for the delays in responding to child welfare concerns, with the relevance of this issue to child offending being specifically covered. The Oranga Tamariki case-file examples illustrate this theme, where there might be six care and protection notifications over one year, beginning when a child is 10 months old, and only on the sixth incident is a referral made. There might be police routinely called out to verbal and physical disputes in the household of a 3-month-old; only on the 4th or 5th or 6th incident, are referrals to family violence services made.

CASE M1324 - MANY EARLY NOTIFICATIONS, SEVERE OUTCOME

So many are known to Oranga Tamariki even before they are born, through their older siblings who were charged at ages 10, 12, 14 with serious arson or having a knife or sexually assaulting a child. There has been some cruelty to animals reported. There have been incidents in public, maybe gang-related, maybe not. People stare and look disgusted. The children are withdrawn, watchful, sad. As they grow older, they learn more about failing at school, and feeling better when stoned. The school calls Oranga Tamariki, and there's some follow-up. It works for some of them, they seem to find their place a bit more. But the household violence is staggering and when they're put somewhere else, it's just as bad or it ends too soon. The grandparents take a turn; old-fashioned discipline is what these kids need. The kids run off for the day, come back with spray cans and markers and paint on their fingertips. Grandparents don't know what to do and don't tell anyone. The parents visit occasionally without warning or don't show up when they're supposed to; it sends the kids into a spin for days afterwards. Then, there's some really serious offending that really shocks even those who could see it coming, over all these years, and maybe now something can be done. Or is it too late?

CASE F142 - FEMALE IN HOME WHERE FAMILY VIOLENCE DISPUTES ARE FREQUENT

The Family Harm teams know these houses. The children may or may not be directly attacked, but they hear and see too much. Referrals and notifications are made, while the children are babies, infants, toddlers. There's some sort of extra tragedy - Mum dies of cancer, Dad is stabbed, an older brother dies in a car crash, Nan gets real sick. The new caregiver/step-parent/partner seems OK but there's a lot to deal with. The wee girls get hurt and a report of concern is made. More ROCs follow, associated with the family violence call-outs. The wee girls go to stay somewhere but there's sexually inappropriate stuff going on. They start using cannabis supplied and are self-harming. They're stood down from school for cannabis use but manage to return. They're barely teenagers when there are older boyfriends. They've experienced rape and sexual assault by the time they're 12, 13, 14. They join their boyfriends in offending, drugs, property and vehicle crime. They're self-harming and trying to kill themselves; people say they're just 'attention-seeking'. They're charged with multiple offences.

Experiences of extremely high thresholds mean that only children and families with the most significant and immediate needs may receive child welfare intervention:

It's got so high now that your kid has to be physically at harm, literally at risk of something dire before you're going to get any intervention from Oranga Tamariki. *(Lawyer, Jasmine)*

Subsequently, a large number of children and families do not receive support despite the known presence of clear child welfare concerns:

The reality is it's a resource issue with Oranga Tamariki. They try and hide for as long as they can with kids. *(Lawyer, Julie)*

Professionals stated they were reluctant at times to refer cases with undoubted child welfare concerns to a care and protection coordinator (who is supposed to ascertain the child's need for care and protection according to Oranga Tamariki criteria), due to cases being unlikely to meet Oranga Tamariki's threshold for intervention:

Half the time you don't even make a section 19 [care and protection] referral because you think, 'I know that Oranga Tamariki won't pick it up so why even bother?' So you make the effort to make a section 19, they do the investigation, 'No, it doesn't meet our threshold.' *(Lawyer, Jasmine)*

Indeed, whānau participants felt as though trying to receive assistance from child welfare services was like 'hitting a brick wall all the time', as Kourtney put it. Similarly, Jen recalled not receiving child welfare assistance, despite consistently requesting support from services, and ended up losing custody of her child:

I was just like, wow, I don't, what do I do, who do we go to? We didn't get any support whatsoever during that time and I think that is where people really should have come in and helped us, cause so many things, one of those 'should-have, would-have, could-have' moments but I feel like that was the moment that we should have been supported the most. *(Whānau, Jen)*

High thresholds for intervention also apply to other agencies and ministries. For example, primary and intermediate school principal Stuart was concerned that learning supports for children, such as Intensive Wraparound Service or High and Complex Needs Funding, were 'very hard to get':

You have to demonstrate that you have exhausted every avenue. I've had children who have come in from preschool with the system involved, so you might have had [CAMHS] input and then they've dropped off and then you've had learning support. It might be Oranga Tamariki, it could be speech and language therapy, it could be a whole lot of people. These are finite resources and they are quite challenging to get because you have to demonstrate that these kids are high needs. *(School principal, Stuart)*

Subsequently, children and families do not receive the support they need until escalating concerns, such as physical abuse or child offending, eventually meet the threshold for statutory intervention, as both police officers and lawyers we spoke to had experienced:

It seems like we're almost waiting for them to commit an offence or for something to go wrong before actually intervening and for me that just doesn't make much sense if we're true to really wanting to prevent young people or children coming into the system. *(Police officer, Nikau)*

These kids often start off in the Family Court, and there's no resources until they offend or until someone gets desperate and Oranga Tamariki is forced to take them on as clients. *(Lawyer, Julie)*

‘When the Police are having to make 14(1)(e) applications, it’s all too late’

Issues with high thresholds were particularly highlighted in regard to section 14(1)(e) care and protection applications. These applications apply when police officers believe that the nature, magnitude, and frequency of a 10- to 13-year-old child’s offending behaviour is indicative of significant care and protection concerns. Numerous participants spoke of situations where, despite significant concern by whānau, lay people (e.g., neighbours), or professionals (e.g., teachers, lawyers, police officers), cases were not picked up by the child welfare system until the application of a considerable amount of external pressure, such as when police lodge a s14(1)(e) application. Several lawyers expressed frustration about this, stating that the police should never have to be in a position of having to file for a care and protection application due to these children’s extensive welfare concerns already being known to Oranga Tamariki:

The police should never have to make an application that a child is in need of care and protection under 14(1)(e), not ever. When the police are having to make 14(1)(e) applications, it’s all too late. It’s far too late and generally there’s screeds and thousands of pages of CYRAS notes of notifications and reports of concern in respect of that child and their families, sometimes going back years. *(Lawyer, Shane)*

That’s the police’s argument. Like, ‘Why are we having to do this?’ Pretty much all of those 14(1)(e)s that I’ve dealt with were pretty much as a result of the police being so frustrated that nothing was happening in a timely manner, they made the application. *(Lawyer, Colin)*

Further substantiating these claims, police officer Nikau asserted that s14(1)(e) applications signified grave concern for a child’s wellbeing, thus requiring urgent action:

You know for me, if we refer for an FGC for a child offender, that’s a real big warning flag that should be raised high. *(Police officer, Nikau)*

Participants provided several accounts of child welfare cases that eventually led to s14(1)(e) applications, including those summarised in Table 44.

Table 44. Narratives of limited intervention prior to the use of s14(1)(e) applications

| Overview | Narrative |
|---|---|
| Living on the street for a year | <ul style="list-style-type: none"> • A girl lived on the streets from age 12 • No offending, but police knew her and would take her home • <i>'Vulnerable as heck,'</i> CYRAS notes indicate police repeatedly notified Oranga Tamariki • She kept running back to the streets • Started offending (assaults and robberies) with older peers • Police made s14(1)(e) application • FGC plan led to positive outcomes, though this should not have depended on s14(1)(e) application (Lawyer, Shane) |
| From running away to offending | <ul style="list-style-type: none"> • 13-year-old continuously absconding from placements • Inadequate assessment of the child's needs and potentially more suitable placements • Oranga Tamariki <i>'just kind of let it progress'</i> • Escalation to offending behaviour and s14(1)(e) application • <i>'That's quite a common scenario that we see'</i> (Police officer, Nikau) |
| Lack of or inadequate Oranga Tamariki input despite offending | <ul style="list-style-type: none"> • Child home alone and not going to school • Oranga Tamariki notifications • Child engaging in repeated offending behaviour • <i>'This is the fourth burglary and we can't just keep doing an alternative action'</i> - Police made s14(1)(e) application (Lawyer, Colin) <p style="text-align: center;">*</p> <ul style="list-style-type: none"> • Police repeatedly notified social workers and FGC coordinator regarding 13-year-old child <i>'running amok and breaking into cars all over the show'</i> • <i>'[Oranga Tamariki] will put it on the pile of FGCs they've got to organise and nothing happens'</i> - Police file s14(1)(e) application (Lawyer, Andrew) |

Notably, even children whose offending led to s14(1)(e) applications may not necessarily meet Oranga Tamariki's statutory threshold or receive adequate support. As a result, there may be reluctance to refer these cases to Oranga Tamariki, as reported by senior police officer Dave:

When you look at places in South Auckland particularly where Youth Aid staff might do a 14(1)(e) application, they will know full well the capabilities of their local Oranga Tamariki office to actually address what it is they're putting on paper and because the thresholds are so high, it's often known that it would probably be a waste of time spending all that time doing that for very little outcome. (Police officer, Dave)

Participants felt that Oranga Tamariki was not structurally set up for early intervention and tended to only become involved with families once they had reached a certain threshold of risk and complexity. Participants employed by Oranga Tamariki held the belief that a disproportionate amount of Oranga Tamariki resources was allocated to later stage intervention, such as residential care, rather than early intervention strategies:

The focus isn't right. We know that if you're at risk of offending or you've offended, that doesn't start when you're 10 years old or it didn't start with your first encounter with the law, it starts with typically care issues and other failings much earlier on. We should be intervening more by providing support to families as opposed to intervening by taking away or by using band aid techniques. The model's wrong because it's interventionist in terms of a, like, it crosses a line right, but it's not interventionist in terms of it will change the direction of a family by supporting them [earlier]. (Oranga Tamariki advisor, Andy)

In many instances, children do not receive the support they require until more serious offending and/or the child turning 14 years old lead to entry into the youth justice system:

There's a number of care and protection cases over the years that you could point to that they wait until they offend and then end up in the youth justice system rather than deliver intervention. Yeah, I've seen numerous cases of that over the years. *(Police officer, Nikau)*

While statutory care and protection should be reserved for only those cases in which there are significant concerns for children's wellbeing and safety, there is clearly opportunity for child welfare agencies to address the sub-statutory threshold needs of children and families when their welfare concerns first come to notice, thus seeking to prevent such concerns from escalating. Some participants highlighted recent legislative amendments (i.e., section 18AAA) that may provide for early and sub-threshold intervention to occur:

[Section 18AAA] has the ability, provided it's funded, to pull in families where there are wellbeing issues, where it wouldn't normally have met the high threshold of Oranga Tamariki involvement and where they can put in some actual sustainable things that will help the child remain in the home while fixing things around them. *(Lawyer, Jasmine)*

There's a new section that says even if the coordinator and that decide that the care and protection threshold isn't an issue, you can still have an FGC, Oranga Tamariki can still, I think it's 18AAA or something, can hold an FGC to talk about wraparounds and support. *(Legal counsel, Sophie)*

While these additions to the Act were perceived by stakeholders as hopeful, it remains to be seen to what extent they are implemented. Moreover, there was also concern that the threshold for child welfare involvement could increase as a result of recent amendments to the legislation. For example, the addition of 'serious harm' (as opposed to 'harm') to the care and protection legislation may lead to higher thresholds of child welfare involvement depending on how 'serious' may be interpreted.

Indeed, decisions as to whether a child may or may not receive support were seen as depending on a particular social worker's point of view as to whether intervention was appropriate, rather than a more holistic assessment of a child's circumstances:

You want the worst part of that? You can have identical situations, different social workers. This one says, 'Oh yes, we've got to do something'; this one says, 'Oh no, there are no care and protection concerns' —because we've got different levels of how competent a social worker is. *(Lawyer, Mary)*

Theme 2: High thresholds and a 'watch and wait' approach

Overall, high thresholds for assistance mean that many children and families do not receive the support they require until an escalation of concerns may result in statutory intervention.

This concern was echoed for children who have offended, whose needs may not be assessed and addressed until an escalation of offending leads to entry into the youth justice system.

Additional resources must be devoted to early intervention efforts to provide children and families with assistance sooner and thereby prevent an escalation of child welfare concerns.

7.3. THEME 3: There is poor coordination and insufficient oversight of child welfare cases

Stakeholders reported that poor coordination and insufficient oversight of child welfare and child offending cases mean that children fall through the cracks and do not receive the support they require. This extends to the Family Court, leaving professionals attempting to fill these 'cracks' in the system.

'We can't use kids as bullets to fire between agencies' – poor collaboration, coordination, and communication between agencies

As other research has shown, government and non-government organisations tend to operate in silos, impeding collaboration and coordinated efforts to promote the wellbeing of children and families across health, education, wellbeing and justice (Goerge & Wiegand, 2019; Meier & Sankaran, 2021). Participants felt that the current system fails to provide effective cooperation between agencies:

I think there's been far too narrow a focus on health delivering health, education delivering education, police trying to stop crime and Oranga Tamariki trying to stop children from being abused. *(Lawyer, Robert)*

Who's the lead? I still see a lack of cohesion between the organisations really, to be honest, to come up with a consistent, cohesive plan of how we're going to deal with these things. *(Police officer, Nikau)*

The lack of coordinated efforts to improve the wellbeing of children was attributed to different priorities and ring-fenced funding. As a result, agencies often appeared to take a hands-off approach to becoming involved in cases due to the perception that the child's needs fell outside of their specific mandates or responsibilities:

In theory, all these Ministries and all these different bodies would align and they'd wrap themselves around and you would get the response you need but, in reality, what happens is the barriers are too hard, the hoops you've got to jump through, the navigation's too complex and then because it is so complicated, each single one of those Ministries can and sometimes will say, 'Well, actually, that's not caused by this, it's caused by that.' It will be disputes at the boundary and no-one will provide anything. *(Oranga Tamariki advisor, Patrick)*

For example, a police psychologist working with children who had offended described police reluctance about getting involved with addressing the needs of these children due to such work falling under the responsibility of Oranga Tamariki:

We can't use kids as bullets to fire between agencies, and so I'd often pick them up anyway, but often cases that I'd get referred, the first response would be 'Oh, you shouldn't be doing that, that's Oranga Tamariki's job.' *(Psychologist, Jane)*

The hands-off approach taken by agencies often meant that the sole responsibility over cases was left with social workers:

When the going gets hard, everybody does often step back and the social worker is left as the only person in the room and they do not have the expertise to deal with those kinds of things and yet they're the ones left with it. *(Oranga Tamariki advisor, Andy)*

However, social workers' ability to keep oversight of cases was often limited due to high workloads. Indeed, lawyers for child Samantha and Andrea felt that the stressful nature of social work, in addition to high workloads, could lead to social workers having to go on leave or '*being completely burnt out*', thus further reducing oversight of cases:

You have reviews in the Family Court where the social workers don't really know what's going on. The social worker has to know what he or she is doing, but they're overworked so they go out and they do 30 minutes and they, yeah, they don't really know. *(Lawyer, Samantha)*

Senior Oranga Tamariki advisors noted that, while increased coordination between different agencies is evident in the youth justice system, this rarely systematically occurred in early intervention:

This multidisciplinary, multiagency approach comes in at the end or they come in when you're in residence but they're not coming in at the intervention stage. The social worker might help you find a school, if they do that, but then the school might not provide you with the resources you need there. Meanwhile, something's going on at home and your family's not being supported, so, it's sort of, I think, structurally it's not geared up to be solved. *(Oranga Tamariki advisor, Andy)*

Impact on families

The siloed approach to addressing children's needs increases the burden on families, who are already struggling, in terms of having to navigate complex systems and coordinating their engagement with several different services:

Those families have sometimes got seven, eight agencies involved independently. There's no collaboration. There's a big gap, it's very siloed and so what you've got too, for example, [there's the agency that] deals with mental health. Parents have to go there for appointments, they refer their child there, so that in itself is a big deal to a family member who doesn't have any idea of what that means. *(School principal, Stuart)*

Indeed, Maria experienced interacting with many different services, in relation to her child, as overwhelming:

There was a lot of agencies we were with that I asked them to cut that down to, we got it down to three [laughter], cause otherwise we were doing all these therapies all over the place. *(Whānau, Maria)*

Moreover, limited collaboration between agencies often left families with competing demands. For example, a lay advocate recalled the case of a family who were told by Oranga Tamariki that they needed to get a bigger house prior to returning their children into their care, while Housing NZ said the family needed to have their children back before being eligible to apply for a house:

What I don't get is when you've got Oranga Tamariki that says to a Mum, 'You get a bigger house and then we'll talk about you getting your kids back.' You go to Housing New Zealand and they say, 'You get your kids back and then we'll look at you getting a house.' Is that some sort of a joke? *(Lay advocate, Sue)*

Similarly, the Ministry of Education (MOE) may withhold supports until children are in a stable placement:

Education [says], 'You can't have education without a stable placement.' But these kids are on the run all the time. *(Lawyer, Shane)*

Inadequate interagency processes hinder more positive outcomes for children. Although Oranga Tamariki is generally considered the lead agency for children with welfare concerns, its ability to address the needs of these children depended on their sway in coordinating with other agencies. For example, participants working for Oranga Tamariki lamented that children in care are not prioritised in terms of having their needs addressed by other agencies, such as mental health services:

We have no levers to pull with the other agencies. Our kids spend just the same amount of time on a waitlist as any other kid waiting to see a mental health professional. Now, I understand the dilemma that creates but I think they should have some sort of trump card to say, 'I am complex and I go near the front of the list'. *(Oranga Tamariki advisor, Patrick)*

More collaborative, interagency child welfare approaches were seen as a positive development in responding to the needs of children. For example, Police Youth Coordination teams or Oranga Tamariki Children's Teams are approaches in which various organisations, such as Oranga Tamariki, MOE, Ministry of Health, and Police, involved with children with welfare concerns, meet regularly, share information, and attempt to address the underlying causes of children's welfare or offending concerns:

For example, if I got an aggravated robbery for a 12-year-old, say, that would be one of the first referrals that I would make for that particular week because that's the type of kid or child that we need that information on to make a really good informed decision on which pathway we may take and what are some of the issues in terms of the underlying causes. So, Oranga Tamariki could very well have something ongoing in relation to the care and protection stuff. For me it's about how do we make sure we have the right information, be able to make the right decision in terms of triaging these kids in the right way and that's a really good forum for it. Health will tell us if there's any involvement with [CAMHS] for example and then Education will let us know about their educational status, if they're enrolled in school, stand downs, expulsions, that sort of stuff. *(Police officer, Nikau)*

Agencies then nominate a lead professional who retains oversight of the case and is able to communicate and coordinate with families and different services, rather than a range of services all dealing with families individually:

I think having a lead would be great, if one person took the responsibility for sort of checking in and making sure that things were being done. Otherwise, you go to a meeting once every couple of months and things haven't, oh that hasn't been done or that person doesn't come to the meeting, so then you don't know if they've done their task or not. So, I think some good oversight which doesn't mean that that lead person is directing others, but it's just really around taking the responsibility for keeping abreast of the case. So, I think that would be huge and I can think of a lot of cases I've worked with and am working with where that would be really helpful. *(Psychologist, Jane)*

Moreover, the lack of information-sharing in more traditional approaches meant that agencies working in isolation were often unable to form a comprehensive picture of children's needs, thus perceiving cases as not meeting a particular threshold or warranting intervention. In contrast, increased understanding of children's needs via interagency information-sharing allowed agencies to escalate cases to a higher level of need if necessary, thus ensuring children's needs were more urgently addressed:

That's the joy of a trans-agency approach, you gather the information from everybody that is pertinent to this particular whānau so that you can see the major issues for them. *(Police officer, Dave)*

Participants believed that such models should become more common practice, with privacy legislation updated to enable appropriate information sharing. Notably, there are now models in place which seek to cater to the needs of children below Oranga Tamariki statutory threshold (e.g., the Oranga Tamariki Children's Team). Overall, participants felt that agencies needed to work together, and that 'patch protective' attitudes risked children falling through the cracks and not receiving the support they required.

Poor communication

Poor communication between agencies or professionals also limited oversight of child welfare and offending cases. Some participants were concerned regarding a lack of professionals' meetings, in which cases could be discussed with all involved and to ensure everyone was working towards a common goal. For example, psychologists Pania and Jane felt that they were working in isolation and not updated regarding certain progress or changes:

It's not uncommon for me to be working on a case and then I don't find out until, well, I don't find out, I find out from the kid that the social worker's changed and often when I've gone back to the new social worker about the plan, they don't know what the plan is or the plan that I've arranged with the old social worker is not known. *(Psychologist, Pania)*

If I could change one thing, it would be better communication between agencies and clearer plans. Like when there is collaboration between agencies, often it's very vague who's doing what, often there's tonnes of people involved on paper but you might go to a meeting and find out, well, that person hasn't seen the family for six months. *(Psychologist, Jane)*

Similarly, lawyers stated they were often not updated on matters concerning their cases:

I still get surprises, as lawyer for child, I'll still get surprised and think, 'Oh, has this happened in the last six months and I haven't heard about it or has this happened over the last year?', this child's moved town, never knew, moved out from auntie's care, has done some offending, no-one's told me. *(Lawyer, Jasmine)*

Frequent changes of social workers further affected consistent oversight and monitoring of cases:

It's not uncommon that in relation to a Family Court file, whether it's care and protection or child offending, we might end up with two or three different social workers within three to six months and so you can understand the family's frustration and the professionals working with them because when you're trying to make people accountable to do things, 'You agreed you were going to do this.' 'Oh no, that was the previous social worker, I don't know if I see it that way.' 'Oh no, my supervisor's saying something different now.' So, every time the family try to get progress or challenge the Ministry, 'Why have you done that?' 'Oh no, we didn't know that, I told you at the last meeting, oh I wasn't here at the last meeting,' you can see how it all just unravels. *(Lawyer, Colin)*

Children who have engaged in serious or repeated offending behaviour may in part be lucky due to those under section 14(1)(e) having an element of police oversight, which can help to ensure plans or recommendations are adhered to. In other words, children who have not yet escalated to such offending do not get the closer oversight that could ultimately prevent them from such escalation:

I think [child offending oversight] works fine because again you've got cops involved who are kicking the social workers around and saying, 'Get this done for this kid.' It's more the care and protection ones who haven't offended or haven't offended seriously enough to come to the notice of the police [that are missed]. *(Lawyer, Andrew)*

Lawyer Julie believed that bringing cases back before the court more regularly would help keep oversight of cases:

You get a change of social worker and things don't get done. So, the backstop is getting the case brought back to court early so the Judge can check that it's been done. *(Lawyer, Julie)*

Considering care and protection and child offending cases often unravelled due to insufficient oversight, there is opportunity to hold review hearings more regularly, as is the case in the Youth Court. Care and protection cases in the Family Court are required to be reviewed every six months for children under 7 years old and annually for those aged 7 and over. In comparison, cases in the Youth Court are required, by law, to be reviewed **every two weeks**. Many lawyers said they requested to have cases reviewed in the Family Court more frequently than every 6 months/once a year, and that this was generally accepted, though depended on available court time:

I often ask, as counsel for child, Oranga Tamariki will say this plan can be reviewed at the statutory time, which for over 7-year-olds is each 12 months, and I will often say, 'No, I want it reviewed in three or six months,' if there's something that actually needs to be reviewed. So, if I'm checking whether Oranga Tamariki are actually doing something that they have said they would, then I'll ask for a formal court review in whatever [time] is appropriate. It might be three months, it might be shorter or longer. (Lawyer, Julie)

More regular reviews may be conducive toward responsible parties retaining more oversight of cases and ensuring that plans are implemented and sufficiently adhered to.

'Spotlight's off, the wheels fall off again' – limited oversight in the Family Court

Children who do not meet the care and protection threshold may be at particular risk of falling through the cracks due to a lack of oversight of these cases. Upon entering the Family Court (e.g., due to their parents' domestic violence dispute or custody concerns), these children may receive some indirect supports (e.g., in terms of parents being ordered to complete a parenting course or family violence or substance use treatment). Such intervention is limited and temporary, however, meaning welfare concerns may continue or escalate once the *'spotlight is off again'*:

So, what's happened is, I'm sure interventions have happened, they've failed or they've worked well with spotlight's on, same with the Family Court, spotlight's off, the wheels fall off again. (Lawyer, Jasmine)

More generally, participants stated that where prompt child welfare involvement had occurred, the positive changes that were made often appeared to diminish once the *'spotlight was off'*, at times leading to a re-engagement of these services further down the track. For example, lawyer Jasmine recalled several cases in the last few years in which assistance to families may have been too brief:

We thought we'd sorted it, we thought we had it under control and next thing there's yet another dispute. It might be an identical one from the last one and we go, 'This is a déjà vu, been there done that,' and so again it means that we thought we'd solved something and we haven't. So again, problematic because it means actually there's probably been problems all that time. (Lawyer, Jasmine)

In turn, the wellbeing of these children could be particularly affected due to families not receiving the support they required:

The Family Court doesn't have any ongoing monitoring role. So that's where there's a gap. If you've identified families at risk who don't end up in the Oranga Tamariki arena, because often the reasons they won't have ended up there is we go, 'Well, what's the point, Oranga Tamariki will do nothing anyway, because they don't meet their high threshold for need.' So, we'll keep them there, we'll try and do some therapeutic stuff within this context and then once the spotlight's off the family, that's where things can, you know, less concrete and durable changes have been made, that's when, you know, the issues will continue to arise and will manifest in kids' behaviour. (Lawyer, Jasmine)

Passionate professionals are stepping up to 'fill the cracks' in the system

The wellbeing of children often depends on dedicated professionals rather than coordinated systemic responses. Passionate people from various professions take on a proactive approach to 'fill the cracks' in the child welfare and Family Court system, at times engaging in work beyond their role to ensure the needs of children are met. This may include:

Lawyers asking for extensions to remain involved with cases. Usually, lawyers for child are only appointed for the duration of court reviews and then terminated until being appointed again for the next review. Several lawyers for child said they asked for extensions to remain on cases to retain oversight and ensure plans were progressing and implemented, thus effectively functioning as a backstop:

There are cases where I've said to the Court I want my appointment to continue for this period of the review because there are these three things that need to happen and I basically don't trust anyone to keep an eye on it. *(Lawyer, Andrea)*

If I'm there for the child, my role is to act as best I think, you know, in the best interests of the child, if that's in the best interests for me to help them come up with a plan that addresses the causes of what's going on in the family and I know what's available to help them and I'm in a better position to do it. *(Lawyer, Jasmine)*

Lawyers coordinating different services or other professionals a child may be involved with to ensure the best outcome for children, thus effectively stepping into a social work role and 'social working the social worker':

That's one way I can try to get some traction for the children because I can pick up from school if they're behind or something's going on at school, I can get school counsellors involved, SWiS [social workers in schools] workers, so try to tap in, get Shine [domestic violence agency] involved with mum and the kids if there's domestic violence, yeah. I see my role as almost facilitating whatever supports are out there for the children via mum and dad and that's even, that's non Oranga Tamariki [care and protection] files. *(Lawyer, Mary)*

As a result of the gaps in child welfare and Family Court proceedings (whether legislative or due to a poverty of resources), lawyers stated that their roles and those of other professionals were '*crossing over more and more*' *(Lawyer, Mary)*. Such a proactive approach may be particularly important for cases in which there are clear problems though that may not meet the Oranga Tamariki threshold for support:

The Family Court wants things to be better for kids, it doesn't want to point their finger. So that's where lawyer for child comes up with a plan, a safety plan, lawyer for child has a massive role in the Family Court and having to try and plug the gaps to make, plug the gaps too that Oranga Tamariki have got because of their leaky system of not taking up lower tariff cases for them. *(Lawyer, Jasmine)*

However, many lamented that extending their work beyond their profession was not part of their role and presented a conflict of interest in terms of advocating for what a child may want and protecting their best interests:

Yeah, we don't mind doing that but it's ... we shouldn't have to. It's not our role. *(Lawyer, Andrea)*

The danger is that the lawyers become the social workers and that's what I see happening. At the end of the day, we're advocates, we're not actually very good social workers. That's really dangerous I think cause then you get really mixed roles and you're not quite sure, are you advocating for the child or are you looking for their welfare and best interests? Sometimes what the kid wants and what is in their best interests aren't the same thing. *(Lawyer, Andrew)*

Similarly, such crossover could lead to unintended consequences, such as not being able to take on new clients due to having to spend more time doing work over and above their job description:

So, is that why I don't have enough time to take on new clients, because I'm doing more than my role? *(Lawyer, Mary)*

Police officers also step into gaps in the system, such as driving children to school, generally engaging with them, and organising food parcels. Some participants also described specialist roles within some police districts to engage with children at risk of (re)offending and coordinating between families and other services to ensure these children's and their family's needs are met across a variety of settings, including education, health, and child welfare. However, it appeared that such roles were informal, rather than specifically created or funded.

Theme 3: There is poor coordination and insufficient oversight of child welfare cases

Overall, poor collaboration, coordination, and communication between agencies hinder more effective early intervention efforts.

Agencies tend to work in silos with particular mandates and responsibilities, meaning some children fall through the cracks.

In too many instances, the welfare of children relies on the passion, care, and dedication of professionals involved in their case, many of whom take a proactive approach that goes beyond their prescribed role, rather than a coordinated, systemic way of ensuring children get the support they need.

Insufficient oversight of cases in the child welfare system and the Family Court further put at risk the best possible outcomes for children.

7.4. THEME 4: The Family Court is under-resourced, impairing professionals' ability to make effective child welfare decisions

The limited oversight of child welfare cases noted in Theme 3 was only one of several concerns raised by participants regarding Family Court proceedings. The Family Court was seen as under-resourced and under immense strain, impairing professionals' ability to make effective and meaningful child welfare decisions.

Interviewees pointed out that the Family Court is the busiest court in the country and available court and Judge time is limited. They felt that, on occasion, these time constraints could compromise the ability of Judges to dedicate sufficient time to cases. Participants pointed out that cases in the Family Court could simply not get as much attention as in the Youth Court, with the Family Court having maybe 15 cases to cover in a morning, compared to 6 to 8 across a whole day in a Rangatahi Youth Court. Judges manage fewer cases in the Youth Court, generally retain oversight of the same case, and the professionals involved in a case are regularly brought together in court to discuss plans and assess progress:

The Family Court has some barriers, we're talking about a very, very busy court. One of the chief complaints of Family Court Judges is the lack of time to make informed and meaningful decisions. They are sometimes dealing with 'without notice' applications to uplift children on an urgent basis, where they are literally given minutes to make their mind up whether a child should be removed or not. And from that point on, it's almost as if everybody's playing catch-up as to what is going to be in the best interests of that child. So, it may be obvious that the child must be removed for the child's safety but the plan from then on ... Where is the best place for them to be? What is the best programme, wraparound programme of support for the child and for any caregivers? ... It's removing the really tight time constraints for the Family Court that I think is one of the real challenges. (Lawyer, Robert)

You become familiar with the file when you're involved from day one, working your way through it and so there are some files I can remember just about everything on and there are other files which, if they're reviewed in 12 months, you have to go back and remind yourself what it was about. So, I can only imagine for a Judge sitting there with a pile of files and becoming familiar with each file and you're dealing with hearings, every 15 minutes you've got a different file in front of you, it's quite a complex thing to do. (Lawyer, William)

The Rangatahi Courts [in the Youth Court] take the whole day for sort of six or eight cases, whereas the Judges would have sort of 15 cases in the morning in the Family Court. And you've got to think about their preparation as well. They've got 15 files that they have to try and read before they get into court and some do a good job on that and others obviously have not been able to read the file at all. (Lawyer, Julie)

While many participants expressed that a solution-focused, therapeutic model like the Youth Court would be highly desirable for care and protection and child offending cases, participants were concerned that there simply is not enough court or Judge time in the Family Court to ensure such thorough and close management of cases:

It's a resourcing issue too because the Family Court just doesn't have enough court time and Judge time to be able to become a sort of therapeutic court. (Lawyer, Jasmine)

Resources lacking in the Family Court include specialist assessments (e.g., psychology or drug and alcohol assessments), communication assistance,¹⁴ mentors, and programmes, particularly relative to the Youth Court.

¹⁴ 'Communication assistance' by court-appointed speech and language therapists aims to help a person manage the court process and context, including assessment of speech, language and communication skills, recommendations and support in the courtroom. See talkingtroublenz.org; research by Howard, McCann, & Dudley (2020a & b).

Lawyers working in the Family Court lamented a difficulty to obtain specialist assessments, reporting reluctance on behalf of Judges to grant assessments, at times due to their high cost. If assessments are granted, shortages in qualified professionals willing to conduct the assessments mean that there are often long delays. As a result, the benefits of attaining more comprehensive information on a child and their circumstances, based on specialist assessment, had to be weighed up against the likely delay this would cause to overall court proceedings, as well as cost. Participants stated that the Family Court was not able to order counselling or therapy for children who were not under Oranga Tamariki care, and uniformly agreed that more resources were required to make counselling or other supports available as needed:

We get psychologist's reports through the Family Court which are not Oranga Tamariki, so 133 reports,¹⁵ and the psychologists out of desperation will put at the end of their report these children need professional assistance with A, B, C, with a qualified person but the resource just isn't there. The Family Court cannot order counselling and support for kids. They could order it for the parents but not for kids. (Lawyer, Julie)

Family Court lawyers at times appeared to be unaware of certain resources within the Family Court that may assist children and families. For example, several lawyers stated that lay advocates could be of great benefit to families to support them navigating court proceedings, though that this often appeared to be an untapped (or unavailable) resource. Overall, participants expressed that they wished the resources available to children and young people in the Youth Court were provided to children when their needs first came to notice (e.g., following a first social work assessment or in the Family Court at the latest).

Table 45 summarises some of the resources participants perceived as not (readily) available in the Family Court, relative to the Youth Court.

Table 45. Resources (readily) available in the Family Court vs the Youth Court

| Resource | Family Court | Youth Court |
|---|-----------------------|-------------|
| Time to make informed decisions | x | ✓ |
| Solution-focused model | x | ✓ |
| <ul style="list-style-type: none"> • Smaller caseloads • Same Judge presiding over cases • Hearings with the child, family, and professionals involved • More regular reviews | | |
| Culturally responsive (e.g., Rangatahi courts) | x | ✓ |
| (Relative) ease of access to specialist assessments | x | ✓ |
| Communication assistance | x | ✓ |
| Mentors | Not readily available | ✓ |
| Lay advocates | Not readily available | ✓ |
| Counselling or therapy for children | x | ✓ |

Note. These are the stakeholders' experiences – different courts in different regions may argue they have more (or less) capacity to readily offer these resources.

¹⁵ Section 133 of the Care of Children Act 2004 provides for the Court to appoint a person to prepare a cultural, medical, psychiatric, or psychological report on a child who is the subject of applications for guardianship, parenting order. Section 178 of the CYPF Act provides for the Court to appoint a person to prepare a medical, psychiatric or psychological report on a child who is the subject of care and protection proceedings, and in respect of any parent, guardian or caregiver to which the proceedings relate. (From Family Court practice note Specialist report writers 2018 from www.justice.govt.nz/assets/publications.)

Some participants described finding workarounds to the shortage of Family Court time by making use of 'Crossover Court' dates (that is, the court time allocated for children and young people with both child welfare matters in the Family Court and offending matters in the Youth Court):

I think the problem with the Family Court is getting court dates. So they should look at using the Crossover Court more for these types of files. You know, I've got one file in particular that the Youth Court file closed about two months ago but I've asked the Court to leave the Family Court file and we've called it, sometimes every week, and it's only because the Family Court diary can't cater, you know, there's no available hearing time within a week or two if I was to ask for a short turnaround to monitor this is done and that's done. So, I think closer monitoring and available court time in the Family Court for these types of files, that would be helpful ...make more use of the crossover list. That's filling up these days, you know, and maybe you need crossover to be a couple of days a week. *(Lawyer, Manu)*

I used to try and get care and protection kids into a Crossover Court so that they are regularly monitored because it's easy for people to stop monitoring progress you know and services fall off. Everyone needs to be held accountable and that's what I really loved about the intensive monitoring group and courts you know. You're in there every week, professionals are held accountable. Your key stakeholders are being held accountable, lawyers are being held accountable, the families and the social workers are being held accountable. So that's what I like about it whereas in the Family Court you get these massive breaks and then quite often you start off with a hiss and a roar, things fall off in the middle and then you get this flurry of activity just before you're due for a review, you know what I mean. *(Social worker, Hamuera)*

Participants spoke highly of crossover lists, in which cases with both care and protection and youth justice proceedings are examined together to make more meaningful decisions, as opposed to responding to these concerns in two separate jurisdictions. Participants uniformly expressed a desire for child offending cases to be dealt with in crossover courts in order to dedicate more time and energy into these cases. That is to say, participants believed that even child offending cases that did not meet Youth Court jurisdiction (e.g., s14(1)(e) cases) should be addressed in the crossover court.

However, the crossover court also suffered from a lack of resources and is not available across all regions. For example, one lawyer lamented that crossover courts depended on the availability of dual warranted Judges (i.e., those with both Family Court and Youth Court warrants), and that a shortage of these in his region meant that no crossover court had been available for over a year. Similarly, this lawyer stated that although the crossover court was now available again, a large number of crossover cases from across the huge region meant that one crossover court day every fortnight was not sufficient to cater for these cases. Moreover, while lawyers working in one city court had weekly access to a crossover court, lawyers from other regions across the North Island described a complete lack of crossover courts.

Theme 4: The Family Court is under-resourced for making effective child welfare decisions

Overall, interviewees saw the busyness of the Family Court as hampering timely or well-informed decisions. Compared to the Youth Court, the Family Court had less capacity to be solution-focused (i.e. would need smaller caseloads and more regular reviews to find effective solutions). It was also harder to be culturally responsive, get timely assessments or use services like mentors, lay advocates and therapy for children, than in other courts. Crossover court time (conducting both care and protection and youth justice proceedings) were valuable but were not available frequently enough nor consistently in all jurisdictions.

7.5. THEME 5: 'Is it easier to wait till they're a bit older?' – systemic shortfalls specific to child offending

Systemic shortfalls specific to child offending were seen by participants as further increasing the risk that children who had offended would escalate to the youth justice system. Such shortfalls were described as evident upon the child being apprehended for offending, as well as once cases came before the Family Court. There was ambiguity and confusion as to how to respond to child offending, including once the offending reaches the Family Court, with paperwork and inter-organisational conflict affecting how responses move from the frontline to the court. In part, this seems to be because there are such low numbers of children who offend (which is a good thing), so people in the system do not necessarily know immediately how to respond to them (which is not such a good thing). As a result, participants noted a tendency of the system waiting 'till they're a bit older' to get a more coherent response once children enter the youth justice system.

There is ambiguity as to how to respond to child offending

Children apprehended for offending behaviour may be responded to via a number of different pathways, including warnings, alternative action, or referral to an Oranga Tamariki FGC coordinator to convene an FGC. The relatively small number of children who offend means that officers often do not know which response may be best:

The issue is that [serious child offending] doesn't happen very often but it's very complex, so the odd time it comes up, most people have no idea - what are we talking about here? You know how does an ordinary kind of Youth Aid Officer who hasn't really come across it before approach the system and make the right decision? Cause I could go to the Family Court and I could go to the Youth Court, I could do Alternative Action, you just give them a warning. How do I know for a child what's the best way to approach it and I don't think that police have really focused on child offending in the past.
(Legal counsel, Sophie)

On the one hand, participants commended Aotearoa NZ's diversion approach to child and youth offending, given formal justice involvement is often associated with adverse consequences, such as increased risk of recidivism. On the other hand, children who may require comprehensive assessment and intervention may fall through the gaps (e.g., by being given a warning or responded to with alternative action), as the underlying concerns of their offending may not be identified:

The first-time offender, so they've been caught and so let's consider warnings or alternative action before we go to FGC but sometimes when you dig deeper you see that okay, yeah, it is first-time offence that they've come into contact with police but there's all this underneath stuff going on that can't be addressed by a warning or an alternative action plan. *(Police officer, Vicky)*

In turn, their needs may not be addressed until an escalation to more frequent or more serious offending leads to youth justice involvement. Current practices are not conducive to identifying which children may benefit from more formal processes rather than warnings or alternative action, suggesting an opportunity to develop and implement an evidence-based screening tool. Some participants suggested that, in other cases, frontline police officers diverted children who had offended via alternative action despite being aware of some underlying needs of these children due to the perception that a referral to Oranga Tamariki would yield minimal beneficial outcomes (e.g., 'nothing happens anyway') and thus not be worth the time and effort to submit.

The ambiguity as to how to respond to offending by a child is exacerbated due to such offending falling under two jurisdictions (care and protection and youth justice). Legal counsel Sophie had a lot of experience with police and felt that police officers were less familiar and comfortable in the care and protection and Family Court arena relative to youth justice, due to care and protection primarily being the domain of Oranga Tamariki. For example, she noted that police officers experienced uncertainty as to how to file care and protection orders:

Talking to police officers who ring up and say, 'I want to seek a declaration,' of course you can't do that now, but, 'I want to seek a declaration, how do I do that? What do you do to sort of approach the Family Court, what are the forms, what, you know, is it different wording for the Family Court, do you use different jargon, are the court processes different?' They feel really uncomfortable in that arena. They're used to the criminal justice arena. So that's one of the big problems is you've got a crossover between criminal justice and care and protection. (*Legal counsel, Sophie*)

Similarly, separate Oranga Tamariki care and protection and youth justice divisions mean that it is often unclear as to which social worker is responsible for children who have offended. Furthermore, there are differences in the extent to which particular measures to address children's needs can be applied in care and protection compared to youth justice. In care and protection, measures that may support children's needs, such as engaging in a programme or ongoing mentoring, cannot be directed. On the other hand, offending behaviour, rather than the underlying needs that led to the offending, often take precedence in youth justice proceedings. As a result, the care and protection needs of children whose offending is dealt with in the Youth Court may not necessarily receive sufficient attention. Although the expectation to address these needs is stipulated in the Act, participants' comments suggested that legislative stipulations may not always translate into practice. While there may be certain individuals with increased knowledge as to how to best respond to offending by children, such knowledge did not appear to be widespread across organisations (e.g., police and Oranga Tamariki):

I think that problem comes from the crossover thing, and it happens with older kids too. They might have care and protection needs, so they could be a bit of both, you know, and if you're dealing with them before the criminal law, you can only do as much as is proportionate to their offending but you can't say, 'I'm going to mentor you for the next 10 years,' even if that's what they need, because you can't do that with criminal justice. But care and protection is different and you might be able to work with them for longer and that's a world Oranga Tamariki understand. I don't get the sense that there's a lot of police who understand Part 2¹⁶ of the Act well. (*Legal counsel, Sophie*)

Participants also noted a tendency for Oranga Tamariki to respond to children's concerns under the umbrella of youth justice rather than care and protection:

When I get involved as lawyer for child, you can see that there's been lots of notifications made over a number of years and nothing done about it and it's not until a youth commits a fairly serious offence that suddenly Oranga Tamariki then get involved in the care and protection side and then they try to sort of avoid being involved in the two courts so they will then happily pass it over to the youth justice side of things and let them deal with it rather than take it as a care and protection thing. (*Lawyer, William*)

Notably, while some expressed concern that the Act was difficult to navigate and appeared piecemeal in places (e.g., limited guidance as to how to best deal with children via alternative action despite this being one of the most commonly used pathways to respond to child and youth offending), the majority of participants believed that the Act effectively accounted for children's wellbeing, though was not necessarily interpreted in practice as intended.

16 Part 2 of the Act covers care and protection legislation.

Complex paperwork and inter-organisational conflict make it hard to act

What participants described as complex Family Court paperwork and inter-organisational conflict represent further challenges in child welfare and Family Court proceedings in relation to child offending. Participants frequently stated that paperwork to file applications in the Family Court was complicated, thus impeding efficient proceedings. Moreover, these difficulties were exacerbated by inconsistencies across courts and frequently changing requirements:

There's no formatted standard of what should be done and I think that has created issues. I can remember over the years when we used to have to go to court, it would depend on the person who was there and how they liked to have the application filed. They might have one certain page a certain colour and then, yeah, it was a real difficulty. It's a difficult process and it's not a process which Police generally engage in all the time and sometimes there may be a lapse of time between a particular group doing it and then the process seems to have changed a little bit. *(Police officer, Nikau)*

Efficient proceedings depend on expertise within organisations and are therefore significantly impacted when such expertise is no longer available. This may be particularly the case in rural regions, in which there may be a shortage of people with the knowledge of how to file Family Court paperwork in relation to child offending (e.g., s14(1)(e) applications). A lawyer for child and youth advocate practising in a region noted a stark reduction in s14(1)(e) applications, most likely meaning that children were more likely to be dealt with via alternative pathways, in which the underlying concerns of these children may be less likely to be identified and addressed:

Police don't really bring 14(1)(e) applications anymore. I used to deal with maybe two or three a year, now I'd be lucky if there is one a year, if that, because, one, there's two issues I suppose, one is I don't think the Police Youth Aid are skilled or trained to do it. There's also the concern that if we do this, are the lawyers or is the system going to throw us out in that sense, you know, cause you're filing proceedings in the court, have we got this right? *(Lawyer, Colin)*

Potential conflict between the police and Oranga Tamariki may represent another barrier to police filing care and protection orders:

Oranga Tamariki, in my dealings, would be usually upset that the police have applied to get custody, cause under the 14(1)(e) the Ministry by default get the order, they never want it, and so they are always peeved because the police make them look bad cause the police went and got an order that the Ministry didn't and the police are peeved because they had to do it cause the Ministry did nothing, and then the Ministry don't really like working with the police. *(Lawyer, Colin)*

Complicated paperwork as well as the possibility of getting drawn into conflict with Oranga Tamariki lawyers may therefore discourage police officers from filing s14(1)(e) applications:

Police officers are really busy and the thing is, if it's too hard, they're just not going to, I'm not saying they're not going to do it, but they can deal with children alternatively, cause the alternative action programme is massive and so they're just not even going to go to court, even if that might be a better idea, it puts you off going to court. So, having accessible information I think is really important. *(Legal counsel, Sophie)*

In some instances, there may be a tendency to wait until an escalation of offending or children turning 14 years old lead to a youth justice response:

Unless you're doing them regularly, it's not easy but to a lawyer it's kind of not easy either, so to a police officer who's not trained with that, trying to file documents in the court, then to get the lawyer for the Ministry saying you're not doing that, you shouldn't have done that, you should do it this way or we would have done this, it becomes you know problematic. So, it's too hard. We don't want to end up in a battle. We'll just park it, go and give them another warning, so I don't know what their thinking is but it's completely dropped off and I think it's just got too complicated. So, is it easier to wait till they're a bit older? *(Lawyer, Colin)*

While other participants did not believe that complicated paperwork would stop police officers from filing such applications, the process nonetheless caused frustration and undue delays due to having to figure out exactly what was required:

It just makes it more difficult. We're talking about delay, it might mean that we have to go back and change something and then go back again. It wouldn't mean that we go, 'Oh nah, this is too hard', it would just mean it's a pain [laughs], just gives us a headache but we'll still, at the end of the day, we're still going to go ahead and do it but it just elongates the process sometimes and it would be good to know, like, 'This is what the standard is, this is what's required, go and do it.' *(Police officer, Nikau)*

Overall, participants lamented that *'the whole process could be a lot clearer'* and that the only reference tool (the *Child Offender Manual*) was outdated. There was strong interest in an updated *Child Offender Manual*, which outlines the various processes police and other organisations may undertake when dealing with children who offend:

It's really important for police to have a reference tool that's very practical and what was good about that manual was it had examples of the court forms and it had lots of flowcharts so, you know, the FGC and then this and then this. It was a great resource and it really needs to be updated. Having really good, simple, accessible information for police officers is important. *(Legal counsel, Sophie)*

That's old. It was great, it was gold, it was perfect. That needs to be redone. We need to understand the process better and that's why that *Child Offender Manual* was really good. It was a really easy, 'Oh this was our role, this is what we do, this is what they're going to do, these are the things that we need to think about.' *(Police officer, Nikau)*

The need for an updated manual may be particularly relevant due to recent amendments to the Act.

Ambiguity regarding child offending extends to the Family Court

The relatively small number of children who have offended entering the Family Court means that professionals, such as Judges and lawyers for children, often do not know exactly how to respond to the needs of these children, thus potentially hindering more positive outcomes:

Sitting in court, you wonder how good the process is if people are not sure what they're supposed to be doing, because you've got a Family Court Judge dealing with a criminal issue and Family Court lawyers probably have not had a lot to do with criminal stuff in their careers. *(Legal counsel, Sophie)*

The benefits of care and protection interventions imposed on children who have offended and their families may be limited, prompting some participants to suggest a rethink was required in terms of how to best respond to the needs of children and families:

Just because you have a hearing and find that they did commit the offences such that they're in need of care and protection and you impose a custody order, what has that achieved really, cause then you put them in a new home and they run off. Maybe you kind of have to have like a whole fresh look at it cause if you keep doing what you've always done, you're always going to get what you always got. *(Legal counsel, Sophie)*

Theme 5: 'Is it easier to wait till they're a bit older?' Systemic shortfalls specific to child offending

Overall, participants observed that systemic shortfalls once children have offended further impede the provision of effective assistance to children, thus missing an opportunity to prevent children escalating to the youth justice system.

There is little guidance for police officers to know how to best respond to children who have been apprehended for alleged offending behaviour.

Although the emphasis on diverting children from formal justice proceedings is commended, this may impede the provision of supports to children who may be at particular risk of continued offending because the circumstances underpinning their behaviour are under-explored.

Ambiguity, and resulting conflict at times, regarding responsibility for the welfare of these children, in terms of which agency (e.g., police or Oranga Tamariki) or which division (e.g., care and protection or youth justice division within Oranga Tamariki) should lead the response, can further prevent children from getting the supports they require.

Complex Family Court paperwork in relation to child offending causes frustration in many instances and may prevent police officers from referring children to the Family Court.

When children are referred to the Family Court, participants in the system, including legal professionals and the judiciary, may be unsure how to best deal with these cases.

7.6. THEME 6: 'It can be a lifetime for children to get their issues resolved' – child welfare and Family Court proceedings rarely proceed in a child's sense of time

Chronic delays and inefficiencies in child welfare and Family Court proceedings were seen by participants as also preventing better outcomes for children with welfare and offending concerns. Participants were unanimous in reporting 'horrendous' delays, often with significant frustration, including delays in holding FGCs and court hearings, delays in receiving specialist reports and assessments, delays in organising placements, and delays in forming plans and implementing recommendations. There were general delays across systems and fears expressed about how the delays particularly affected children, as well as the increased risk to the communities within which they might offend.

'14(1)(e) in the Family Court, the time it takes to get to the FGC is forever' – delays to get to the FGC

Despite legislation stipulating that youth justice FGCs (i.e., including s14(1)(e) cases) should be held and completed within one month after they are convened, this could often take several months and, in some instances, nearly up to a year:

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

Participants who practised as both lawyers for children and youth advocates were dismayed that delays were particularly pronounced in care and protection. These delays were attributed to a shortage of resources at Oranga Tamariki, which is the agency responsible for convening and holding FGCs, such as not enough care and protection coordinators:

In this case, there was nothing holding up the Family Group Conference process other than their backlog of cases, the fact that Oranga Tamariki are under-resourced. *(Lawyer, Jasmine)*

The YJ coordinators can [hold FGCs in time], why can't the care and protection coordinators? It just amazes me that they take so long. Fundamentally, if there's coordinators on sick leave and they're one short anyway because some have retired then you can't actually create a coordinator you know, it's up to Oranga Tamariki to cover those sorts of things. The three to six months [delay] is just crazy, especially when you've got the without notice application for a, you know, an order to uplift the kid. *(Lawyer, Andrew)*

Delays were also attributed to differences in care and protection and youth justice legislation, such as a lack of stipulated timeframes for care and protection FGCs relative to youth justice FGCs:

The other thing [the Youth Court] have is time limits on holding Family Group Conferences, which they don't have in the, you know [Family Court], and so we get Family Group Conferences within two to four weeks [in the Youth Court] and care and protection get them within, you know, three to six months and it's the same process but we've got an actual statutory requirement of holding them within that period. *(Lawyer, Andrew)*

Delays to get to the Family Court hearing

Limited availability of Family Court time for hearings means that child welfare and child offending proceedings that need to be heard before the Court are further delayed, often by several months. As a result, lawyers stated they would often schedule half-day hearings due to such times being available sooner, but that many cases then needed to get adjourned to a further hearing on a day when the same Judge would be available again:

It happens all the time. Lawyers will ask for half days because they'll know that they come in quicker, so if I ask in August I might get it September but they're rocking up for their half day and then the hearing goes longer, gets part heard, gets adjourned, and we wait, we wait, we wait 'til a Judge, that same Judge who heard that hearing, is available for another half day. Causes more delay for children. (Lawyer, Talia)

For children that have offended, most of those files would run probably for at least 12 months I would think. (Lawyer, Colin)

Notably, delays even occurred in instances where an application for a care and protection order had been made. For example, one lawyer recalled that one of his children was still awaiting a hearing more than a year after police first filed a s14(1)(e) application, despite legislation stipulating that cases where a care and protection order is sought are to be held within 60 days of the order being made. (And this is pre-COVID19.)

Participants again noted differences between Family Court and Youth Court proceedings, pointing out that Youth Court processes were much more efficient, in part due to legislated timeframes:

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

Samantha went on to state that timetabled hearings for care and protection matters should be legislated in the Act:

They should have a firm policy and it should be written into, this is Family Court I am talking about, written into the legislation with a particular type of case, the hearing time has to come back before the court within two weeks or you know some specific timeframe, but it's urgent. (Lawyer, Samantha)

Similar to the delays in FGCs being convened, participants also stated that court hearings were often delayed due to what they saw as poor Oranga Tamariki practices, such as failing to file FGC plans, which then adjourned cases to a later date, often months in the future:

I had a hearing that was due to be heard yesterday following an FGC but because Oranga Tamariki failed to file the FGC plan, the Judge adjourned it, she vacated it and she said, 'No, I'm not going to hear it, Oranga Tamariki you're late.' What does that mean for the kids? That's another example of the court being fed up with them, cause all these lawyers, all the parents, family, we all rock up to court and the Judge says, 'Sorry, no FGC plan, we can't hear it today.' (Lawyer, Talia)

Despite stipulations requiring child offending cases to be fast-tracked through the Family Court system, a lack of resources means that preferential, efficient management of these cases is impracticable:

It's all very well to have legislation that says you're going to fast-track things but if you don't have the resources to allow that to happen it falls down. So, it's just one of those things that we have to accept that money has to be spent on. (Lawyer, William)

‘There are delays in assessing what’s at issue for a family and the children’ – report and assessment delays

Shortages in professionals able to undertake specialist reports were seen as further delaying Family Court proceedings:

Any specialist report is a delay, psychology report, neuropsych reports, things like that, cause it's just 1) there's only so many people who have that expertise, 2) their resources and their availability. *(Lawyer, Colin)*

There's chronic delays. Chronic delays with just stuff being dealt through the Family Court, chronic delays with report writers coming back in a timely manner and this is all against the actual legislation that says that decisions for children need to be timely. *(Lawyer, Talia)*

Even where there were many ‘red flags’ in a child’s history, from police involvement and school concerns, it could take many weeks to get a social work assessment:

I'm asking the court, ‘Can I please get Oranga Tamariki to do a social worker’s report. Why? Cause I think there are potential possible care and protection concerns that really need to be addressed.’ And I'm not asking Oranga Tamariki to come swoop in and take the kids, but come in, be some extra eyes on these kids. Because I see a history, because I've got the police history, I've got the school, I've talked to the main stakeholders in these children and there's red flags. So I want those red flags to be signalled to the court really early on. ... It goes down like a lead balloon because they're under-resourced. I might be waiting 8-10 weeks for a report to come back. *(Lawyer, Talia)*

A shortage of psychologists willing to undertake Family Court assessments further contributed to assessment delays:

Who wants to do court reports for Family Court, because I would say the complaints that come in for psychological reports under Family Court, you know. You can understand that they don't want to do that work. I don't blame them. I wouldn't do it. *(Lawyer, Andrea)*

Yet, participants felt that specialist assessments were important to identify children’s needs and recommendations to address these needs:

You need someone to come in and do an assessment, even a brief assessment to find out what's going on in these families and what's recommended. Then it needs to come before the court with clear recommendations. We shouldn't have to wait as long as we do. There's a huge waiting period. *(Lawyer, Samantha)*

Considering these delays, professionals had to weigh up whether they would request assessments or continue without them in order to minimise delays in a child’s court proceedings. As a result, the needs of children were often not sufficiently assessed:

There is a huge shortage of psychologists who are prepared to undertake assessments for the Family Court and hence there are very long delays. So, six-month delays are not unusual for a report to be started, and so Judges say, ‘Look, if it's going to be that long, we're going to do without it.’ *(Lawyer, Julie)*

Delays due to shortages in professionals able to undertake such assessments were particularly evident where professionals were expected to travel from the city to do regional or rural work, as Samantha explained:

They're not being done in the Family Court. It's a cost thing. It's so difficult to get an expert involved in Family Court proceedings. We had to wait two years before we could get a psychologist. It just takes forever because you have to get someone from [the city] to come [here] and do these assessments. *(Lawyer, Samantha)*

She further outlined the chain of delays there could be, from waiting for a judicial conference, to waiting for actions asked for by the Judge to be carried out, to specialists elsewhere being unavailable because they are already too busy:

Well, you get the report, you read it and then it goes off to a Judicial Conference and you tell the Judge what you want to happen. So sometimes you have to wait two or three months for the Judicial Conference, having waited maybe two, three, four, six months for the report and then the Judges ask for intervention by social workers who either don't get the emails or don't respond, or don't do anything, and it comes back three months later or six weeks later and nothing's happening for these serious families. So, it's lack of resourcing, lack of court time and lack of experts, properly qualified in the specific areas. Lots of experts won't work [in the regions], that's probably, because they're overcrowded in the work they've got in [the city]. *(Lawyer, Samantha)*

These shortages also applied to personnel able to undertake cultural reports:

Cultural reports are few and far between because there are not enough people doing them. *(Lawyer, Andrea)*

The thing with asking for reports is they cause more delays. If there weren't the delays, then I think I'd ask for a cultural report every single time I have a Pasifika family. *(Lawyer, Talia)*

More generally, participants expressed frustration that work to identify children's and their families' needs should have been undertaken long before Family Court involvement, and that the delays in obtaining assessments limited effective and informed decision-making:

So, if you've got really challenging young people with all sorts of dynamics, is it fetal alcohol, is it conduct disorder, is it ADHD? What do we do, what sort of things can we be looking at? Six to eight months' wait [for a psychology assessment], and I think that's the frustration - it's not like this all just happened today. The warning signs and the triggers have been there for years and so it's not until it gets to the court that everyone expects the court to do everything and it's like, well, you know, to be fair to the Judges, how do we make an informed decision when we don't even know half these things yet and you're telling me they've been known by the Ministry for years? Where now the child is 14, all sorts of behavioural issues, well, has anyone ever looked at this prior to, you know, and that's the frustration, yeah. *(Lawyer, Colin)*

Placement delays

Inefficient processes to organise children's placements can cause further delays in responding to the needs of children. Participants found it could often take months for Oranga Tamariki to identify appropriate caregivers or complete paperwork to make placement referrals:

That's one area that I want Oranga Tamariki to really work hard on so that we get our kids out of foster care and into families sooner and not wait eight months, ten months, a year before they're back with family, if not with mum and dad, for the most part they can't go back to mum and dad, but if we can find family, good families sooner, then that will alleviate a lot of stress for kids. *(Lawyer, Talia)*

As a result, children may end up in secure care and protection or youth justice residences for longer than they need to:

When there are multiple referrals to be made for a placement you know there's a lot of information that they have to provide in the referral form and I know it takes a lot of time to type those up and sometimes there's a delay in sending those out. I don't know what they can do around pooling that information so that, you know, it's something that's not as time-consuming for the social workers that they can you know bang away in half an hour or so or whatever. Because then we're waiting until the referral's done for an answer back on placement and so especially when you've got a kid in custody who doesn't have anywhere to go but for these placement referrals, then it ends up being, 'I'm still working on the referral,' you know, so that should have been done yesterday, you know what I mean. Meanwhile, the kid's in a residence. *(Lawyer, Manu)*

Delays in forming plans and implementing recommendations

Delays were also noted in the development and implementation of FGC plans. For example, FGC decisions could often not be finalised until they were signed off by higher management:

There's a whole level of things that seem to get in the way of outcomes, a whole layer of sign-offs that need to happen and I understand that people need to make decisions but, you know, things seem to drag out before we actually get any action and I think for me that's one of the real battles. *(Police officer, Nikau)*

If you need special funding, they say they will have to go up the chain to get the funding and I'm thinking, well, these are, by the nature of the application that's made to court under 14(1)(e), they're serious complex cases and I am thinking, well, you know, isn't there an easier way of going through that, you know, cutting down the red tape? Maybe a pool of money that should be allocated for these types of cases that are easier to access for the social worker. *(Lawyer, Manu)*

Sometimes when you've got the opportunity to do it, the funding isn't cleared from the Department. That needs to be on point straight away. Like, don't leave it hanging so then the child's missing out on all these things that they're entitled to because the approval's not signed off or the funding's not signed off. Through [my son's] experience, a lot of these things dragged and dragged and dragged. *(Whānau, Kourtney)*

For example, a city lawyer recalled the case of a boy who had offended who had started to engage in a music programme though had to wait for further funding to be approved prior to continuing, thus placing this child at risk of dropping out and reoffending:

He's about halfway through his first block and the turnaround has been amazing. So I have just indicated to Oranga Tamariki that this is the impact the programme's having on him, he's settled, big turnaround and we are asking them to confirm the next 10 sessions and to get in there while there's a vacancy but we've got to get the funding approved, you know. So the frustrating thing was that to get the first 10 sessions approved, it took weeks, yeah. *(Lawyer, Manu)*

Again, obtaining approval for plans was more efficient in youth justice relative to care and protection FGCs:

The YJ team, they are generally really good because they can just get hold of the YJ manager. Yeah, and say can we fund this, can we fund that. We normally get an answer at the FGC and I think the difference is the YJ manager has only got probably, I don't know, 30, 40 YJ kids to manage and to make a decision on, versus 2-, 3-, 500, so it just gets clogged up. *(Lawyer, Colin)*

Delays in general

Shortages in Family Court resources in both urban and regional centres contributed to delays in child welfare and child offending proceedings more generally. Again, although these proceedings are expected to occur in a child's sense of time, resource shortages meant that this was rarely practicable:

The Court wants to get things totally resolved within a short time period. The law says within a child's timeframe so that a child understands what's going on and yet we can't do it. We don't have enough courts, we don't have enough Judges, we don't have enough lawyers, we don't have enough court time. We have one resident Family Court Judge in [our town] and one in [another nearby]. We used to have an extra one but he retired and he didn't get replaced. Those Judges, first of all, they get sent around the country to sit in other places without us getting someone in return. They have time off, they attend seminars, it's not like he's here 52 weeks a year. I would guess that he's sitting no more than 30 weeks a year here, if that many, and you want to get something into Court, good luck. I've got a hearing next week. It's the longest case before the Court here and it's, well, it's been going on since 2008, I've been lawyer for child for, the current proceedings are 2015 or '16, one or the other. These kids need a decision. *(Lawyer, Mary)*

Shortages in resources meant that the response time to children and families in need was prolonged more generally:

On a much simpler level, we have just the delay of getting social workers to do things. So, I've got a young person. So, the school counsellor is ringing me saying she's going to self-harm, she's going to commit suicide. She's so worried she's ringing me because this is currently subject to the Family Court. So, I make a report of concern, the counsellor makes a report of concern, child thinks people are listening, three and a half weeks later the social worker gets to visit the child at the school. So, it's like if that's the response from a care and protection social worker to a counsellor from the school and a lawyer for the young person saying, 'Please, we need your urgent assistance!', what is the response to a 'normal' family? *(Lawyer, Colin)*

Unfavourable Oranga Tamariki practices, such as Oranga Tamariki's assignment of less experienced social workers to s14(1)(e) cases, also appeared to contribute to child welfare and court delays:

I always try and advocate for a senior social worker to be assigned to these types of cases. I've sort of made my views known to supervisors who assign graduates to, it's just an extra delay because a graduate doesn't know what to do so they've always got to run it by the supervisor or someone else. You can't get an answer from them because it's always, 'Oh, I'll let you know'. I don't understand the logic in why they assign a, you know, to a 14(1)(e) kid. *(Lawyer, Manu)*

Given the complex and often intergenerational concerns and issues faced by families, there were also delays caused by family conflict, as Jasmine explained:

If we've got one parent who's withholding a child from another parent and it's taking months to get into court, there's damage done to that kid and it's heart-breaking when you can't help that kid because you can't get it before a Judge. *(Lawyer, Jasmine)*

Overall, participants believed these delays were in direct conflict with the Act's principle to deal with child welfare and youth justice matters in a child's sense of time:

Delays, delays, hugely bad, and you know, completely against Section 4 of the Care of Children Act which, you know, things must be done within a child's sense of time. I think there is a mirroring provision in Section 13 of the Oranga Tamariki Act about child's sense of time. It can be a lifetime for children to get their issues resolved, you know, it can be the entirety of their childhood if we're not careful. *(Lawyer, Jasmine)*

The general sense of delay seemed evident in the Oranga Tamariki case files – for instance, an FGC held in 2020 that was four years after serious behaviour was reported at the child's school, and more than a decade after notifications about the child at age 2 and about his older siblings before he was even born.

'When's this ever gonna end?' – delays are particularly detrimental to children

Participants from diverse professions all shared the view that delays were particularly detrimental to children, while also increasing risk to communities. These three long quotes illustrate the sense of lost opportunity and heightened risks from the perspectives of three professionals involved in the system:

So, if you've got a child offender, the adverse effects would be, well, risk to the public and risk to property. Risk to the young fella or the young person is really going to be around I think them putting themselves at harm because they get frustrated with the placement they've been put in, they get frustrated that things aren't changing, so they gap it and then that puts them at risk and puts the public at risk. So, there's that side of it, then I think there's that side of the mental wellbeing that **'no one gives a crap about me, here I am stuck here and when's this ever going to end?'** So, yeah, I think that's the bigger issue, cause a lot of them, they don't have a sense of who I am or where I belong and so I don't think it helps when you're placed in an environment where that's perpetuated really. *(Lawyer, Colin)*

Things seem to drag out before we actually get any action and I think for me that's one of the real battles cause we can get families to the conference, we can get families partially engaged in the process and understand what we're doing but if they don't see any meaningful action, they become really quickly disengaged and I think we lose that opportunity to get outcomes if we keep protracting and prolonging the process and keep coming back to the Family Group Conference again and again and then the same with the Family Court, you know. I think it's really important that we, you know, within reason, move things along as quickly as we can cause we always talk about the principles of the Act, right, and we always talk about decisions being made and the timeframe appropriate to a young person's sense of time. The younger they are, the shorter that time is. So, in theory, **we should be having things done extra quickly in the Family Court**, and when we're dealing with child offenders, than we would with a 16-, 17-year-old, right. I'm not sure we get that right. *(Police officer, Nikau)*

Well, I think it's kind of worse for children but if things aren't decided in the Family Court, whether it's custody proceedings or care and protection proceedings, having to wait a year for things to be decided, it's bad for anybody but for a child, it's much worse because of their timeframes and just their immediacy and their capacity to hold on and wait. So, **delays in court proceedings probably impact worse on children than they do on anybody [else]**. *(Psychologist, Vanessa)*

Theme 6: 'It can be a lifetime for children to get their issues resolved' – child welfare and Family Court proceedings rarely proceed in a child's sense of time

Overall, participants provided evidence that child welfare and Family Court processes are saturated with delays and inefficiencies.

Delays in holding FGCs and court hearings mean that the needs of children cannot be immediately determined.

Once these proceedings have been held, shortages in professionals able to undertake specialist assessments cause further delay.

Delays in organising placements and forming plans—and implementing them—also impede the prompt provision of assistance to children and their families.

While legislation stipulates that proceedings should occur in a 'child's sense of time', this is rarely the case, increasing the risk of harm to children and communities.

7.7. THEME 7: FGCs can be excellent, though often vary in quality

Family Group Conferences can serve as an excellent tool to bring together children, whānau, iwi representatives, and the various professionals involved in a child's case for the purpose of discussing welfare and/or offending concerns and formulating a plan to address children's needs and those of victims (if applicable). However, their implementation was often perceived as variable. The offending would be the focus, ahead of the child welfare issues and families were poorly oriented to the FGC process, feeling excluded from decision-making, thus impacting on both the process and its outcomes for children and families. IDI data on FGCs are also presented, indicating their impact was indeed variable.

Offending matters often take precedence over underlying welfare concerns

Offending matters, rather than the underlying welfare concerns that contributed to the offending, often take precedence in FGC proceedings. Participants stated that FGCs for children who have offended tended to mirror youth justice FGCs for older youth in terms of predominantly discussing and seeking to amend a child's offending behaviour:

[Children who offend] are seen more under the youth justice lens as opposed to the need for them to be seen under care and protection. So, the behaviour gets looked at first as opposed to looking at what has happened to this child that has led to this behaviour. There's a tendency to look solely at the offending behaviour in some of the practices that are out there. *(Psychologist, Pania)*

We seem to shy away from some of those really hard conversations around what those real underlying issues are and, you know, parenting - you know, do we need to look at, what can we do better to support you guys to make better decisions? What about, why aren't they going to school? Is there learning disabilities that we don't know about? I think sometimes we don't dig deep enough. *(Police officer, Nikau)*

As a result, FGCs often tended to focus on outcomes, such as writing an apology letter or doing community work, instead of assessing and responding to the factors that likely led to the offending:

People get caught up with the offences and actually lose sight that it's their care and protection which is actually the foremost concern. There isn't a lot of difference between a youth justice Family Group Conference, so for a 14- to 18-year-old now, and a child offender FGC. The ones who I've seen recently look exactly the same as the youth justice ones, and that's what the outcomes look like. It will be community work, it will be 'go to school, live at home'. *(Police officer, Nikau)*

Unsurprisingly, the predominant emphasis on offending and holding children to account meant that the underlying reasons for children's behaviour can remain unaddressed, leading to the continuation of offending and another FGC in many cases:

What I've seen in the past is with FGCs, both YJ and some care and protection, you sort of do these, you know, like, you'll have an FGC plan that has apology, like for a YJ, apology letters, a bit of community work, oh we'll do, oh he's a bit angry we'll do an anger management course and get him back to school and it's sort of like a tick-the-box plan that 'Oh, we've done the FGC'. We should be doing the best plan the first time round and if we have to do a little bit more research into what the underlying issues are, let's take another week to do that and then we get a really robust plan ... *(Police officer, Vicky)*

Participants believed that professionals' focus on the offence could be attributed to a variety of reasons, including limited clinical understanding of children's behaviour by the professionals involved, insufficient assessment of children's needs, and the inherent difficulty of holding challenging conversations with families when seeking to address the underlying concerns.

‘I didn’t know what the hell was anything’ – families are not sufficiently informed about statutory processes or included in proceedings and decision-making

More emphasis needs to be placed on preparing families for FGC processes and the various possible outcomes prior to the FGC taking place. Participants remarked that FGCs and Family Court proceedings were complicated, thus needing to be explained to children and families so they could meaningfully participate and make informed decisions:

The whole Family Group Conference process is complicated as it is, being able to talk to children, talking to the families and explaining what the next steps are, what the process is and why that is. It’s complicated because when people generally think about court, they think about the criminal elements of court. Whereas in the Family Court’s a different focus and whilst we talk about child offending and we talk about offences, that isn’t the primary concern. The primary concern is actually the welfare and wellbeing of that child or young person and it’s more of a rehabilitative and restorative kind of process. I don’t think that’s explained particularly well. *(Police officer, Nikau)*

The complex nature of child welfare proceedings and insufficient efforts on behalf of state representatives to explain these processes in some instances led to families experiencing confusion and rudimentary understanding of statutory processes. As a result, the ability of families to meaningfully participate and make informed decisions could be severely limited:

My experience, to be honest, was horrible. It was horrible cause I went in blind, I didn’t understand how the system worked. If it had been explained to me better what the Department [Oranga Tamariki] was about and how they could assist to help and how they could have supported in a positive way and will you allow us to help you and this is what I think I could advise and what are your thoughts? If I had been given the understanding of what happens in a courtroom, ‘cause you’re not educated at school into how all these Acts and all these laws all fall into place, you don’t know. *(Whānau, Kourtney)*

I didn’t understand all the legal or jargon talks and expectations that they wanted, I didn’t understand anything [laughter]. I wanted to know what the hell was a 333, what the hell was a 101, what does that mean, what’s a court order, you know. *(Whānau, Maria)*

Whānau participants described a sense of powerlessness, stating that they were unsure of their right to engage and participate:

It was scary. I didn’t like it at all. I felt that I was set upon, ‘cause I didn’t know what the hell was anything. I felt like I had no right, no say to anything and that I had to listen to what everybody else said because my children had been taken out of my care. Nobody gave me the opportunity to tell me that I could say something, that I had every right to. I didn’t know that for a long time. A damn long time. *(Whānau, Maria)*

When families were offered information, this was often not easily comprehensible or appeared to reflect an aside or afterthought, rather than an integral part of child welfare proceedings. For example, whānau were often not informed of potential placement options until the FGC, or only had a half-hour meeting with the social worker prior to the FGC taking place:

Not a thorough explanation or they don’t discuss it, they never discussed it with us. Sit down with the social worker, it was always kind of like a rushed thing. *(Whānau, Ana)*

Professional and whānau participants also cited examples of families agreeing to plans they did not necessarily understand and that this could lead to conflict during the implementation phase of the plan. Similarly, many whānau participants felt they were often not informed about entitlements or provided with an explanation as to why particular decisions regarding their children's care had been made:

In my experience with Legal Aid, that's taking the piss too, like in my case, I wasn't explained the second uplift 'til three months after and the social workers said to me, 'You get your lawyer to call the manager of the site and we will tell him why the children were uplifted.' They didn't give me a straight-out answer for three months and then my lawyer was just like, 'Oh well, I'll get back to you,' and dragged it out. *(Whānau, Kourtney)*

Whānau participants also provided accounts of not being made aware of what was required to get their children back once they were placed in care:

I didn't know what the process was, nobody explained to me where I would go, like I had lost my kids, I had to appear in court, I knew all of that but nobody told me like what to expect you know, what I could do in the meantime. I kind of feel like they stole my child. Because not once in four years when I was still living there did they ever give me a phone call and say you need to do A, B, C and D and you can have your baby back. It was just a straight, 'Well, we've decided to place him in Home For Life' and I didn't understand what Home For Life was but what I do understand is that I've never signed any paperwork to allow this process to continue. *(Whānau, Jen)*

The confusion and lack of understanding regarding formal child welfare involvement also extended to children. For example, Maria recalled her son's difficulty in trying to understand court processes, leading to frustration and disengagement:

And he goes 'Nah, because then they start saying all these other words and it just pisses me off.' I went, 'Oh, well just say, "Oh you know can we just stop there cause I don't feel good with what we've just talked about" or something like that, they'll know, that's why they're there to talk to you, to help you think,' and he goes 'Oh yeah, yeah'. *(Whānau, Maria)*

More positive accounts of court proceedings were characterised by inclusion, transparency, and engagement. Whānau participants appreciated when they felt like their involvement mattered and their voices were heard by Judges and other professionals, as this allowed for particular circumstances to be taken into account in decision-making. For example, Maria appreciated when a Judge did not reprimand her son due to not attending his initial hearing once he told the Judge that he did not want to miss a school event that was on at the same time:

This is the first thing she [the Judge] said to him, 'Thank you very much, that was so truthful and very vocal,' and because you know the prosecutor was a bit disappointed because there was something else for him to do but when [my son] told her, she just looked at him and says 'Well actually because [he's] actually told me why, I'm actually going to, I like it and I'm thankful that he's communicated to me in that way,' yeah. *(Whānau, Maria)*

Unsurprisingly, whānau participants also appreciated being updated on their children's cases:

Like with the social workers and that's what I explained to them too is that, that's why I always ask for numbers, yeah, and I just wanna be, I wanna know what's going on with my kids. *(Whānau, Ana)*

Whānau participants spoke positively of the more personable nature of Youth Court proceedings, in which a family's participation appeared to be more valued than in the Family Court:

They talk to you in Youth Court, the Judge, that's what I liked about them. They do give the parents or the family member of whoever the young person is the opportunity to speak which was good. (Whānau, Maria)

Lay advocates were perceived as of immense assistance to families by explaining processes, advocating for their rights and entitlements, and generally supporting them during legal proceedings:

I wouldn't have got where I was without [the lay advocate's] support. She put a bunch of bullets up their arses when it comes to following through with answers for me, and that was all the different sites, and she was like a real good backup and a positive backup and yeah, she held it together, she did what I was getting nowhere doing. So, by sending in the emails and then no reply and then her reports going through to the Judge as well, it was recognised. So, that's where, you know how I say my lawyer didn't file stuff on my behalf, like how social workers could put all their crap up to the Judge and yet my lawyer wouldn't say to me, 'Well, in your defence,' [the lay advocate] did it, she used to do it and she took the time to go and meet the children, she took the time to go to their houses. She did pretty much more than what my lawyer did and the counsellor and the social worker. (Whānau, Kourtney)

Communication assistance could further support understanding by children and whānau of court proceedings, increasing their ability to make informed decisions:

They break everything down. You know how they have to do all the pleas, the Family Group Conferences, read out all the, you know, the wrong things that they've done, well, they did some diagrams that these boys and girls can just relate to, so when they say, 'Oh so on the day of blah, blah, blah, you were at the thing,' you know, and it shows the car, the house or whatever it is and um pictures and it's really understandable. (Whānau, Maria)

We had a conference where you're using timelines you know. It's about these visuals but it's about, you know, you build an environment where information is there for everyone to see and be part of. So, you empower the family to make decisions on their behalf. (Social worker, Hamuera)

For example, whānau participant Maria recalled how the presence of a communication assistant in an FGC meant that her son was able to understand what was discussed, thus being able to comment on his role in an alleged crime rather than admitting guilt due to not comprehending what was asked of him.

IDI data on Family Group Conferences and offending

There were IDI data on care and protection FGCs that were merged with the cohort data, showing FGCs that were held before a child's fifth birthday, age ≥ 5 to < 10 , and age ≥ 10 to < 14 . Those who offended as children and subsequently went on to offend as a youth (the 'both' group) were significantly more likely to have had an FGC before the age of 14 than not (Table 46).

Table 46. Care and Protection Family Group Conference before age 14 by offending group

| FGC before age 14 | Offending group | | | | | | | | Total (%) |
|-------------------|-----------------|-------------|------------|-------------|--------------|--------------|-------------|-------------|---------------|
| | Both | | Child only | | None | | Youth only | | |
| | N | % | N | % | N | % | N | % | |
| No | 879 | 1.9% | 642 | 1.4% | 41160 | 87.7% | 4230 | 9.0% | 46911 (95.8%) |
| Yes | 393 | 19.0% | 108 | 5.2% | 1092 | 52.9% | 471 | 22.8% | 2064 (4.2%) |
| Total | 1272 | 2.6% | 750 | 1.5% | 42252 | 86.3% | 4701 | 9.6% | 48975 |

Note. Chi-square test ($X^2(3) = 3106.5, p < .0001$).

Those who had an FGC before the age of 5 (147 children) and offended as a child were more likely to continue offending through to age 14-18 (78%) compared to those who did not have an FGC before age 5 (62% of whom continued to offend) (Table 47). FGCs for older children (age 5 to 10, or age 10 to 14) similarly showed that FGCs for a child who had offended left them more likely to continue offending than less likely (76% of FGC before age 10 continued offending, vs 61%; 78% of FGC before 14 continued, vs 58% who had not had an FGC and continued offending).

Table 47. Association between FGCs before age 5 and repeat offending (for children who offended)

| FGC before age 5 | Repeat offending | | Offended while a child only | | Total N |
|------------------|------------------|--------------|-----------------------------|--------------|--------------|
| | N | % | N | % | |
| No | 1158 | 61.7% | 720 | 38.3% | 1878 (92.7%) |
| Yes | 114 | 77.6% | 33 | 22.4% | 147 (7.3%) |
| Total | 1272 | 62.8% | 753 | 37.2% | 2025 |

Note. Chi-square test ($X^2(1) = 14.5, p = .0002$).

The number of FGCs for most children who were offending was one or none. There was a potential increasing trend of offending with increasing number of FGCs while aged 10 to 14: the mean number of FGCs for the 'both' group was 1.69 ($SD 1$), including 45 children who had two FGCs, 15 who had three FGCs, and a few who had had four FGCs between age 10 and 14, and who continued to offend.

The IDI data showed that months passed from a referral for an FGC, to the FGC being held (delays the interviewees expressed concern about in this report). For example, the average length of time it took from referral of an under-5-year-old to the FGC being held was 5 months (159.5 days). For 10- to 14-year-olds, the average time from referral to FGC was lower, at 57.5 days. Significant differences between those who were offending as children or as youth were not apparent; waiting times were long for them all.

Once the FGC was 'convened', it took an average of 17 days (for under 5-year-olds) to 19 days (for 10- to 14-year-olds) for the FGC to be held.

Theme 7: FGCs can be excellent, though often vary in quality

Overall, the complex nature of child welfare proceedings and statutory processes, combined with limited efforts on behalf of state agencies to explain these, mean that families often do not understand these processes. As a result, their ability to meaningfully participate in conversations regarding their children's care arrangements is limited.

Furthermore, difficulties to comprehend child welfare and youth justice proceedings are exacerbated for children, who may plead guilty to charges due to misunderstanding what was asked of them or wanting meetings to be over.

More positive experiences were characterised by increased communication between professionals and families, families feeling like their involvement mattered, the provision of lay advocates who were able to explain processes to families, and the addition of communication assistants to statutory proceedings.

7.8. THEME 8: FGC plans are often poorly implemented

Theme 8 was crystallised from participants' reflections on how the plans that were finally developed in the FGC (after delays and sometimes unclear processes) were implemented. Participants outlined examples of plans not being well-adhered to by the systems responsible for their implementation. There was concern that, in effect, children and families are almost set up to fail, leaving professionals frustrated and wanting better oversight and accountability across the system.

Plans are often not implemented nor adhered to

Participants explained that FGC plans are often insufficiently implemented or not adhered to, thus preventing or delaying interventions for children:

So CYFS file a plan, lawyer for child has to support it or, if they don't, we're the first filter, and then the court needs to stamp it, and the plan may look great, and then it's approved for six months, twelve months, three months. I very seldom go over three months with these kids cause so much can change, but the thing is, nothing, very seldom anything in the plan is ever implemented, or the kid gaps it, or the kid runs away. *(Lawyer, Shane)*

We are the check and balance of the court process and we can say, 'Well, these things haven't been done,' so the court can say all those things need to be done, and then we wait another six months, they still haven't been done. *(Lawyer, Andrea)*

Participants pointed out that even relatively simple recommendations in plans often did not get implemented:

When you've got the basic recommendations, really simple stuff, parenting education, you know, assistance, mentor, counselling for the kid, things for him to do, that stuff can all be done. That's all easy-fix stuff. *(Lawyer, Shane)*

It always starts off well-intentioned but those agencies and social workers that are supposed to monitor stuff sometimes they don't do what they say they're going to do or it's not as urgent as it should have been and so then there are delays, you know. *(Lawyer, Manu)*

Table 48 presents some of the examples that participants gave, which were typical of their struggles with FGC plan implementation. Further elaboration of some of the examples follows.

Table 48. Examples of FGC plans vs actions

| FGC plan item | Actions | Barriers to implementation |
|---|--|---|
| A placement is needed for a child who has offended | Referral to the Hub done? Acknowledgement of the referral received? | Timing – has he got a place to stay this Friday, while these referrals are processed? |
| Could he stay with Mum in the meantime? | What supports would Mum need to make that safe and possible? | Referrals to services that Mum may or may not be involved with or entitled to |
| What about Reducing Youth Offending Programme (RYOP)? | Does he meet their criteria? | Referral not accepted |
| He's got supported bail | That gives 6 weeks of great support | What happens after that? |
| Mum needs help to manage him and her other children, who are potentially on a path to offending | Lawyer suggests: <i>Send in a live-in social worker to live with mum and help her, teach her how to parent, teach her how to look after this kid, mum can't control him. She's got younger kids, she needs help.</i> | Oranga Tamariki believe she would refuse such help; lawyer reports she would love it and that she wants help. Stalemate |
| Family is required to take steps to 'complete a plan' | Family and/or social workers unsure what those steps are, or how to show they have been completed | Other agencies may be required to respond in a timely way and do not (or cannot) |
| The young person needs to attend a Safe programme to prevent further sexual offending | Safe has a programme for youth with harmful sexual behaviours | Safe is Auckland-based. Can he be moved to Auckland? Where would he live? Who would fund this? |
| If he can't go to Safe, can we find a local therapist? | There are child and adolescent therapists with experience in working with harmful sexual behaviours | No such therapist lives near here, or if they do, what's the waiting list? Would an 'ordinary' counsellor do? Who do we ask? How would we know? |
| Psychological therapy should continue as there is evidence of benefit that all stakeholders can see | Therapy started under youth justice funding; the child has now completed youth justice requirements and is back under care and protection | Youth justice funding stops - so does the therapy. It was not initiated under care and protection funding, so their requirements need to be checked and fulfilled. Or local managers/offices change budgets or allocations, and funding stops |
| Mentoring should continue | Mentoring with boys seems particularly helpful to develop prosocial male role models, relationships and activities, go to school more, get involved in sports, cultural activities etc | Mentor has not completed administrative paperwork adequately, so contract is not continued. Mentors who are particularly effective with children who have offended and their families cannot meet huge demand. 'Politics' and funding pressures are seen to affect mentor funding/use (e.g., child needs more hours per week than a manager is willing to fund) |
| Planned items are agreed | Social worker-led actions are required | Individual social workers are more or less able to act; managers/systems/funding streams help or hinder |

In many instances there was the impression that things stopped once FGC plans were developed and agreed upon, as opposed to the FGC being a catalyst for targeted action:

The key to any plan is that you have monitoring of that plan and the social work in my book doesn't stop because you've been to an FGC and you've agreed there's care and protection. That's probably when the work starts, to make sure that the plan is followed through. *(Lawyer, Shane)*

The extent to which good practices are adhered to frequently depended on the particular social worker, indicating that the implementation of a child's plan often relies on the personnel involved:

It's amazing how a great social worker will make a lot of things happen where another social worker might not make things happen. So, the personal responsibility is really important but also you know the resources. *(Lawyer, Andrew)*

Inefficient Oranga Tamariki practices were seen as impeding the implementation of plans. For example, separate funding streams for care and protection and youth justice cases often disrupted plans for children involved in both jurisdictions:

Care and protection and youth justice often have separate funding streams. So, for example, in youth justice, they might have finished all their Youth Court matters but they still require ongoing therapy and everyone in the Youth Court is happy to support it but the funding won't be YJ, it's now C&P [care and protection] and C&P are saying, 'Well, we never approved that funding so therefore it's not going to continue'. *(Psychologist, Pania)*

Limited foresight, a reluctance to sufficiently fund certain interventions, and cost were perceived as further barriers to ensuring plans were appropriately implemented:

It does come back to cost. The Ministry will say we'll fund the sessions for the counselling as recommended by the report writer but we'll fund up to six [sessions] and it's like well how's that going to help, 'Oh well if they need more than six they can come back and get approval for another six,' but the problem with that is that it takes two months to get approval to carry it on, everything stops, starts, breaks down, so it's that sort of dynamic. So, if the recommendations aren't followed, it's usually because of cost. *(Lawyer, Colin)*

Plans are often changed or discontinued, for example as a result of a case being transferred to a different Oranga Tamariki site or when a site gets a new manager, disrupting children's care plans.

A clinical psychologist recalled the case of a child who was no longer to receive therapy following a change in management:

There was one kid I was doing therapy for maybe a year and doing some family work and then the site manager left and the case got transferred to another site manager and it was a completely different plan. That's happened with a number of cases that I've been involved in. *(Psychologist, Pania)*

This participant went on to describe the negative impacts of this on the therapeutic relationship:

So, I was taken out of the loop and then it wasn't until six months later they brought me back in, but by that time, what's happened to the therapeutic relationship, you know, and to this kid and so forth. I was never able to regain that therapeutic relationship with this kid, understandably, but I think again this is where we contribute as a system. *(Psychologist, Pania)*

Children, young people, and their families seem set up to fail by the system

The poor implementation of plans at times means that participants described a sense of children and young people being almost set up to fail; that the system contributes to a child or young person's offending. Unfortunately, the following example was typical.

A lawyer for child described a case of a 14-year-old boy with a care and protection and child offending history who was placed in a youth justice residence due to offending. The lawyer stated that none of the recommendations of a psychologist's report had been followed despite the professionals involved having had months to organise these. As a result, the child was either to be released on bail to his mother's home without the necessary supports in place or be held in the residence for another three to four months until these supports had been set up:

Not one of those things has been implemented, not one. So, we agreed to send this boy home to his mother and she's saying my life is chaos at the moment, I actually can't do it but I will take him home. You've got to make a judgement call, what is best, to be locked up at 14 years old for another three or four months or go home to a mother that wants him and who's okay but needs help but [Oranga Tamariki] aren't putting in any of that help, nothing. *(Lawyer, Shane)*

The poor implementation of his plan meant that this child was placed back into a precarious and unstable environment. Indeed, the child's lawyer expressed concern that the lack of family supports that were meant to be implemented prior to his discharge meant that the placement could fail and that he was likely to run away, increasing the risk of recidivism.

In contrast, successful plans were those that were realistic, addressed the underlying needs of children, and were developed collaboratively between whānau and professionals:

You don't want to set them up to fail, okay, so he's going to do 200 hours [of community work], what does that look like, he's supposed to be going to school, you know, when is he going to do it, who is he going to do it with, you know, don't you think he's going to be a bit too tired, you know. So, it's about making sure that they're realistic. *(Social worker, Hamuera)*

Our guys that are going to the FGCs need the skills and knowledge and experience to talk to our partners about actually what are we trying to do, actually sit down and have a conversation with the families. Yes, we're going to FGC, everyone seems to be hung up on custody. Custody is the big one right. So, everyone goes, 'The outcome is we're going to take your kid off you and put them into the custody of the Chief Executive because you're a terrible parent.' That's the general kind of thing, it's like a punishment. We don't really think about unintended consequences sometimes, if we do that, the kid's gonna run away, then we're going to chase them around in circles forever and then they're going to commit further offences because, you know, they have to, to survive, because we've put them in there and then they're running around and it's, sometimes we just need to take a breath, take a step back and try and say, 'Right, what do we try and do, this is what we will try and do, we will try and support the family and the whānau as well', you know, I mean, and realising that they are a 12- and 13-year-old kid I think as well. I think that's really important. *(Police officer, Nikau)*

Professionals are frustrated and want more accountability and oversight of plans

While acknowledging that the job of Oranga Tamariki in terms of supporting families with complex needs is inherently difficult, participants expressed a great sense of frustration regarding the often poor implementation of FGC plans, at times feeling like the undertaking of specialist assessments or the development of well thought-out plans was futile:

Oranga Tamariki have a huge responsibility and so of course they're going to be in the firing line, but there are things there that they can do better and this is through getting the support from those around them and actually, one of the things that really pisses me off is that we do, psychologists do a lot of assessments and sometimes these assessments, the recommendations don't even get implemented, so what's the point? *(Psychologist, Pania)*

Similarly, participants remarked that although plans may be reviewed, such review hearings may not necessarily make a difference because plans may not be implemented anyway:

We go to the Court and say, 'This isn't happening, this isn't happening' and the Judge goes 'Okay, well, I'm not going to support the plan, you fellas better come up with a better plan.' They come up with a better plan but then it's, that we all agree, but then it's making that plan happen. You know, and kids that are in state care for years and years and every plan is, 'Oh, we're going to make a referral to ...' *(Lawyer, Shane)*

Participants expressed frustration regarding Oranga Tamariki practices more generally, for example regarding not being able to get hold of social workers, social workers often changing roles or sites, or cases not having a social worker allocated:

You're not getting hold of social workers. Social workers are on leave, social workers are newly appointed, or they're not allocated to the file, yeah. So, there are some resourcing issues at the ground level in Oranga Tamariki. *(Lawyer, Andrea)*

Participants said that more regular monitoring and greater accountability of professionals working with families is required to ensure plans are being adequately and efficiently implemented, thereby achieving better outcomes for children and families:

More regular reviews would be helpful. It helps to reduce some of the risk with plans not being implemented you know. Some of them, because the review is six months, the social workers sort of relax a bit or they're busy with other files and this sort of gets put to the side but if the Court drives and leads the monitoring of the plans closely to keep them accountable, yeah. *(Lawyer, Manu)*

There needs to be a certain type of case where there is close intervention, stricter guidelines and stricter timeframes, I think that would help. *(Lawyer, Samantha)*

Overall, oversight of some children's plans is therefore often limited, and the extent to which a plan may or may not be implemented is often only determined months after such plans have been developed. Again, participants felt that more regular monitoring in the Youth Court ensures far greater oversight of these cases, in contrast to the Family Court:

I guess the big difference between the Youth Court and the Family Court, from what I've seen, is the constant monitoring by the courts. For the Family Court, you may have monitoring every three or four, three or six months generally is what I've seen. *(Lawyer, Colin)*

That's what I've seen with the kids, the child offenders that I've dealt with. In the Youth Court, they could be monitored as often as every two weeks, you know, and it's really sad that I say this but I just don't think it's about keeping the child and the family on track. It's about also keeping the professionals accountable. Sometimes workloads get in the way and people are pulled in all sorts of other directions and maybe some of their cases don't get the attention that they deserve or need and I think, by having that monitoring in the Youth Court, that keeps the professionals on track, keeps the professionals accountable for what they're supposed to be doing and the supports that are supposed to be in place for those youth offenders I think and I guess it's a capacity issue like everywhere but for me it seems like they come up with a plan and then they just bring it back in six months or whatever it is. *(Police officer, Nikau)*

Case management within the Youth Court may provide a model for care and protection cases:

One of the things that works well is case managing. We'll keep you coming back every two weeks to see how it's tracking. I think, from a financial perspective, you could throw millions and millions of dollars at resources, placements and things like that but that all has to flow on from how are things tracking and I think if you've got high risk people who are child offenders, I think the best thing is to keep coming back to a Judge every two weeks and the Youth Court jurisdiction we have judicial monitoring so you start phasing out, you might have judicial monitoring and the young fella comes back and it can be a five-minute appearance, it can be 'We don't need this appearance cause they're on a camp', but it's just that everyone's still watching me, everything's still on track, the Ministry said they're going to do this within two weeks, they haven't, so then lawyer for child writes to the court, says 'Ministry said they are going to do this in two weeks, they haven't done it', goes upstairs to the Judge in Chambers, Judge comes back, says, 'Yes, that's not on, give us a hearing date.' We wait another four weeks, so six weeks goes by and so I think probably the way to do it would be to have effectively, in real terms, getting something productive done is just no-one wants to appear before a Judge and not have done anything. No-one wants to appear before the Judge and not have an update. I think that's a pretty low cost but it works. It works well in the Youth Court. *(Lawyer, Colin)*

Participants stated that close case management would be particularly useful in the most serious of cases, such as those under s14(1)(e), and that regular monitoring of these plans by Judges could be tapered off as plans were being adhered to and implemented.

Family Court legislation may benefit from being amended to ensure more regular monitoring:

It should be written into the legislation with a particular type of case, the hearing time has to come back before the Family Court within two weeks or, you know, some specific timeframe, but it's urgent. *(Lawyer, Samantha)*

However, increased monitoring did not necessarily ensure greater implementation or adherence to plans due to what participants described as the Family Court's minimal ability to hold organisations such as Oranga Tamariki to account for implementing plans. These participants stated that current legislation is relatively toothless, and that the court had limited power to ensure plans or recommendations were being implemented:

So, the court can approve the plan and say no, I'm not approving that, you have to go away and come back with something better, or we have a planning hearing and the court says well this is what goes in the plan, but the court can't make [Oranga Tamariki] do anything, really. The court has no power. ... [They] can't tell Oranga Tamariki where to place a kid and the court can't tell them how to spend their money... 'You are going to get a mentor for this kid that is going to be with that kid at least 30 hours a week cause two hours a week is not enough.' *(Lawyer, Shane)*

Participants agreed with *The Inquiry* report's recommendations (Social Services Committee, 2012) to introduce an accountability and oversight order in the Family Court, which would aid increased monitoring of cases—but cost and limited resources were perceived as barriers to implementing more regular oversight:

Who's going to fund all this? Who's going to provide extra resourcing into the Family Court to allow cases to come before on an approved basis for three years, where we're going to be. You know, it's going to blow the lists out. Who's going to be the social worker that's going to manage it? What resourcing is in place in [our town] to handle this? There has to be additional resource. Who's going to pay for all of that? *(Lawyer, Samantha)*

Theme 8: FGC plans are often poorly implemented

Overall, FGC plans can only be as good as their implementation. In too many cases, the plan was just not well-implemented nor adhered to, leading to a continuation or exacerbation of concerns and causing some children and families to feel set up to fail.

Increased oversight and accountability of the agencies in charge of FGC plan implementation may serve to ensure a higher proportion of FGC plans are well-adhered to, though participants were concerned as to how realistic this could be, within current structures and resourcing levels.

7.9. THEME 9: 'For me it's about engagement. Engagement is the key'

As the evidence has shown so far, participants expressed many concerns about the barriers to effectively responding to the needs of children who have offended, and ways that resources, timeliness, accountability and systemic factors could be worked on to address those barriers. Engagement and early intervention were often part of the changes called for (for example, to combat Theme 2's *High thresholds and a 'watch-and-wait' approach*, well-engaged and early intervention would be needed). That said, analysing and reflecting on participants' data highlighted that 'engagement' (Theme 9), 'early intervention' (Theme 10), and addressing the sociostructural concerns underlying child offending (Theme 11) needed to also be presented as key principles in their own right, illustrated as critical ways to support children at risk of (re)offending.

In Theme 9, the overarching principle of *engagement* is explored, using words from police officer Nikau to name the theme echoed by others that, *'For me it's about engagement. Engagement is the key'*. Participants saw engagement and relationship building as vital because families with complex needs often have histories of inadequate involvement with social services, meaning that time needs to be invested in order for families to build trust and be receptive to support:

Some of our parents have been burnt by many different services or agencies, it takes a long time for that trust to come back. *(Social worker, Lisa)*

Participants felt that transparency, consistency, reliability, and a strengths-based approach were instrumental to effective engagement and fostering a positive relationship with families. For example, following through with plans or validating families' difficulties were perceived as helping to build trust and a supportive relationship:

Good practice with our young, it's simple. If you say something ... You do it. You know, if you say you're gonna be there, be there. *(Oranga Tamariki advisor, John)*

Even just acknowledging to families that what they're going through is hard. *(Psychologist, Pania)*

As psychologist Pania goes on to explain, engagement is not necessarily about resources that cost money; sometimes it is about professionals acknowledging to whānau that opportunities have been missed or that professionals need to look harder for answers to complex situations:

There are things that you can do that don't necessarily cost money and don't necessarily cost time, like saying you're going to do what you're going to do, ringing up the family and saying 'Hey look I'm sorry', you know, we all have a tendency to not take responsibility for things or blame it on somebody else and I think all families need to know is just somebody to acknowledge, 'Hey, yeah, I did get that wrong, this is what I'm going to do now,' or 'No, I don't know what the answer is to that, I'll find out.' *(Psychologist, Pania)*

Participants emphasised that it was important for professionals and services to invest time in engaging with families for trust to develop, and particularly regarding families perceiving social services as offering help rather than posing a risk to the family:

That's what it comes down to, you know. We hum and ha about building meaningful relationships with the family but what does that look like, you know, it's investing time, you know, it's about going in there with a blank canvas and just starting from scratch even though you know from history that there's all of this stuff. They're the specialists in their life, you know. Like, they know what's happening so you've got to get in there and you've got to deconstruct what that looks like for them eh and when you get them to the space you co-construct, you start moving them forward and you understand where they're coming from and then you start working with them or moving forward. You know, when you get to a point where the family are like, 'Okay, yeah, we understand where you're coming from, you know', then it's a win. *(Social worker, Hamuera)*

It can take anywhere, 8-12 weeks, to get good engagement because it takes them going back and back and building confidence with the family that they're there to assist them and they're not going to bugger off in the next five minutes, sort of thing, you know, they're there for the long haul to help them fix whatever it is that needs fixing with them. *(Police officer, Dave)*

The ones that work well are where you have got a social worker who's got on side with the family and have got the trust of the family and the family realises Oranga Tamariki's not out to get them, Oranga Tamariki wants to help them, and I mean I try and get that message out to families all the time. Oranga Tamariki does want to help, and generally people go, 'Yep, I get that they're helpful and supportive and that's actually been a positive thing in my life rather than negative.' *(Lawyer, Jasmine)*

A highly experienced social worker who previously worked in a specialist team stated that he benefited from a smaller caseload, which enabled him to invest more time in families, highlight their strengths, and become an advocate for them in spaces that were traditionally more deficit-focused:

I was able to spend time with families. That helped relationship building, advocating for them in a space where they've historically had negative experiences like in court, advocating for them and saying, 'Well, there's some positives about this family' and letting them hear that in those spaces because quite often when they're in those spaces, all they hear is all the deficit, you know, 'This is what is not happening', you know, so it's about that stuff and being able to do that, just having capacity to do it. *(Social worker, Hamuera)*

Given the time it often took to gain a family's trust, consistency in terms of the professionals working with families was perceived as critical. However, effective engagement was often impeded by frequently changing professionals, exacerbating stress on families:

It's very hard for a family that has issues to begin with to engage with a new social worker two or three times a year. *(Lawyer, Mary)*

We see Youth Aid staff coming in and out, social workers changing, all that does is really reinforce for this child that everyone, anytime anything good happens, people leave. Consistency is really important. *(Police officer, Nikau)*

The other thing that happened, multiple social workers. So it was, oh well she's abused me, I've abused this one so hang on, we'll put another one on, we'll start again because this one's got to know her and you're working alongside of her and then it's like hang on we'll throw a spanner in the works, put another one on, so then the time goes back to the beginning, oh, let's start again cause I don't really know what you're like. *(Whānau, Kourtney)*

Ana recalled her son's disappointing experience with his mentor, which reinforced her son's negative experiences with those who were meant to care for him and jeopardised the likelihood of future engagement:

He let my son down so many times. My son would be waiting for him and because my son had started to grow a bond with his mentor but then his mentor went and let him down by not showing up, then my son slowly started falling back into his old habits and it was hard for us to get him back on track. Too many let-downs and with my son being young as well, cause he was 13, I think he was just over it, you know, and when they got him another mentor, he was a nice young bloke but my son was like nah, I don't feel, you know, cause I think he just lost trust in them. *(Whānau, Ana)*

Participants felt that effective engagement adhered to a philosophy of walking alongside families rather than attributing blame and telling them what to do:

It's just acknowledging and walking with people rather than telling them ... cause, as I say, there's lots of family violence notifications in these families usually so they're really up against it and probably the last thing they need is another person telling them how to run their lives. *(Legal counsel, Sophie)*

Indeed, the majority of whānau participants felt they were frequently judged negatively by child welfare professionals and that limited consideration was given to the circumstances that led to child welfare involvement:

They looked down on me, that's what it was. You know, I already knew that my parenting skills, when this happened with my boys, wasn't perfect but they were good. I always thought I was a good mum, never said I was a perfect mum [laughter]. *(Whānau, Maria)*

I had to explain to one of the social workers that my kids weren't uplifted because we were doing drugs. I had to explain to her that we chose to put the kids in care to protect her but that's when I'm thinking you should read her file and then you'll know all about it cause it's all in there, yeah, 'Your kids are under Oranga Tamariki, you must be a bad parent,' or something but yeah. Some cases, like for me it was the total opposite. It was for the safety of our daughter. *(Whānau, Ana)*

Two broken relationships, single mother and raising five children on my own. So, that alone was a struggle but with the dad's sort of abuse, so it was battered woman syndrome that was in there as well and what I would have liked was for the Department, instead of judging and, I got accused of choosing the wrong men, so I got labelled with that, that I couldn't care for all my children. If they had looked into the police callouts, where I tried to stop the fathers turning up at my house uninvited and disrupting our household and the way that I was trying to struggle, managed and raised the kids, that they could have been a bit more helpful in the situation instead of labelling me as bad mother, that I couldn't provide for my children. *(Whānau, Kourtney)*

Families generally tended to be receptive toward support when engagement by social services was perceived as collaborative, genuine, transparent, and caring:

I've been blown away by how welcoming families are and I think it's because you're going in there with an attitude of, 'How do you want things to be and how can we help you get there?', rather than, 'You're here to tell me off and you're here to tell me what I've done wrong and make me feel bad about myself.' *(Psychologist, Jane)*

They always asked us what we wanted. We'll have the first meeting and they'll ask us what we want and what we want for our children, what, you know, to help them improve their skills, whatever, so we'll tell them like, 'Oh yeah my daughter needs to see a psychiatrist, my son needs to see a mentor and a social worker, um, and maybe [substance use rehabilitation],' and then, yeah, so we'll discuss that and by the time the FGC comes around we've got people to support us, to support our children and the needs that we knew that they needed help with. *(Whānau, Ana)*

They actually respected and treated me like, 'Okay, people make mistakes and you've tried obviously to fix your mistakes and you've come a long way', so I got that from the other [Oranga Tamariki] site. *(Whānau, Kourtney)*

Notably, effective engagement includes transparent communication and decision-making regarding risk:

I've said to cases where parents have disclosed that they've been at risk to the child and I've said, 'Look, okay, I have to prioritise that so that's going to be disclosed, it could mean you not having your child anymore but we need to keep your child safe but I'll still work with you to look at how we can repair what's happening between you and the child.' So that's being really straight up. That is what it is. There's a risk here, I'll deal with it, it's not going to stop me from working with you though.
(Psychologist, Pania)

Strengths-based approaches, which highlight children's and families' strengths, acknowledge the family members as the experts in their lives, and seek to collaborate with the family regarding common goals, were perceived as particularly helpful in facilitating rapport and engagement. Participants stated that such an approach aims to empower families and, apart from situations with significant safety concerns, allows them to retain autonomy over decision-making. There was evidence in the Oranga Tamariki case-file analysis of this occurring at times.

CASE M1326 - TAMARIKI AND WHĀNAU CAN MOVE FROM DISENGAGEMENT TO ENGAGEMENT AND DISCHARGE

And let's not forget the efforts can pay off. The contacts at age 2, age 4, the schools alert to the issues at age 5, the stand-downs at age 7, but then there's a safer, almost affordable place to live and some offers of support for Mum or Dad that seem to help. The children are still offending, it's not that quick to change. Maybe there are links into a Kaupapa Māori provider that strengthens everyone's relationships with whānau, hapū, iwi and weakens their relationships with drugs, alcohol, violence. Or there's a Functional Family Therapy programme, a family violence programme, some work on grief and loss, a good post-prison work opportunity, a youth-development programme, a Pasifika connection that helps to restore aiga, faith, identity. M1326 is soon to be discharged. He is engaged in [a service], has been spending time with male mentors during the week and the secondary school looks possible, it's like they might even want him there. A CAMHS assessment is booked - there's lingering trauma to manage at this next point of transition - but there's also a booking to join up with sports/kapa haka/youth group/art/music/whatever. Here's hoping...

Adjusting expectations

Professionals need to be able to adjust their expectations, step into families' shoes, and celebrate the wins. Participants stated that it was important for professionals to acknowledge the difficulties families have often experienced, and measure progress according to where families started rather than an overarching idea of what may need to be achieved:

The main thing is you've got to work with the family, no matter how challenging they are and taking any progress they make within their world view, cause if you step into their world, the progress that they might have made just to turn up to maybe two meetings will be a massive thing, you know. It's not, and not to think 'Oh well, they should be turning up to the meetings cause that'll show that they care.' That's not necessarily it. *(Psychologist, Pania)*

Seeing the positives, take your wins when you can, eh. In a complex family like that you got to take your wins when you can. You can't always go, 'Oh, he didn't stop offending,' you know, but it's what else they're doing, you know. *(Social worker, Hamuera)*

Cultural competence and the right match

It is vital for practitioners working with families to practise in a culturally competent manner. Drawing on cultural practices facilitates rapport building, in turn helping families feel more comfortable. For example, several Pacific participants reported speaking to families in their own language or utilising Pacific concepts to discuss concerns or processes:

I'm finding more and more that in a lot of my work, my own background as [Pasifika] is coming more and more into the mix of understanding how to work with people, understanding how to do things, and not necessarily solely the stuff that I was trained in. *(Psychologist, Pania)*

Effective engagement does not necessarily depend on cultural matching between professionals and families, but on practitioners' ability to practise in a culturally competent manner and actively emphasise the relational factors discussed in the paragraphs above. Notably, participants described genuineness as a decisive factor, stating that token use of cultural terms and processes could backfire:

It's just tick that box, tick that box, tick that box, it riles Māori you know. They're not stupid. *(Kuiā, Kahurangi)*

Indeed, culturally insensitive practices increased families' discomfort and frustration with child welfare processes. For example, Kourtney lamented the lack of whakawhanaungatanga (relationship building) in FGC proceedings, stating that FGC coordinators frequently rushed to begin formal proceedings:

I find with the FGCs, sometimes they're rushed, like I was talking with [my son's] caregiver and she was like, 'Oh, are you related to blah, blah, blah here?' 'Yes,' and then the coordinator goes, 'Um, can we get back to the topic?' It's like, 'Hey, I've just met the caregiver and she knows our family and you're like can we just get back on topic because you know we've got all these things to discuss.' So that's straight-out rudeness. You know, what's five minutes chat? *(Whānau, Kourtney)*

Participants stated that families and the professionals working with them needed to be the right match, and that this was fundamental to developing effective relationships and facilitating engagement.

‘Could you get [the Judge] to take off her witch gear?’ – Family Court engagement

Competence to work with children and their families is also required of Judges. Participants commented that more positive outcomes for families partially depended on the ability of Judges to effectively communicate with children and families:

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

Participants also felt that, where possible, it would be beneficial for lawyers to visit children and families in their homes rather than lawyers’ offices. Participants expressed that this would enable children and families to feel more comfortable and reduce the burden of having to travel to appointments, but also enable lawyers to gain a more comprehensive understanding of a child’s and family’s strengths and needs:

The child’s more comfortable and you get to see the home environment and that often speaks volumes. Seeing a child in your law office, it’s a very foreign environment to a kid and they don’t respond to you. I mean what’s your reaction going to be as a kid if you’re brought into a law office on the 16th floor of a [inner city] building? You can’t see their room, you can’t see what resources they’ve got, whether they’ve got books or toys or even a bed to sleep in, whereas if you get into the home, you can see that. You can see how they relate to other family members when they come in and out. So that’s a source of great information. (*Lawyer, Julie*)

Theme 9: Engagement is key

Considering the typically intergenerational nature of hardship and resulting child welfare concerns, families have often had histories of child welfare engagement. While in some cases such engagement is undoubtedly perceived as positive, in many cases families are apprehensive toward further engagement with child welfare services, including the Family Court.

Engagement characterised by transparency, consistency, reliability, and that emphasises a strengths-based approach, was seen by participants as critical to successfully working with children and families.

Smaller caseloads and an adjustment of expectations regarding what may be perceived as positive outcomes for families with highly complex needs may support child welfare professionals to provide such engagement.

Similarly, considering the overrepresentation of Māori whānau among child welfare and offending populations, culturally competent practice and ‘the right match’ between professionals and a family were perceived as critical.

7.10. THEME 10: 'Once you're doing it before a Judge, it's too late' – early intervention, iwi-led, is required

Building on the previous theme, if there is good engagement, then sustained and effective early intervention may be more possible. Theme 10 echoes comments throughout the analysis so far, where participants longed for delays to be reduced along every step of the way - from the first signs of difficulty for a child through to their eventual involvement with the Family Court. Participants called for early intervention, as vital to respond more effectively to the needs of children and their families, to help children reach their potential, and to reduce the risk of victimisation and (re)offending behaviour. The principle of early intervention means that when child welfare concerns are first noticed, there should be effective assistance, which must be based on comprehensive assessments of the needs of children and their families, and at a systemic level across multiple agencies that provide wraparound support that is culturally embedded and effective.

Assistance is required when child welfare concerns are first noticed

Assistance when child welfare concerns are first noticed may improve outcomes for children, their families, and communities. However, the common thread throughout the previous themes is that effective intervention does not occur in too many cases despite child welfare concerns being readily identifiable. Oranga Tamariki social worker Hamuera and police officer Nikau reflected on the tendency of the system not to intervene earlier:

We keep going on, 'Early intervention, eh, early intervention, early intervention!' You know, the earlier you get in the better. Why do we need to be the ambulance at the bottom of the cliff, eh, you know? Why can't we be further down the road catching those families as opposed to getting to the end, you know, where they're falling over the sides? *(Social worker, Hamuera)*

We always talk about prevention but I'm not sure we actually do it that well. I think there's opportunities. If we're talking about risks of offending, we're talking about siblings of known offenders, we're talking about behaviours that are evident in small children at early childhood, at kindy, at early primary school years and I've got a lot of friends that are teachers and they can tell me exactly who they are and generally they're on the mark in terms of what they're seeing. *(Police officer, Nikau)*

Indeed, whānau participants felt that more comprehensive assessment and specialist help at an earlier age may have improved the wellbeing of their children:

If a doctor had listened to me back when she was smaller, I reckon, if she had gotten the help when she was two, I believe it would have been different, everything would have been different for her, because a lot of it is mental, mentally for my daughter. *(Whānau, Ana)*

He's had a dog's life but a lot of it I say if he's had the proper help, I think he would have been okay because he was a good kid. *(Whānau, Hinemoa)*

Again, the Oranga Tamariki 14(1)(e) case files demonstrated the difficulty of early intervention that both the professionals and whānau talked about, and as many of the aggregate case examples in this report have illustrated. The notifications about a child at 2 years old, and again 6 months later, then a year later; some help around family violence and counselling for a mother or a caregiver; some services offered to a child at age 10 when offending behaviour starts; by 12, stood down from school, offending, using alcohol and drugs, then getting help with that to return to school, or go to another one, but then a change of placement or a loss of accommodation takes them away from current supports. There is no doubt help was offered; was it soon enough, was it effective?

Efforts were reportedly made to maintain engagement with school, as noted in some case files. Many stakeholder participants highlighted the role of ECE and schools as places in which child welfare concerns first came to notice, stating that schools may then be able to help engage the family with wraparound supports, if such support was readily available:

I think there are enough flags and triggers that our professionals can pick up, our teachers, our social workers, that could be picked up really earlier on so that we don't have to wait 'til it comes to the Family Court. *(Lawyer, Talia)*

You've got violent behaviours to deal with and you've got the other sort of kids who just manage their trauma by being very quiet and not dealing with it but we usually can pick up quite early on these kids that are on that pathway. So, the intervention for those kids needs to occur much earlier than is currently happening because the support they need is more of a sort of what I call the wraparound service. *(School principal, Stuart)*

While children who are not engaged in ECE or school may be at highest risk of engaging in problematic behaviour, they may be identified by other agencies (e.g., police, social workers) due to other concerns (e.g., family harm). Indeed, participants noted some promising initiatives, such as police youth engagement officers, who engage with children and young people that may be at risk of following an offending trajectory:

I think there's some good things that are in place, we've got youth engagement officers now who will pick up children who are involved in family harm incidents, don't necessarily have offences but we try and engage with them at that stage. *(Police officer, Nikau)*

However, Nikau went on to state that such engagement typically happened with older youth and needed to occur earlier:

Sometimes I think that's a little bit too late you know. It's a good starting point but I just wonder whether we're kind of missing opportunities in between there. So that's I guess what we need to be doing. *(Police officer, Nikau)*

Early intervention may be more conducive to effecting change than intervention at later stages, as attitudes and behaviours often become more entrenched, as Maria experienced with her son:

Every time I took them back to school, like to the counsellors, I was going, 'Look, now I'm having trouble with him, he's stealing cars now, he's driving them, what can you help me with?' and, you know, they had talks with him and it just never, it just never clicked with him. When he was doing that stuff, I could see in his head nothing was going to change his mind, nothing, like, 'I'm gonna do it, I'm gonna keep doing it and I know that it's wrong but I'm gonna keep doing it.' *(Whānau, Maria)*

In terms of school dropout or truancy, for example, participants stated that while older youth who had not been in education for some time often appeared reluctant to return to school, younger children generally wanted to attend school. The prompt provision of support to maintain or encourage increased school attendance may therefore be particularly important in reducing the risk of long-term disengagement from education and thus a raft of adverse psychosocial consequences:

If we get like some of our 15-, 16-year-olds, not many of them want to make a change. They've missed so much school, it's hard for them to go back into a learning environment where they may be the level of a 10- or 11-year-old and so that's embarrassing and to keep their mana they don't, so they just choose not to do it and they don't have the family support but you just keep plugging away and you're hoping that there might be a mind shift. There's not many little children that don't want to be at school, who don't want to learn, there may be some that struggle with learning issues, either they've got ADHD, fetal alcohol, or other things, so their behaviour's a little bit erratic but generally they want to be there. *(Police officer, Vicky)*

It appears categorically clear from participants' evidence that effective, interagency intervention to address the needs of children and families should be provided at the earliest opportunity. Participants called for more resources to be allocated toward early intervention practices to support families at the earliest point possible and for services to be able to provide continued support until the concerns were sufficiently addressed:

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

In the most serious cases, I think they have to develop programmes where they're consistently on board over two or three years. It's not something that you can do with a quick fix. It would be for the whole family. If you go and talk to somebody from the Ministry, they say we have that - but they don't. Kids can be in care for, or the Ministry can be involved with the family for 18 months, two years or three years sometimes, but it's not true intervention. *(Lawyer, Samantha)*

Effective and consistent intervention may reduce the likelihood of concerns escalating to the point where statutory involvement is required. Participants stated that resources should particularly be allocated toward families with long histories of service engagement in order to support these families and reduce the risk of intergenerational transmission of harm, criminality, and other adverse outcomes:

There needs to be a lot more robust programmes targeting those families that have come through and we know who they are. I spoke to a Youth Aid policeman a couple of years ago when I was still a social worker, working frontline, he said, 'Look, if you narrow it down, in this community there's about six families or offshoots of that one family that are committing the majority of the offending in their community.' So that says a lot. *(Social worker, Hamuera)*

The needs of children and families need to be comprehensively assessed

Comprehensive assessment of children's and family's needs is critical to ensure subsequent intervention is responsive to children and family's actual needs. Participants felt that such assessments could be implemented more generally and become a routine social response to ensuring the wellbeing of children.

I think the key failing is a lack of holistic assessment of children, in other words a realistic and holistic assessment of what are the risk factors for this child. So, lack of solid holistic assessment and then lack of consistent engagement across those risk factors and lack of coordinated engagement across those risk factors. *(Lawyer, Robert)*

Resources such as psychologists and psychiatrists and the likes, professional people with significant expertise to assess these kids early on at preschool level and deal then with the issues that they're having rather than letting them escalate until you know teenage years and beyond. *(Lawyer, Julie)*

While intervention should occur far before Family Court involvement may be required, there is nonetheless opportunity for improved Family Court proceedings from earliest engagement. The Family Court is the first court to be able to determine a child's needs as well as to what extent the needs of children and families are effectively responded to. As such, more routine assessments, as are done in the Youth Court, may be indicated:

I think that the Family Court is the first court that gets to have a look at these families and these kids and they need to intervene more than what they have previously. *(Lawyer, Samantha)*

‘The child didn’t get here on their own’ – systemic, wraparound intervention is required

Following on from comprehensive assessments conducted promptly, systemic intervention that addresses children’s and families’ needs, across the multiple factors assessed, is required to ensure more positive outcomes for children and families:

With Oranga Tamariki, the focus is on the child. Well, that child’s not in isolation [laughter]. This child didn’t get here on their own, there’s actually a whole family around this child. *(Social worker, Lisa)*

We need to be investing more in working with the family group as a whole, not just individual as they start to come through cause if you look at social situations you can see that, you know, mum’s unemployed or dad’s unemployed, they’re on drugs, the housing situation is not the best, you know, we need to be in the homes doing that work. *(Social worker, Hamuera)*

Systemic interventions, such as Functional Family Therapy (FFT; Weisman & Montgomery, 2019) or Multi-Systemic Therapy (MST; Van der Stouwe et al., 2014)—both of which are provided in Aotearoa NZ—adhere to a wraparound framework, which aims to support and respond to the needs of the whole family rather than just one individual in this ‘system’. There were also locally developed examples that participants mentioned such as ‘Life to the Max’ (an established wraparound community and police programme that engages with children and youth and their families), and others:

The whole programme is about targeting those high-risk families, looking at the persisters rather than looking at just the general one-offs. Yeah, so basically the kids are age 5 to 13, are known to Youth Aid or have the potential to be known to Youth Aid because of the high-risk factors in their families. So, it’s about those families that have been well-known to the police, Oranga Tamariki, other services in the community, health, failing in education, have been, you know, have ticked the abuse box on them and continue to be victims or now perpetrators, your family violence, mental health, your gangs. *(Social worker, Lisa)*

I had a case working with a child that was involved in [a wraparound programme] and see that’s really intensive, you know, they’re there, they’re supporting the young person, they’re also supporting the parent or the caregiver. In a perfect world, you’d have that programme in every single office, cause they’ve got the clinical oversight, they’ve got social workers who have a really vested interest in working with these children and young people who are open to be trained and so forth. That’s what you want. That’s the gold standard that you want as the norm because all of these kids that are in Oranga Tamariki are either at risk or they are involved in some risky behaviour. *(Psychologist, Pania)*

Again, such interventions need to be available long-term.

Lawyer Shane recalled a success story in which a struggling family was supported by a live-in social worker, eventually leading to discharge:

The kids were all uplifted and these people, they were devastated and eventually what happened was after about three or four years, a live-in social worker, after they did all these programmes, they worked hard to do it, they didn’t have drug or alcohol issues or anything like that, but they had somebody go in and live in their house. And they lived there, they got the kids back and that person stayed in there, with them, and we’ve discharged now. Took a few years, so that one worked, but that’s how that worked. Getting somebody in the house and helping, teaching them. They didn’t know the most basic of things. *(Lawyer, Shane)*

An ‘in-home support mother’ was also listed as one of many interventions noted in the Oranga Tamariki files, as part of an intensive wraparound service, although it could be noted in the files as occurring when a child was offending and already aged 10-13, rather than earlier when the child was under a year old and many early notifications of family harm, siblings being uplifted, abuse or neglect were being noted. Could this intensity of support have occurred earlier?

Increased emphasis on culture may support positive outcomes

Participants called for increased emphasis to be placed on cultural responses and practices within the child welfare and Family Court systems, to support children and families more effectively. Statutory and court processes, such as FGCs and Family Court hearings, were described as formal and rarely catering to children's and families' cultural needs. Participants believed that increased acknowledgement and attention to children's culture in the Family Court would be beneficial to help children and families feel more comfortable and facilitate more positive outcomes. A number of participants expressed that an approach similar to the Rangatahi Court would be appropriate for younger children. Police officer Nikau explained how such a court could help reconnect them to their cultural identity:

Rangatahi Courts and Pacifica Courts, really culturally appropriate approaches. I think there's some real value in that, having sat on both of those courts for a while. There was definite connections, reconnections, I think that would be really beneficial in a Family Court, child offender context. I could see that working quite well, because a lot of these kids are lost. A lot of these kids don't really know who they are in terms of culture and identity, particularly our urban kids, yeah, I see real benefit in terms of a similar approach to Rangatahi Court. *(Police officer, Nikau)*

Both Nikau and lawyer Colin had seen how a more culturally responsive judicial environment could encourage children and their families to participate more. For example, the presence of kaumātua and kuia (elders) helped participants to make connections, leading to a more engaged process:

It might actually make it more comfortable for those discussions to happen. It's quite a sterile place a courthouse generally but if you've got an environment, and this is what we see, we're in an environment where some of these whānau are actually feeling in a position where, 'Oh, actually, this is quite normal for me,' for some of the families, some not so much but they will actually talk where they may not even have a conversation in a normal court or they may not even talk at a Family Group Conference but that might be the forum where they can, you know. And then, the great thing about Rangatahi Court is that you've got kaumātua and kuia who are there who can obviously offer advice but also can talk about connections and can talk about iwi and they can talk about their hapū and that sort of thing and if they can't talk about their specific iwi, they can certainly link them in to people who can and I think that's a good thing. Yeah, and in some cases obviously when we're talking about urban Māori, some are so disconnected from anything to do with that. It may not make a difference but there's certainly opportunities there for those and I've seen it first-hand where it's worked quite well in terms of that engagement. *(Police officer, Nikau)*

I think it's just about the process being with whānau, being in that environment, everything's slightly differently, but they've grown up generally against the system, the process, the court doesn't recognise them, doesn't recognise their culture, doesn't recognise their heritage, they're just another number coming through the door, they've got to do the plan, so to speak. When you go to the Rangatahi Court, it portrays an environment in which the panel, the kuia and the kaumātua actually care about you and it's like things like 'I know your grandfather,' 'I went to school with your...,' you know, we're related, we whakapapa to, you know, your mum, dad, uncle, aunty, you know, there's all that link, so you know, 'You're one of us, how can we get through this together?,' as opposed to the Family Court/Youth Court process is very much, 'It's the system, it's police against me, it's the police against my family, it's the Court, and it's the same thing when we have FGCs.' Like I try to encourage as much as we can we have all the FGCs offsite because it's that same attitude. You walk into a Government building, 'It's Oranga Tamariki, they're the ones who have tried to uplift the kids or they're the ones who are trying to get the kids locked up, we're now coming to a meeting to talk to the social workers and everyone,' it's just that 'whole Government against us'. So, if you can kind of get that or break that kind of link, then sometimes it's productive. It doesn't always work of course, but I think it makes a difference to a lot of people. *(Lawyer, Colin)*

‘Iwi is for life’ - increased iwi involvement is needed to support children and whānau

Considering the overrepresentation of Māori children in the child welfare system, iwi should be at the forefront of assisting children and families and leading responses to ensure their wellbeing. Participants stated that iwi should be the first rather than the last point of call when support was required, but there needed to be recognition of the intergenerational inequities and lack of resources that different iwi faced, as government resources continue to go into government social services, not necessarily iwi social services. One participant stated that the difference between iwi and non-iwi support services was that support services were a temporary measure, whereas *‘iwi is for life’*:

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

Whenua ki te whenua, whakapapa ki te whakapapa

Participants also expressed that there was a need for increased cooperation and communication between iwi and for local iwi to facilitate supporting children and whānau to connect with their own iwi, whenua, and whakapapa:

Like considering that we as mana whenua here in this place, that we talk to his iwi, not Oranga Tamariki, that our kaumātua talk to the kaumātua Maniapoto and we see if we can get some common ground and find some common hapū members who might want to look after this baby, that we do the research, we being mana whenua here. If it was down that way, let Tainui do the research and try and find a whānau connection rather than go in with Oranga Tamariki. So, we build what we call a waharoa, a gateway, for this boy to walk through from us back to his people. *(Kuiā, Kahurangi)*

Kahurangi described an analogy of lizards and birds being moved from one area to another drawing on cultural practices (e.g., karakia, waharoa) and questioned why this did not occur for children:

You know when Department of Conservation move a bird from, no, lizards, lizards are a good one, so we found a whole lot of lizards over here, a lot of native lizards. So, we did this whole karakia around moving them and we found another habitat where we could move them to but it was down in their area. So, we did all this Māori stuff to do it and then we connected with the [other iwi], they did all their thing around accepting these native lizards into there and they did all the ceremonial things. So, they did it with blimmin' lizards. So, we're saying let's do this with babies. Let's do all the mirimiri massaging around this, investigating the research around this and then as a hapū, as an iwi, as mana whenua, just then take them back to their iwi. You know, don't send them in a car with Oranga Tamariki, let's do this formally, as formally as you do for birds, when you put birds from one end of the island to the other, when you move them across to the island over there, you know, and they do it with ceremony, they do it with iwi to iwi, you know, they do that transfer of birds, of animals, of insects and this iwi will correspond and communicate with this iwi so that they go back. Why aren't we doing this with the babies? *(Kuiā, Kahurangi)*

Theme 10: Early intervention is required – Iwi is for life

Overall, it has become clear throughout this research that earlier and more effective intervention is required to ensure children's and their families' needs are addressed, increase their wellbeing, and reduce the risk of these concerns escalating.

Comprehensive assessment of children's and families' needs must occur as soon as child welfare concerns are identified and be followed by the provision of evidence-based, culturally appropriate, and wraparound intervention that specifically responds to the unique needs of a child and their whānau.

Iwi social services and Maori-led engagement need resourcing, not just government services that have often struggled to help effectively.



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7.11. THEME 11: The sociostructural factors underlying child offending must be addressed

While early intervention to address the difficulties of children and their families is critical to supporting children's healthy development, child welfare agencies will find themselves 'swimming against the tide' when underlying sociostructural factors, such as poverty and income inequality, remain insufficiently addressed. Participants were clear that efforts to reduce child offending must begin with tackling these structural issues:

How can it be prevented, in New Zealand particularly, probably through addressing those key issues that are causative factors in offending. So, if you look at the poverty aspect, there's a good article in the paper today about trying to survive on a benefit, to raise these people out of the poverty blights that they're in. There's the historical nature that goes back to colonisation cause obviously Māori particularly are overly represented in criminal figures. *(Police officer, Dave)*

Well, just as the problems are obvious, so are the solutions but I wish our government could prioritise our children in education and housing and health because I think if those socioeconomic factors were, you know, stronger, yeah, then perhaps we'd get less of this [offending]. *(Lawyer, Talia)*

Lawyer Samantha believed that addressing the underlying factors, such as unemployment and homelessness, is critical to supporting whānau, and thus children's, wellbeing:

That's the other problem, there's just no work ...It's just terrible, you know. You see amazing changes within families when someone has got a job and it's for a reasonable income and I'm not talking about \$60- or \$70,000, I'm talking well below that, but if they've got work and it's regular and they can afford to maintain their family, I mean the change within the family is remarkable. *(Lawyer, Samantha)*

A bipartisan, sustainable plan to tackle poverty, inequality, and related social issues (e.g., homelessness, family violence, substance use) is needed to address these problems:

One of the big things in New Zealand is that the political framework only allows for a 3-year term for a government to be in and you can't achieve a lot in a 3-year term especially if you go out at the end of the 3-year term. So, there has to be a will across parties to actually change things in New Zealand for the best rather than keep coming up with projects, pilots and all these sorts of other things that only last a finite time and then you're onto something new again. So, we're not addressing the actual problems, we're just toying with them really. There needs to be a more long-term, bipartisan solutions to these issues. *(Police officer, Dave)*

Clearly, while earlier and more effective intervention is urgently required to prevent an escalation of child welfare concerns, it is critical to also target the sociostructural conditions, such as income inequality and unemployment, that, according to both these participants and long-standing international and local research evidence (e.g., Doidge et al., 2017; Fortson et al., 2016; Keddell et al., 2019), underlie the development of child welfare concerns in the first place. After all, it is no coincidence that children growing up in families that have not experienced intergenerational hardship, nor a range of compounding challenges (e.g., low employment, poor housing, struggles with violence, mental health/substances) do not typically go on to offend, as the IDI analysis also indicates.

IDI analysis and sociostructural factors

School decile is a commonly used indicator of social deprivation, measuring the socioeconomic position of a school's student community relative to other schools nationwide.¹⁷ According to Ministry of Education information, deciles are based on five socioeconomic indicators for a community:

- percentage of households with income in the lowest 20% nationally
- percentage of employed parents in the lowest skill level occupational groups
- household crowding
- percentage of parents with no educational qualifications
- percentage of parents receiving income support benefits.

A decile 1 school is in the 10% of schools that have the highest proportion of students from low socioeconomic communities and decile 10 have the lowest proportion of such students. Statistics NZ Census data are used to calculate indicators in small areas (meshblocks) that are then associated with the catchment area of a school.

The IDI analysis checked the school decile of the cohort at age 6 and age 9 and associations with offending. Deciles can change over time; the school decile at the time the cohort of children was aged 6 or 9 was used.

There was a statistically significant difference in offending between those in higher and lower school deciles. As school decile increased, the percentage of offending at all ages decreased, and the percentage of no offending increased (Table 49).

Table 49. School decile at approximately age 9 and offending group

| School decile at age 9 | Offending group | | | | | | | | | |
|------------------------|-----------------|-------------|------------|-------------|--------------|--------------|-------------|-------------|--------------|-------------|
| | Both | | Child only | | None | | Youth only | | Total | |
| | N | % | N | % | N | % | N | % | N | % |
| 1 | 285 | 6.3% | 144 | 3.2% | 3423 | 75.2% | 699 | 15.4% | 4551 | 9.6% |
| 2 | 246 | 5.8% | 114 | 2.7% | 3282 | 77.7% | 582 | 13.8% | 4224 | 8.9% |
| 3 | 162 | 3.9% | 99 | 2.4% | 3336 | 80.5% | 546 | 13.2% | 4143 | 8.7% |
| 4 | 144 | 3.2% | 75 | 1.7% | 3750 | 84.3% | 477 | 10.7% | 4446 | 9.4% |
| 5 | 111 | 2.6% | 63 | 1.5% | 3642 | 85.6% | 438 | 10.3% | 4254 | 9.0% |
| 6 | 78 | 1.9% | 60 | 1.5% | 3573 | 88.2% | 342 | 8.4% | 4053 | 8.5% |
| 7 | 69 | 1.4% | 45 | 0.9% | 4281 | 89.3% | 399 | 8.3% | 4794 | 10.1% |
| 8 | 69 | 1.5% | 51 | 1.1% | 4167 | 89.4% | 372 | 8.0% | 4659 | 9.8% |
| 9 | 54 | 0.9% | 42 | 0.7% | 5697 | 91.7% | 423 | 6.8% | 6216 | 13.1% |
| 10 | 27 | 0.4% | 45 | 0.7% | 5763 | 93.6% | 324 | 5.3% | 6159 | 13.0% |
| Total | 1245 | 2.6% | 738 | 1.6% | 40914 | 86.1% | 4602 | 9.7% | 47499 | 100% |

Note. The N for these tables is lower than the total N elsewhere in the report as school decile was missing for 1473 people (3%). The missing data are insufficient to alter the significant trend of decreased offending with increased decile.

¹⁷ School deciles are described at <https://www.education.govt.nz/school/funding-and-financials/resourcing/operational-funding/school-decile-ratings/>

These associations were significant at both age 6 and age 9. For each increase in decile at age 6, the odds of offending as a child decreased by a factor of 0.793 (95% CI (0.779, 0.806)). The odds of repeat offending (as a child and as a youth) also decreased significantly as school decile increased; for example, at age 9, for each increase in decile, the odds of repeat offending decreased by 0.921 (95% CI (0.891, 0.953)).

To put it another way, the odds of offending for those who were in a decile 1 school at age 9 were, on average, 2.1 times higher than for those in a decile 10 school at age 9. Looking at the probability of repeat offending, it was 1.3 times greater for those in decile 1 schools at age 9, compared to those in decile 10 schools.

Another measure of socioeconomic deprivation, as per the list associated with school decile, is having parents receiving income support benefits (Table 50). IDI data showed that children who offended were more likely to go on to reoffend as a youth if they had a primary caregiver receiving a benefit when the child was aged under 5 (66.1% vs 52%); a pattern that persisted through to age 14 (65.5% vs 49.6%).

Table 50. Benefit receipt while aged <5 by offending group

| Benefit receipt while aged <5 | Offending group | | | | | | | | Total (%) |
|-------------------------------|-----------------|-------------|------------|-------------|--------------|--------------|-------------|-------------|---------------|
| | Both | | Child only | | None | | Youth only | | |
| | N | % | N | % | N | % | N | % | |
| No | 237 | 0.9% | 219 | 0.8% | 25698 | 92.2% | 1710 | 6.1% | 27864 (56.9%) |
| Yes | 1035 | 4.9% | 531 | 2.5% | 16557 | 78.4% | 2991 | 14.2% | 21114 (43.1%) |
| Total | 1272 | 2.6% | 750 | 1.5% | 42255 | 86.3% | 4701 | 9.6% | 48978 |

Note. Chi-square test for the table (a difference in proportions between at least 2 groups): $\chi^2(3) = 2065.9, p < .0001$.

Theme 11: The sociostructural factors underlying child offending must be addressed

Overall, stakeholders were clear that poverty and inequity—often including the intergenerational, ongoing effects of colonisation and racism—left families struggling, and could undo attempts to help. For example, homelessness and unemployment could flow on to negative disruptions to schooling and multiple school enrolments that were associated with offending.

Long-term, bipartisan solutions were needed, beyond political cycles, to ensure that growing up in areas of high deprivation, and in households of low benefit income, could no longer underpin child offending.

Summary of key stakeholder consultation findings

Overall, participants described a child welfare system that is reactive, not proactive, and fails to effectively address the needs of children even though these are often well-known to services. Shortages of resources across the child welfare and education systems lead to high thresholds, meaning only a proportion of children and families receive the support they need. When intervention is planned, engagement by child welfare professionals is often poor and inconsistent, exacerbating difficulties for families. Similarly, support tends to be piecemeal and focused on one aspect of a child's or family's needs, rather than being more holistic and systemic. A shortage in specialist community programmes, placements, and caregivers further impede the provision of assistance to children. Child welfare and Family Court processes are characterised by significant delays, poor collaboration, and minimal oversight of cases. Agencies rarely work together in a coordinated fashion, despite children's needs spanning across a range of services. Moreover, the provision of effective assistance to children and families often relies on the dedication and availability of the particular child welfare professionals involved in a case, rather than systemic processes to ensure this occurs.

The net effect of these problems is that opportunities are missed to promptly provide children and families with the support they require. In too many cases, needs are allowed to escalate to the point where children engage in offending behaviour. Furthermore, effective, systemic processes continue to be limited once children have offended, meaning that their needs may not be sufficiently assessed and responded to until an escalation of offending leads to entry into the youth justice system. For children who offend, police officers may struggle with knowing what may be the best response to children upon apprehension, the roles and responsibilities of different agencies regarding child offending are perceived as unclear, FGC plans are often not sufficiently monitored and adhered to, and the availability of resources in the Family Court, relative to the Youth Court, is limited.

Participants identified several opportunities for improvement within child welfare and Family Court practices, including the provision of more resources (e.g., more time for Judges to gain greater oversight over cases, funding for therapy, inclusion of communication assistants in court proceedings), increased coordination between services and in following up cases, and more effective, wraparound engagement, which may support children and families to flourish and reduce harm to communities. Overall, it was clear that effective assistance needs to be provided as soon as child welfare concerns come to notice, to support children's healthy development and prevent the escalation of these needs. The need to address the factors underlying child welfare concerns, such as poverty, to reduce the risk of child welfare concerns developing in the first place, was also highlighted. Table 51 summarises these findings.

Table 51. Summary of findings: 'A breakdown across the whole system'

A breakdown across the whole system: Systemic failure to promptly and effectively respond to child welfare concerns underlies the onset and perpetuation of child offending

| Themes | Findings |
|--|---|
| 1. Shortage of resources across the child welfare system | <ul style="list-style-type: none"> • Lack of staff (e.g., social workers, FGC coordinators, psychologists, lawyers, mentors) • Shortage in community programmes • Specialist teams (e.g., Engaging Challenging Youth) not available nationwide • Overworked professionals (e.g., social workers, police officers) are unable to sufficiently cater to the needs of children • Services tend to be targeted toward older youth • Lack of specialist caregivers/placements, leading to further instability |
| 2. High thresholds for intervention | <ul style="list-style-type: none"> • Only children and families with the most significant and immediate needs may receive child welfare intervention • Many children and families do not receive support despite the known presence of child welfare concerns • High thresholds for support are also present in the education system • The lack of early intervention allows for the escalation of needs, leading to statutory intervention, such as s14(1)(e) applications • It should never get to the point of police filing s14(1)(e) applications where children's needs were long known to the child welfare system • Children may not receive effective support until older age or continued offending leads to entry into the youth justice system |
| 3. Poor coordination and inadequate oversight of child welfare cases | <ul style="list-style-type: none"> • Agencies operate in silos, preventing coordination and leading to children falling through the cracks • Social workers are often unable to keep oversight of cases due to high caseloads • Poor communication between professionals and frequent changes of social workers further impede oversight • Police involvement in s14(1)(e) cases can increase oversight • More regular reviews of cases may improve oversight • Poor coordination between agencies increases difficulties for families • Collaborative, wraparound approaches were perceived as more effectively responding to children's and families' needs • Extended monitoring by the Family Court may increase oversight of cases and ensure accountability of professionals • The wellbeing of children often depends on dedicated professionals rather than coordinated systemic responses |
| 4. Insufficient resourcing of the Family Court | <ul style="list-style-type: none"> • The Family Court is under-resourced, impacting on professionals' ability to make meaningful child welfare decisions • There is a particular lack of resources in the Family Court relative to the Youth Court • A solution-focused, therapeutic court may more effectively cater to care and protection and child offending cases |

A breakdown across the whole system: Systemic failure to promptly and effectively respond to child welfare concerns underlies the onset and perpetuation of child offending

| Themes | Findings |
|---|--|
| 5. Systemic shortfalls continue once children have offended | <ul style="list-style-type: none"> • Police may be unsure how to respond to children who offend, meaning opportunities to assess children's needs can be missed • Separate Oranga Tamariki care and protection and youth justice divisions hinder more effective coordination of child offending cases • Complicated and inconsistent paperwork in relation to child offending impede efficient proceedings • There is limited expertise of how to file child offending paperwork in relation to the Family Court • Potential conflict with Oranga Tamariki may further discourage police from filing s14(1)(e) applications • The roles and responsibilities of particular agencies regarding child offending are perceived as unclear and the only available reference tool (the <i>Child Offender Manual</i>) needs to be updated |
| 6. Chronic delays | <ul style="list-style-type: none"> • Chronic delays and inefficiencies in child welfare and Family Court proceedings impede better outcomes for children with welfare and offending concerns • Delays apply to FGCs, court hearings, reports and assessments, finding placements, forming plans and implementing recommendations • Delays are particularly detrimental to children |
| 7. Variable FGC proceedings | <ul style="list-style-type: none"> • FGCs can be excellent though vary in quality • Offending matters often take precedence over child welfare concerns • Children and families are not sufficiently informed of statutory proceedings or included in decision-making • The collaborative approach in the Youth Court was perceived as more favourable • Lay advocates and communication assistance are an invaluable resource to support children and families |
| 8. Poorly implemented FGC plans | <ul style="list-style-type: none"> • Plans are often not implemented nor adhered to • Children and families appear to be set up to fail by the system • Professionals are frustrated and want more accountability and oversight of plans |
| 9. Effective engagement with whānau is critical | <ul style="list-style-type: none"> • Intensive engagement and relationship building are fundamental to supporting children and whānau and bringing about positive change • Effective engagement was perceived as supportive, non-judgemental, and consistent • A strengths-based approach and 'the right match' are critical |
| 10. Early intervention is critical | <ul style="list-style-type: none"> • Effective assistance is required at the earliest opportunity • Such assistance must be responsive to the needs of children and families, be at a systemic, wraparound level, culturally embedded and evidence-based |
| 11. Sociostructural factors must be addressed | <ul style="list-style-type: none"> • Structural issues, such as poverty and income inequality, underlying child welfare concerns must be addressed |

8. Discussion and recommendations

Children who offend are at increased risk of engaging in persistent and serious offending relative to young people whose first offence occurs in adolescence (Loeber & Farrington, 2000; Reil et al., 2021). Previous research has indicated that serious child and youth offending is typically associated with prior child welfare involvement (Ministry of Justice, 2020b). In other words, interaction with the child welfare system did not prevent the onset or escalation of offending behaviour for a significant proportion of children. At the outset of this study, however, relatively little was known about how these children ‘fall through the cracks.’ It is disturbing that this group of children has failed to receive systematic attention from New Zealand’s child welfare, social service and care and protection legal systems, and these issues date back decades.

Moreover, the characteristics, backgrounds, and trajectories of children who offend in Aotearoa NZ have never been specifically investigated. As a result, this study sought to draw attention to child offending in Aotearoa New Zealand and how to address these problems.

This discussion summarises key findings and briefly relates them to previous research where appropriate. Recommendations, grounded in the data, are made throughout, that we hope will contribute to systemic change.

8.1. The study

This was a mixed methods study exploring quantitative, qualitative and case-file data on the children’s backgrounds and experiences, and the systems responsible for child welfare and child offending. Notably, this study drew on the latest available research data and, as such, provides up-to-date understanding of the experiences of children today, as well as current responses to child welfare concerns and child offending. Data drawn on for this study included:

- Integrated Data Infrastructure (IDI) data on 48,989 children from their birth in 2000 until 2019 were used to explore significant associations between different offending groups (childhood-only offending, adolescent-only offending, offending in both childhood and adolescence, and none) and a range of risk factors.
- Oranga Tamariki case files on all children nationwide who had offended over a one-year period (from July 2019 to June 2020) and who were under Section 14(1)(e) of the Oranga Tamariki Act 1989 – a total of 108 children - were analysed to explore children’s backgrounds and experiences.
- Key stakeholder interviews with child welfare, Family Court and other professionals (lawyers, police, social workers, school leaders, psychologists, iwi representatives, lay advocates), and whānau members with lived experience of proceedings in relation to child offending ($N = 33$) were analysed to establish the day-to-day experiences and challenges of the system’s responses to children offending, and frontline recommendations for change.

In 2020 to 2021, retrospective comparisons using IDI datasets of all children born in 2000 until 30 June 2019 (48,989 children) across a range of variables were conducted to compare the characteristics, backgrounds, and trajectories between children with no offending histories and those who had offended.

There were 753 (1.5%) children who had offended under the age of 14, and 1269 (2.6%) young people who offended as children *and* as adolescents – that is, at least 2022 people known to be at increased risk of persistent, serious offending and adverse life outcomes in the present day (Loeber & Farrington, 2000; Moffitt et al., 2002; Reil et al., 2021). In addition, there were 4701 (9.6%) who offended only from age 14 (who were therefore in the youth justice, Youth Court system, not the Family Court system). Youth-only offending was not the central focus of this study but many of these youth shared some of the disadvantages of those who started their offending as children and then continued, and for some, youth offending will also persist into adult offending in coming years. It is not hard to see where the next prison muster will be coming from (there are 8655 people in New Zealand prisons, according to the most recent Department of Corrections figures March 2021).

One recent year's case files (1 July 2019 to 30 June 2020) on all 108 children who had offended seriously—namely, those where police sought a care and protection order in the Family Court under section 14(1)(e)—were reviewed to gain further insight into the lives and backgrounds of children currently offending. Anonymised case vignettes told again and again of extremely challenging circumstances experienced by these children and, for most, the many years of engagement with child welfare services for both them and their families. Interviews with child welfare and Family Court professionals ($n = 28$) as well as whānau members ($n = 5$) with lived experiences of engaging with these systems served to provide additional understanding into the typical experiences of these children and families, as well as the systems responsible for addressing child welfare concerns and child offending.

Overall, integrated findings highlighted that children who offend grow up in families experiencing significant, intergenerational hardship, including exposure to abuse, neglect, and poverty.

Consistent with previous research (e.g., Fergusson et al., 2000), the IDI analyses revealed that those young people with offending histories in both childhood and adolescence faced the most significant child welfare concerns and subsequent difficulties. They are victims (of harm, abuse, poverty and disadvantage) who then go on to create victims with their offending. This forms a lethal cocktail that is long-lasting and typically results in negative life outcomes for the child, their family and the innocent targets of their offending in our communities.

As well as understanding better the backgrounds and experiences of children who offend, this research also sought to understand the systems that respond to them. Key stakeholder consultations with child welfare and Family Court professionals, such as lawyers, child welfare staff, police officers, psychologists, a school principal, and a lay advocate, as well as whānau members whose children had engaged in offending, were undertaken to gain understanding of opportunities for improvement in child welfare and Family Court proceedings in relation to children at risk of (re)offending. IDI analyses, where available, reinforced the concerns that key stakeholders expressed about systemic responses (for example, of high rates of Oranga Tamariki notifications and placements, and FGC delays; school suspensions, expulsions and multiple enrolments; and high rates of parents facing financial disadvantage on income support, families in low-decile school areas, or parents who were justice-involved). The case-file vignettes brought these circumstances to life with accounts of attempts by both families and systems to cope or change what often appeared to be an inevitable trajectory to child offending.

Again, overall, these integrated analyses provided robust evidence of the current state of the system, revealing a range of ways in which systemic shortfalls in child welfare and Family Court proceedings currently impede more positive outcomes for these children, whānau and communities.

It is important to note that this research was conducted by non-Māori researchers, funded by the New Zealand Law Foundation and Michael and Suzanne Borrin Foundation grant, with some oversight from the Children's Commissioner, feedback from Māori and non-Māori key stakeholders and whānau, and sector consultations. It is our hope that this research contributes to structural and long-term child welfare and Family Court reform to ensure more positive outcomes for children, families, and communities. However, given the overrepresentation of Māori among child welfare and child offending populations and systemic undermining of Māori in child welfare practices (e.g., Boulton et al., 2020; Williams et al., 2019), we strongly support growing appeals that child welfare and justice reform must honour Tino Rangatiratanga and follow a 'by Māori, for Māori' approach. This is being seen in the new District Court initiative Te Ao Mārama (Chief District Court Judge Heemi Taumaunu, 2020). Also, for example, in acknowledgement of the State's failings to improve outcomes for Māori children, the Office of the Children's Commissioner (2020b) recently called for a transfer of responsibility of the care of children to Māori.

As such, while we hope that this research will contribute to greater understanding of the opportunities for improvement within the child welfare and Family Court systems and offer some potential solutions to these problems, reform and transformation of child welfare and Family Court practices should ultimately be led by Māori.

8.2. Characteristics of children who offend relative to other children

Of the children who offended ($n = 2022$) when they were younger than 14 years old, the majority (62.9%) also offended as youth. Of the children who did not offend as a child, only 10% offended as a youth. This difference was statistically significant and profound.

This demonstrates that for almost two-thirds of children, offending in childhood is a stepping stone to continued offending in adolescence, highlighting the consistency of such behaviour as children grow older and, in turn, the importance of preventing offending in the first place. Furthermore, those who offend in both childhood and adolescence commit more serious offences.

Consistent with previous research (e.g., Fergusson et al., 2000; Loeber & Farrington, 2000), the frequency of offending increased with age (i.e., older children had higher offending rates than their younger counterparts). Although some children and young people had repeated recorded offences, the majority had one recorded offence. It is important to remember, however, that offending that is recorded does not represent all offending, just that which, for a range of reasons, is captured by official statistics (Farrington, 1986).

In terms of gender and ethnicity, our findings were consistent with those of previous research, with the offending rate for male children being around twice as high relative to females and Māori children and young people being significantly overrepresented relative to non-Māori.

Analyses of IDI datasets, Oranga Tamariki case files, and interviews with key stakeholders uniformly highlighted that children who offend have, in nearly all cases, grown up experiencing extreme hardship. For example, the IDI analyses found that children with a report of concern (ROC) before age 5, 10 or 14, and those who experienced any abuse and neglect, were at higher risk of offending compared to those who did not have records of ROCs and abuse.

These concerns were often intergenerational, indicating the chronic severity of these problems, with parents/caregivers who have experienced substance use issues, involvement with the justice system, and other adverse circumstances including, in many cases, child welfare involvement themselves. The Oranga Tamariki case files told many stories of the child who was offending having caregivers who had been known to 'CYFS' themselves, who had experienced whakapapa loss and trauma going back generations, with the links from colonisation and racism that took children from children's homes to gangs to the prison system still playing out today (Andrae et al., 2017).

Children's psychosocial and emotional development are seriously impacted because of exposure to such adverse experiences. Key stakeholders' evidence indicated that children experience posttraumatic stress, have learning difficulties, and believe themselves to be lesser, unworthy, or unwanted. Subsequent cascading and cumulative difficulties (e.g., association with peers who have experienced similar adversity, behavioural problems, truancy, school dropout) often become evident in the education, health, and child welfare systems. Again, verbal reports from key stakeholder consultations as well as findings from the Oranga Tamariki case files were consistent with those demonstrated in the IDI analyses.

The following points highlight some key findings from the IDI analyses.

Offending characteristics of the IDI cohort

- About two-thirds of those who offend as children go on to reoffend in adolescence.
- Those who offend in childhood and adolescence commit more serious offences.
- Those who offend in childhood and adolescence are far more likely to be charged between age 14 and 16 than are those who offend in adolescence only.
- Males are twice as likely to offend as females, and offend more often.
- The odds of offending are almost 3 times higher for Māori children and youth, compared to non-Māori.

Child welfare concerns are significantly associated with child and youth offending

- Having a report of concern (ROC) before age 5, 10 or 14 was significantly associated with offending as a child, a youth or both. Higher numbers of reports of concern/ notifications to Oranga Tamariki were associated with increased risk of child offending as well as combined child and youth offending (the 'both' group).
- There were thousands of reports of concern about children who offended. In the 'both' group, there were 1151 ROCs before age 5; 2888 ages 5 to 10; and 3223 from age 10 to 14.
- Children in the 'both' group had an average of 2.18 ROCs before they were just 5 years old, 3.82 between aged 5 and 10, and 3.77 aged 10-14.
- ROCs are associated with reoffending: those who had a report of concern about them before age 5 and offended as a child were more likely to reoffend as a youth (73%) compared to those without an ROC. This pattern persisted for those who had offended as children and had ROCs aged 5-10 (70% continued offending) and aged 10-14 (72% continued).
- The highest mean number of reports of concern was for those who offended as both a child and a youth. Higher numbers of reports of concern are associated with increased risk of child offending as well as combined child *and* youth offending.

Abuse experiences and subsequent difficulties are significantly associated with offending

- Abuse and neglect were all associated with significantly increased risk of offending and reoffending at all age groups. Data showed that a child abused under the age of 5 was six times more likely to offend as a child and youth, than was a child who had not been abused.
- Neglect reported before a child was 5 was significantly associated with offending as a child and going on to offend as a young person; this was so also for those neglected before age 10 and age 14.
- Of those who were physically abused under age 14 and also offended under 14, 77% went on to offend in adolescence, significantly more than the 23% who were physically abused but reportedly offended only as children and not as adolescents.

- Sexual abuse data show clear links between being sexually abused under age 14 and offending.
- Emotional abuse is a debated concept, but Oranga Tamariki social worker reports showed the more emotional abuse 'events' occurred in a child's life, the more likely they were to offend or reoffend.
- Mental health sequelae of abuse such as self-harm and suicidal indicators were underreported but still showed associations with offending. There were 16.2% of those who offended as both a child and youth who had self-harm or suicide indicators, compared to 2.2% of the 'both' group without those indicators. Similarly, the rate of youth-only offending in the whole cohort was around 9.6%; among those who had had self-harm or suicide indicators reported, it was 32.4%.

Data on abuse and neglect, and self-harm/suicide are based on Oranga Tamariki social worker reports and are likely underestimated, especially rates of sexual abuse.

Placement in out-of-home care and state care are significantly associated with offending

- Children who had an out-of-home placement before their 5th birthday were more likely to offend (across all age groups) compared to those who did not have a placement before their 5th birthday.
- Those who had offended as a child and had had a placement before age 5 were significantly more likely to also offend as a youth (82%).
- Being in state care was associated with repeat offending - 82% of children who were in state care before age 5 and who offended as children continued to offend as adolescents; 87% who were in state care aged 5 to <10 and who offended as children continued to offend, and 85% in state care aged 10 to <14 continued to offend.

School disengagement is significantly associated with offending

- Children who were stood down or suspended from school before age 10 were significantly more likely to offend at all age groups (e.g., 29% of those who had offended as both a child and young person had been suspended, vs. 2.2% who had not).
- Most (81%) children who had been suspended or stood down between age 5 and 10, and who had offended, went on to reoffend while aged 14-18.
- Children who had been expelled from any school by age 14 were significantly more likely to reoffend - 85% of those who had offended as a child and had been expelled before age 14 offended again from age 14-18.
- Those expelled before age 14 comprised just 0.4% of the overall cohort (216 children); nearly half (47%) of these (102 children) had offended as both a child and as a young person.
- Repeatedly changing schools was significantly associated with offending. For each additional school enrolment by age 10, the odds of offending as a child increased by a factor of 1.58.
- Rates of reoffending were also significantly associated with increased number of school enrolments, with each additional enrolment increasing the odds of repeat offending by a factor of 1.21.
- Almost a quarter (24%) of those who had been to 7 or more schools by age 14 had also offended by that age.
- Not being enrolled at school while aged 16 or older was associated with repeat offending for those who offended as a child - 80% of those out of school at age 16 who had offended as children continued to offend up to age 18.

Note, it is important to consider the challenges faced by parents concerned about their child's school engagement, not to assume the parents do not care, as this peer reviewer noted:

Many parents talk to me about their struggles with truanting children, but they do not know how to deal with them to get them to school. The Ministry of Education is conspicuously absent in assisting parents and seems to do very little in these cases. Overall, however parents do need support with their parenting, and they want this, but they struggle to get it. (*Barrister, peer reviewer*)

Poverty and family struggles are significantly associated with child offending

- Lower school decile (as an indicator of socioeconomic deprivation) at ages 6 and 9 was associated with increased offending across all offending groups. Also, of the children who offended, those who attended a lower decile school were significantly more likely to reoffend than those who did not.
- The odds of offending for those who were in a decile 1 school at age 9 were, on average, 2.1 times higher than for those in a decile 10 school at age 9. Looking at the probability of repeat offending, it was 1.3 times greater for those in decile 1 schools at age 9, compared to those in decile 10 schools.
- An indicator of financial hardship is having a parent who is entitled to receive an income support payment. Benefit entitlement for a parent before a child was age 5, 10 or 14 were all associated with risks of offending.
- Children who offended were more likely to go on to reoffend as a youth if they had a primary caregiver receiving a benefit when the child was aged under 5 (66% continued to offend compared to 52% of those whose parent was not entitled to receive a benefit before age 5 who reoffended); a pattern that persisted through to age 14 (66% vs 50%).
- Those who offended as both a child and youth were more likely to have a justice-involved parent than not (5% vs under 1%); for the youth-only offending group (aged 14+), there were 14% who had a justice-involved parent compared to 6% who did not.
- These rates increased if both parents had had justice involvement, with 9% of children who offended as a child and young person having two justice-involved parents, in contrast to 1.6% of those who offended as a child and adolescent whose parents were not justice-involved.
- A charge laid against at least one parent before the child was born was significantly associated with repeat offending: 68% of those children went on to offend as both a child and a youth, relative to 53% of others who reoffended.

Findings of Aotearoa NZ's longitudinal Dunedin Study indicated that adults with chronic offending histories were exposed to the most adverse psychosocial circumstances in childhood, whereas those with more moderate offending histories endured fewer such experiences, and non-offending adults had very limited exposure to such risk factors (Fergusson et al., 2000). A widely accepted typology of 'life-course-persistent' offending vs 'adolescent limited' offending (Moffitt, 1993; 2018), associated with longitudinal studies like the Dunedin Study, distinguishes between 'ordinary' adolescent misbehaviour (including transient risk-taking and offending behaviour), from lifelong trouble (the much harder to change 'life-course-persistent offending', where troubling behaviour and offending starts earlier and is more frequent and serious). That research was with a cohort born more than 40 years ago, in which Māori and non-European children were underrepresented. The current IDI data, about a cohort who are just moving into adulthood now, highlights significant risk of persistent offending for the most disadvantaged children, who are already shown to be significantly more likely to offend than those who offend only in childhood or in adolescence. Unfortunately, the typology of life-course-persistent offending may apply to at least some of these children if we cannot interrupt the trajectory of the current 'both' group, or at least ensure the children currently having 'reports of concern' being made about them before age 5 are not adequately helped now.

8.3. Opportunities for systemic change

The bigger picture

In keeping with previous research, the findings of this study demonstrated that children who offend typically grow up in families that have high and complex needs due to enduring significant hardship, including un- or underemployment, housing instability, substance use, and domestic violence. Indeed, it became clear early in the development phase of this research that an investigation into opportunities to prevent and reduce child offending more effectively could not be isolated from the broader social service and child welfare systems. Child offending does not occur in a vacuum but, in the vast majority of cases, was preceded by significant child welfare concerns. It is therefore critical that efforts to improve systemic responses to child offending are not restricted to interventions focused only on offending. Policies, legislation, and strategies that address the underlying conditions that typically give rise to child welfare concerns, such as poverty and racism (Keddell et al., 2019; Walsh et al., 2019), are urgently needed to improve living standards and reduce the likelihood of offending onset. Policies that may reinforce and maintain offending, such as justice practices that are under review (Chief District Court Justice Taumaunu, 2020; Hapaitia te Oranga Tangata, 2018; Ministry of Justice, 2020a; Te Uepū Hāpai i Te Ora Safe and Effective Justice Advisory Group, 2019), are required to diminish the risk of continued offending for those involved with the justice system.

Indeed, it appears policymakers too often have targeted the wrong end of the criminal justice pipeline (Lambie, 2018c). On the frontline, this is exemplified by the fact that psychologists employed by the Department of Corrections vastly outnumber those working for Oranga Tamariki (Ministry of Health, 2010). In a recent report on the high rates of family violence and their impact on crime, Lambie (2018a) argued that:

Talking about the wellbeing of babies seems a long way from arguments about the prison muster, but that is where the evidence says we must begin. (p. 5)

In purely practical terms, if a child starts to 'go off the rails' in a well-resourced home, there is potentially more of a chance that educational assessments and assistance can be paid for (e.g., to clarify and work with issues such as learning difficulties, FASD, ADHD etc), as can private psychological therapy (e.g., for trauma, family separation, behaviour management strategies, or to help parents who are struggling). Fees for sports teams or other prosocial activities (to widen the adult support base and develop the child's strengths and confidence) can be expensive, as are hearing/communication aids (e.g., where sensory issues are affecting learning or behaviour), or the costs of specialist physical health assessments, medication, or whatever other supports might help. Any of these may be more readily available where caregivers can simply pay, rather than waiting for state systems to possibly, eventually, provide such support. This is not to say that children who offend never come from high-income families, nor that high-income caregivers do not cause harm to their children, but the trajectory into compounding those issues are well mitigated (Doidge et al., 2017; Keddell et al., 2019).

Measures to reduce inequality also yield economic benefits, with a recent US study estimating that, for every dollar spent on reducing child poverty, the country would save at least \$7 (McLaughlin & Rank, 2018). Tackling the conditions that underpin a child's pathway into offending saves \$1000s in preventing harm to that child and family, the people and property affected by the offending, potential adult prison costs and the opportunity cost of children never finding a way to flourish (Lambie, 2018b; Welsh et al., 2015).

Recommendations: Address sociostructural factors

- Participants pointed to socioeconomic and structural inequalities associated with many child welfare concerns and child offending outcomes. These require sustained, cross-party and all-of-government action to 'raise these people out of the poverty blights that they're in'.
- Conceptualising children's antisocial/offending behaviour in context of the hardship they and their families typically experience may serve to lead to a more accurate, empathetic public response to these children, in turn promoting social change and support for progressive, evidence-based policies.

Interaction with the education, health, and child welfare systems

Despite children's needs often being identifiable early in schools, health, and child welfare agencies, assessment of these needs and effective provision of support to children and families was described by key stakeholders as far too limited in many instances. As a result, children and families may 'accumulate' numerous child welfare notifications without getting effective support, as both key stakeholder and whānau interviews made clear, and the Oranga Tamariki case-file analysis showed again and again.

Siloed responses prevent effective help

When families do receive assistance, interviewees reported that limited coordination and collaboration between agencies and ministries means that children's and families' needs are typically dealt with in isolation (e.g., a school may put in place learning supports or a parent may be directed to engage in substance use treatment), though their systemic, overarching needs are rarely assessed—let alone addressed. As a result, children were seen as falling through the cracks, exposed to further adversity, which in turn participants saw as leading to an escalation of needs, at times culminating in antisocial and offending behaviour. Poor collaboration between agencies has consistently been highlighted by previous reviews of the responses to child offending (e.g., Maxwell & Robertson, 1995; Office of the Children's Commissioner, 2020b; Social Services Committee, 2012), suggesting continued need for improvement in this area.

It is important to note that key stakeholders were clear that early intervention did not mean early stigmatising or labelling, as long as there were efforts at the relationship-building and engagement that they had seen work successfully, with respectful offers of help, as outlined in Table 52.

Table 52. Early intervention means offering respectful, consistent, strengths-based support

Does 'early intervention' mean negatively targeting and stigmatising children and families?

- It is important to note that early identification, assessment, and provision of assistance to children and families with high needs does not automatically equate to 'labelling' so-called 'at-risk children/families'.
- This concern, which was raised in a discussion of the preliminary findings of this research with key stakeholders, is justified considering the negative and often traumatic experiences many families have had when engaging with state services, being judged, labelled and not helped.
- Instead, over the course of this research, we heard time and again that families typically seek and are receptive to receiving assistance, *provided this is offered in a consistent, strengths-based, respectful, and supportive manner.*
- The onus, therefore, is on government and other services to ensure that any provision of assistance, including the initial assessment of children's and families' needs, adheres to such principles. Indeed, framing the provision of support as 'assistance' rather than 'intervention' may further reduce stigma and fear related to child welfare engagement.
- Te Tiriti o Waitangi principles of partnership, participation, and protection offer fundamental guidance to this endeavour.

Some participants expressed some hope about an Oranga Tamariki Children's Team initiative, in which representatives of the various agencies and ministries involved with children with sub-threshold child welfare concerns meet to discuss concerns, share information, and coordinate to address a family's needs, and there appear to be some good responses to this, as assessed by the agency itself (Oranga Tamariki Evidence Centre, 2019). Such initiatives try to counteract the 'siloing' of agencies, attempting to build a collaborative approach and a sense of shared responsibility and accountability (Goerge & Wiegand, 2019; Meier & Sankaran, 2021). Similar initiatives decades ago have never been fully implemented, such as a body of work and recommendations on addressing conduct problems (which indicate early problems for children and families) from age 3 to adolescence, using evidence-based universal and targeted approaches (developed by the Advisory Group on Conduct Problems, AGCP, 2009).

Similarly, some participants were aware of the social workers in schools (SWiS) programme, which is a government-funded initiative that places social workers in low-decile primary and intermediate schools to support students and whānau. SWiS has been associated with some positive outcomes, including a reduction in police apprehensions for alleged offending (Ministry of Social Development & Oranga Tamariki, 2018; Oranga Tamariki Evidence Centre, 2020). Critically, SWiS social workers may improve early assessment and intervention efforts and facilitate engagement with wider agencies, such as those offering specific learning supports, child and adolescent mental health services, and public health nurses, thus working to provide a wraparound approach to children's and family's needs, although the programme also faces challenges.¹⁸ Of note, in the MSD and Oranga Tamariki evaluation of SWiS (2018), there was a finding that reductions in police apprehensions, reports of concern and school stand-downs were evident in Kura Kaupapa Māori without needing a SWiS programme.

As a family law barrister who peer-reviewed our report noted, there are changes in the child welfare system underway, but she remains concerned as to whether these will be fully enacted:

I note that many of your recommendations are aligned with Oranga Tamariki's new policies about keeping children and young people with whānau and within their own homes with earlier identification and better support from the outset. The challenge will be to see whether these policy and statutory directions actually occur. *(Barrister, peer review)*

Recommendations: Assistance must be coordinated and collaborative

- Ensure earlier and more holistic assessment of children's and families' needs. For example, requiring a comprehensive assessment of a child's welfare, cultural, educational, and physical health needs, as well as the needs of the family more generally, following a certain number of child welfare notifications may promote families getting support sooner as well as the assistance they actually require.
- Improve coordination and collaboration between agencies, ministries and community and iwi leadership to provide effective and culturally appropriate assistance to families when child welfare concerns first come to notice, to reduce the risk of these escalating (e.g., strengthening parenting through support, addressing health and education issues, and supporting socioeconomic needs). Improved coordination and collaboration may occur in the form of initiatives like the Children's Teams or SWiS, or iwi and community-led initiatives.
- School suspensions, expulsions and multiple enrolments were associated with offending: it is critical for children to remain at school, despite the significant challenges this no doubt entails for teachers, peers and school resources. Clearly, schools need to be sufficiently resourced to ensure that the needs of these children can be adequately addressed.

¹⁸ In a recent evaluation of the SWiS programme (Oranga Tamariki Evidence Centre, 2020), addressing pay disparities between Oranga Tamariki and SWiS social workers and increasing available resources were issues highlighted.

Failures to respond are associated with child offending

While legislative provisions clearly stipulate that the needs of children and families with welfare concerns must be addressed, under-resourced education, child welfare, and Family Court systems hinder more effective prevention and early intervention with children and families, as stakeholders and Oranga Tamariki case-file data made clear:

- An under-resourced education and child welfare system means that thresholds for support are exceedingly high; only a proportion of children and families that require support are able to access it. In other words, many children and their families with multiple notifications do not receive the assistance they need.
- In many instances, only children and families with the most imminent safety concerns receive 'support', which, once it has reached this point, often results in statutory care and protection proceedings.
- Subsequent placement of children with kin or non-kin caregivers may support some children to stabilise and grow up in an environment more readily equipped to respond to children's needs. In many cases, however, children may be exposed to further adversity, including for those in state care.
- Placement breakdowns, for one reason or another, often lead to multiple placements, further impacting on children's psychosocial development and sense of safety and security, thus exacerbating their needs and concerns.
- Shortages in caregivers (kin or non-kin) or specialist placements also hinder the wellbeing of children.
- Stakeholders were aware of children having to remain in secure residences due to no suitable community placement being available.
- Shortages in programmes that cater to the needs of children and families also impede more positive outcomes for children involved in the child welfare system; there are insufficient highly skilled people to help break intergenerational complexities of harm.

The net effect of these issues is that far too many children and families fail to receive the support, in the form of culturally appropriate and evidence-based interventions, they require. In turn, their unmet needs escalate, at times leading to the point of police filing care and protection applications due to children engaging in serious or persistent offending despite their needs long being known to child welfare services.

It can reasonably be argued, therefore, that systemic failure to address the needs of children and families actively contributes to child offending and continued interaction with the youth justice and criminal justice systems. This results in children who are victims of adverse experiences themselves going on to create victims both inside and outside of their families and communities.

Resources are inadequate or poorly deployed

Key stakeholders observed that, compared to social workers in the youth justice division of Oranga Tamariki, care and protection social workers have caseloads that are too high, significantly impacting on the extent to which they can attend to or respond to the needs of all their cases. As a result, oversight of such cases is often poor and can be made worse by frequent changes of social workers. In turn, the unmet needs of children may escalate. There are changes underway in Oranga Tamariki and consistent calls for a rethinking of child welfare practices, including iwi leadership – as a key stakeholder pointed out, iwi are for life, not just for the duration of a programme or ‘case’, and facilitating cultural leadership is vital.

Other shortages of concern, apart from social workers, that were raised by the data analysis were:

- A shortage of other child welfare professionals, such as FGC coordinators, means that legislative processes are often severely delayed.
- Similarly, there is a shortage of child welfare professionals, such as youth workers and mentors, more generally. As a result, children and young people do not receive the support they require. As a family law barrister noted in peer reviewing this report, well-supported networks of mentors (including appropriate iwi supports) are needed:

Very often a young person or child needs a support person to walk alongside them and mentor them, but that person is not available as there do not seem to be any pool of mentors and youth workers. When we do get a young person supported bail, the supporters do not actually do any activities with the young person, so it is a wasted opportunity. I suspect they are not paid well enough. (Barrister, peer reviewer)

- Poor coordination and organisation at times hinder the development of FGC plans, leading to further delay and frustration among families and professionals (e.g., due to funding for particular interventions not being readily available).
- Piecemeal implementation of FGC plans also hinders the wellbeing of children. For example, the recommendations of particular assessments may not be able to be implemented due to a lack of services or professionals (e.g., programmes, psychologists) able to cater to the needs of children and families.
- This may particularly be the case in rural and regional areas, in which further delays because of not having access to professionals able to undertake assessments need to be weighed up with more efficient proceedings without necessarily having comprehensive assessments of children’s needs.

Problems within the child welfare system are not solely attributable to a lack of resources, however. How the resources are deployed, or how those involved are trained were also of concern:

- For example, participants highlighted that Oranga Tamariki involvement tends to be reactive rather than preventative.
- While a shortage in resources undoubtedly contributes to a need to serve families with the highest needs, early intervention does not appear to be sufficiently prioritised, as evidenced by so many of the Oranga Tamariki case files of children under s14(1)(e) we looked at, which showed children’s extensive histories of child welfare notifications and yet the child (and often their siblings before or after them) had still progressed to offending.
- This was also evident in the IDI analyses, which demonstrated that children who offended, including those who continued to offend as adolescents, had the highest number of reports of concern. In turn, more effective intervention at the earliest opportunity may reduce the risk of child welfare concerns escalating to offending.

Recommendations: Address resource shortages

- Increase funding for the education and child welfare system to ensure the needs of children and whānau can be effectively addressed (e.g., via allowing for more learning supports and targeted education services, social workers, FGC coordinators, lawyers, psychologists, youth workers, mentors, specialist caregivers). For example, an increase in social workers may reduce individual caseloads, thus allowing more comprehensive support of the needs of children and families, alongside a commitment to funding iwi-based and other more appropriate initiatives to transition away from Oranga Tamariki involvement.
- Prioritise early intervention instead of reactive practices within Oranga Tamariki (e.g., ensuring smaller caseloads for care and protection social workers and balancing resources to care and protection work, relative to youth justice work).
- Simplify the access of resources to meet care and protection needs, both within and beyond Oranga Tamariki (e.g., pool of money more readily available for evidence-based interventions for children).
- Increase access to programmes and initiatives supporting the systemic needs of children and families. In addition to families whose needs have met the statutory threshold, it is critical that such programmes are available to children and families whose needs have not (yet) escalated to this threshold. Examples of such programmes mentioned by participants include FFT, MST and locally developed programmes. While both FFT and MST generally cater to young people at risk of (re)offending aged over 10 years, adaptations to both programmes to cater to younger children have been developed and found to be effective in supporting the needs of children and families (Heriot & Kissouri, 2018; Swenson & Schaeffer, 2014; Turner et al., 2017). It is particularly important that the efficacy of such programmes is evaluated locally and, where shown to be effective, that they are also available in non-urban regions.
- According to participants, greater investment is needed into community placements, such as iwi-led supports or supervised group homes, in which children can be supported while still living in their community and being able to see their families.

The IDI showed significant associations between early trauma (abuse and neglect) and persistent offending; therefore, there is a need for trauma-informed care to be available. Such practice emphasises the importance of establishing safety, trust, choice, collaboration, and empowerment in engaging with service-users (Levenson, 2017). As noted, there are more psychologists (for whom understanding trauma is a core professional competency) doing risk assessments in the adult criminal justice system than there are psychologists available to help children and families in the child welfare system, which indicates an emphasis that is at odds with the data. It is not an either/or but resources do need to focus on early intervention or our justice system will continue to see adults offending who did not receive the help in early life they needed.

Given that social workers frequently interact with people who have experienced trauma, increased consideration has been given to trauma-informed social work practice (e.g., Knight, 2015; Levenson, 2017). Trauma-informed care is not mentioned as a core competency of Aotearoa NZ social work practice (Social Workers Registration Board, 2021). Given child welfare concerns and child offending are associated with adverse experiences, it appears critical that Aotearoa NZ social workers are well-equipped in trauma-informed practice to enhance families' child welfare experiences. Indeed, whānau participants often perceived child welfare engagement as blaming, labelling, and deficit-focused, whereas when engagement was seen as collaborative, genuine, transparent and caring, they were much more receptive to support.

Also, there is a strong evidence base of intergenerational trauma specific to Māori (via racism, systemic bias and colonisation, Ministry of Justice, 2019a) and all forms of trauma for Māori, Pasifika, plus minority groups (for all forms of diversity such as sexuality, ethnicity, neurodifferences, disability). Approaches to ensure adverse outcomes do not continue from such trauma are beyond the scope of this report, but must be considered.

Recommendations: Address trauma

- Emphasise the importance of trauma-informed care in social work curricula and ongoing social work practice.
- Consider how access to trauma-informed psychological and other services are distributed according to the evidence of need.
- Apply evidence-based and culturally appropriate understandings of trauma and recovery, including kaupapa Māori and Pasifika-based approaches to intergenerational trauma.

8.4. The Family Court

As highlighted above, the findings of this research indicate that families often perceive engagement with child welfare professionals as stigmatising, deficit-focused, and intimidating. Moreover, whānau participants felt they were not sufficiently prepared for child welfare proceedings in the Family Court, considerably limiting their participation and informed decision-making.

The Family Court is experienced as culturally unsafe

The concerns of the participants in this research echo those of whānau involved in prior research, such as a report on whānau experiences of Family Court care and protection proceedings (Boulton et al., 2020). For example, whānau who participated in Boulton et al.'s (2020) research perceived court proceedings as alienating, and from an entirely different worldview:

I think the Judge could at least acknowledge us. 'Kia ora whānau, who have we got in the room?' It's like whakawhanaungatanga to find some sort of connection. You have a Pākehā Judge, lawyer, psychologist all talking to Māori about their babies. All of them don't have, don't understand us because they're thinking from a legal law point of view and we are thinking from a more te ao Māori point of view. We are thinking more about our tamariki and is this court case and everything that is going before the Judge going to rip the whānau apart? (p. 14)

Considering participants' insistence that effective engagement is a critical first step to supporting families with complex needs, it is essential that child welfare and Family Court professionals have the skills and resources to effectively engage with children and families. Notably, culturally safe approaches, such as Whānau Ora¹⁹, have been found by some to lead to positive and sustainable outcomes for Māori (Te Puni Kōkiri Ministry of Māori Development, 2018). In contrast, social work practices that are biased toward western approaches have been found to negatively affect whānau Māori experiences (Moyle, 2014). Increased representation of Māori among Family Court Judges, as has recently been achieved in the District Courts (District Courts, 2021), may support whānau to feel more comfortable during court proceedings but it is too soon to tell. Many reports (e.g., Noonan et al., 2019) have called for much more significant change to address searing critiques of the 'family justice' system in Aotearoa NZ:

[There are] monocultural family justice services; widespread frustration and scepticism amongst Māori whānau, hapū and iwi, and kaupapa Māori organisations; family justice services that do not align with tikanga Māori or Māori views of whānau; lack of official requirement for the Family Court to build and maintain relationships with mana whenua; lack of engagement with kaupapa Māori services by Māori for Māori in family justice services; and lack of cultural education by Family Court Judges. (Boulton et al., 2020, p. 27)

¹⁹ Shaped by Māori worldviews and principles, Whānau Ora is a culturally anchored approach to social services that seeks to support the wellbeing and self-determination of Māori. Whānau Ora is strengths-based, working with whānau to identify their aspirations to improve their lives, build the capacity to do so and to take charge of decision-making for a positive future. <https://www.tpk.govt.nz/docs/tpk-wo-review-2019.pdf>

Recommendations arising from these findings are as follows.

Recommendations: Better uphold Te Tiriti o Waitangi principles

- Fully implement sections 4, 5, and 13 of the Act that mandate involvement and strengthening of whānau, hapū and iwi initiatives.
- Ensure culturally safe practice, which is structured by tikanga Māori (e.g., whakawhanaungatanga) and actively adheres to Te Tiriti o Waitangi obligations (e.g., by ensuring participation, partnership, protection in all child welfare proceedings).
- Ensure local by Māori for Māori approaches allow for whānau/hapū/iwi to provide their own solutions for their own children's needs.
- Provide increased training to child welfare professionals, including those working in the Family Court, to be able to more effectively engage with children and families, and particularly those of Māori descent, and to more effectively support, rather than get in the way of, by Māori for Māori approaches.
- Increase the emphasis on culturally safe practice in social work training, legal competencies, and professional practice; such pursuits should consider the recommendations of Walker (2012).
- Increase the number of Māori Judges and kaupapa Māori processes in the Family Court.

Family Court resources are inadequate

Resource shortages and inefficiencies in the Family Court were seen by key stakeholders as further impeding the wellbeing of children and families.

- Assessment and assistance to children whose needs fall below the statutory care and protection threshold in the Family Court is limited. For example, there is no provision for counselling or other supports for children in the Family Court, despite clear evidence of child welfare concerns at times (e.g., domestic violence or parental substance use that does not meet the care and protection threshold).
- Although children's wellbeing may be indirectly supported while the Family Court's 'spotlight is on' (e.g., when parents are required to engage in substance use treatment), not meeting the statutory threshold means that their wellbeing cannot be continuously assured once cases are dealt with, as many of the Oranga Tamariki case-file snapshots indicated, where children seemed to drop in and out of view, only to emerge finally as 'a 14(1)(e)', actively engaged in offending.
- While many children in the Family Court may not require support, the findings of this research suggest that opportunities are missed to more thoroughly assess and respond to the needs of children at this stage. This is in line with plenty of research evidence that even when children are not obviously affected by their caregivers' intimate partner violence, such as by witnessing harm, for example, they can still be badly affected emotionally and socially (AGCP, 2009). Earlier full assessment may help prevent their needs escalating to the point where statutory intervention via care and protection is needed. This may be achieved through greater utilisation of FGCs for subthreshold care and protection cases, which have recently been legislated under section 18AAA.

Recommendations: Resource early assessment and therapy

- Consider provision of full cultural, health and educational assessments (e.g., Gateway assessments) and – more importantly – subsequent assistance to children in the Family Court whose families do not meet the statutory care and protection threshold yet appear to have clear needs.
- Make increased use of s18AAA FGCs to determine and support the needs of children and families whose needs do not meet the statutory threshold.
- Provide funding for children to receive therapy (as previously provided in the Care of Children legislation) – currently the Family Court can recommend therapy for parents/carers but not for children.

The flows of information and action in the Family Court are poor and slow

Family Court resource shortages also affect children who do meet the statutory care and protection threshold.

- As the busiest court in the country, participants pointed to how Family Court proceedings are plagued by chronic delays.
- Shortages in child welfare professionals and available court time means that cases can take months to go to FGC or come before court.
- A further problem that participants noted in the Family Court is that the amount of time Judges have to prepare for and hear cases is brief. It appears unreasonable to expect Judges to be able to form a comprehensive picture of the circumstances of children, who have long histories of child welfare involvement and may have had multiple social workers and plans or placements, and be able to make informed decisions in the best interests of the child. (Our experience of reviewing the Oranga Tamariki case files, including both digital and paper files, confirmed the complex and dense information system being grappled with.)
- Specialist assessments, when asked for, were seen by participants as further delaying proceedings, often by months. Responding to children's needs in a child's sense of time, as is advised in legislation, is therefore rarely seen in practice.
- Limited provision of assessments, due to their high cost and a shortage in professionals with the expertise to conduct these assessments, means that the needs of children and their families may not be comprehensively assessed.
- Yet, also, rather than waiting for delayed assessments, our participants were keen for the obvious to be dealt with, for example:
 - A parent having obvious difficulty coping with caregiving in the presence of substance abuse or family violence
 - Children needing help to manage school or social relationships – where practical, sustained support and learning, in the context of respectful, engaged relationships, not necessarily high-level specialist assessments, would help.

Recommendation: Have time to understand what's happening and do something

Ensure the Family Court is more adequately resourced:

- Increases in child welfare professionals and available court time may reduce delays for children and families.
- This may also result in more comprehensive assessment of children's needs (i.e., via a more diverse range of the right people getting alongside the child and family) – and, more importantly, a requirement for effective, sustained assistance and intervention to be promptly made available.
- Judges may benefit from being able to spend more time familiarising themselves with cases, thus gaining greater understanding of children's and families' needs, or from information being presented in more coherent forms.

Delays in Family Court proceedings may be further attributed to legislative shortfalls

Whereas clear and, importantly, legislated timeframes ensure efficient responding to young people's needs and monitoring of plans in the Youth Court, participants pointed out that such legislation does not adequately exist in the Family Court. For example, while FGCs are stipulated to be held within 21 days in the Youth Court, such legislated timeframes do not exist in care and protection. Notably, these concerns were flagged more than two decades ago in Maxwell and Robertson's (1996) report on child offending, which found that the time taken to arrange FGCs was far too long. The up-to-date IDI records showed an average of 5 months from referral to convening the FGC for under 5-year-olds, and almost 2 months for those aged 10-14, plus an average of 17 days (for under 5-year-olds) to 19 days (for 10- to 14-year-olds) from when the FGC was 'convened' for it to finally be held.

Limited legislative ability of the Family Court to hold professionals and agencies involved in supporting the care of children and families accountable (e.g., by ensuring the sufficient and efficient implementation of FGC plans) further impacts on the wellbeing of children. Without wishing to oversimplify the issues, interviewees felt there are limited incentives for busy professionals to ensure plans are being sufficiently implemented if there are few consequences for not doing so. This is not to say that professionals do not seek to cater to children's and families' wellbeing, but that large caseloads hinder being able to adequately attend to all cases.

The subsequent poor implementation of plans at times may be further attributed to legislative shortfalls. Legislation stipulates that care and protection cases need to be reviewed every 6 months for children under 7 years old and annually for children aged 7 and over. While this may be sufficient in many cases, and although many lawyers for child seek to review cases at more regular intervals, this nonetheless means that oversight of cases can be limited. Overall, it seems that the wellbeing of children in care is dependent on the expertise, commitment, and capacity of their allocated child welfare professionals, rather than systemic practices designed to ensure their wellbeing. The relatively irregular monitoring of care and protection cases is particularly noteworthy when compared to the Youth Court, in which cases are stipulated to be reviewed every two weeks.

Recommendations: Conduct legislative review

- Introduce more stringent timeframes in care and protection legislation (e.g., stipulate FGCs to be held within 21 days, as opposed to the many months it is currently taking).
- Consider amending legislation to require more regular reviews of care and protection cases. This may increase oversight over children's wellbeing and serve to hold professionals to account regarding the implementation and continuity of plans. This may also ensure the continuity of plans in cases of frequently changing social workers.
- Consider increased legislative powers for the Family Court to hold responsible agencies or ministries to account for the implementation of FGC plans.

Children and whānau don't understand the Family Court

A further, fundamental problem with Family Court proceedings identified in this research is that whānau often feel uninformed about or not actively involved in child welfare proceedings, thus significantly hindering their participation. This finding reflected the experiences of the 36 whānau who participated in Boulton et al.'s (2020) research, which found that nearly half of the participants were not given an explanation of Family Court processes and that the majority felt they were excluded from decision-making.

Increased recognition of the importance of including lay advocates in Family Court proceedings by the Principal Family Court Judge may be an encouraging step toward supporting whānau in these processes (Moran, 2020). Similarly, we will be interested to hear from our interviewees in future as to how the recently established Kaiārahi – Family Court Navigators²⁰ – role in the Family Court is working to support families through these proceedings.

Recommendations: Commit to whānau/family participation and decision-making

- Involve lay advocates and communication assistants to support informed whānau participation and decision-making.
- Provide training to Judges and lawyers to more effectively communicate with families in the Family Court and include them in decision-making.

²⁰ 'Family Court Navigators aim to improve family justice outcomes for parents, whānau and tamariki by empowering families to make informed decisions on appropriate pathways and how to access them, how to engage with the court for legal matters, or how to access out-of-court services.' (<https://www.justice.govt.nz/about/news-and-media/news/kaiarahi-family-court-navigator-role-announced/>)

8.5. Child welfare and Family Court processes specific to child offending

The issues regarding delays, lack of routine assessment, and limited accountability and oversight were described by interviewees in relation to both care and protection and child offending cases. Participants explained that the implementation of FGC plans often falls short due to a variety of reasons, including changes in social workers, lack of available programmes or placements for children who have offended, and limited accountability of the agencies responsible to manage these cases. Moreover, the underlying needs that likely led to offending behaviour frequently remain unaddressed, as child offending FGCs and subsequent plans often mirror those in youth justice in terms of emphasising responses to the offending. As such, children may be asked to write an apology letter or receive other justice-based consequences, which rarely address children's underlying needs.

Child offending is dealt with across two jurisdictions (care and protection and youth justice), further complicating judicial processes and the response to the needs of these children. For example, funding for particular interventions may be approved by the youth justice (YJ) wing of Oranga Tamariki, though may not necessarily continue once youth justice processes are dealt with and the case is back to being solely managed by the care and protection (C&P) wing of Oranga Tamariki. Children may have multiple social workers (a C&P and a YJ social worker), lawyers (a lawyer for child and a youth advocate), and separate care and protection and youth justice proceedings. While many lawyers for child seek to bolster the proceedings for children by placing hearings in the crossover court, in which the same Judge with dual Family and Youth Court warrants resides over cases, such courts are limited in available hearing time and only present in certain areas (i.e., they are not available nationwide). Moreover, crossover courts technically cater only to youth aged 14 to 17 years (George, 2020). More generally, interviewees were concerned that children's offending should not have to escalate to a point at which it is considered serious enough to warrant more comprehensive support in the form of youth justice provisions (e.g., therapeutic court model in crossover court). It seemed glaringly obvious to them that such supports should be readily available before a child's onset or escalation of offending, and the Oranga Tamariki case-file analysis reinforces this, in terms of the length of time the children had typically been living in adverse circumstances. A watch-and-wait approach until children who have offended can be dealt with in the Youth Court (either by offending more seriously or turning 14 years old) appeared to our participants to be an indictment of the legislative aims of ensuring the wellbeing of children, families, and communities.

Again, Family Court practices to respond to child offending were compared unfavourably by our respondents to practices in the Youth Court. The Youth Court is a 'therapeutic' court, in which the same Judge resides over a case (thus ensuring more consistent oversight), all professionals involved with a case come before the Judge every two weeks, and in which psychological and other specialist assessments (e.g., FASD or neuropsychological assessments) are routinely conducted. Lay advocates, who can play a critical role in supporting families through court proceedings, are readily available in the Youth Court. While lay advocates are available in the Family Court, their routine use appears to be much less established, according to our interviewees. Access to communication assistants is a further advantage of Youth Court proceedings, as they are able to help young people understand proceedings and communicate, thus facilitating informed participation by young people (Howard et al., 2020a). While communication assistance is a relatively new addition to youth justice practices (Howard et al., 2020b), court proceedings may be even more difficult to understand for younger children. Communication assistance should therefore be a readily available resource in both care and protection and child offending proceedings.

Cultural processes are also lacking in the Family Court, which was of concern to our participants. While the Youth Court can offer young people and their families judicial proceedings that incorporate cultural processes (i.e., the Te Koti Rangatahi or Pasifika Courts), these are rarely embedded in Family Court proceedings. Again, it appears that children who offend, the majority of whom are Māori, according to the IDI data, only encounter culturally responsive proceedings once they are older or when the nature of their offending requires Youth Court intervention.

Recommendation: Make changes to the Family Court

- Roll out across NZ the judicially initiated 'crossover' courts (for youth offenders with care and protection issues and Family Court proceedings). Also use the crossover approach in the Family Court for all children in that court with offending issues.
- Consider the suggestions for change (e.g., Family Court proceedings able to be held on Saturdays once a month to enable whānau to attend; ability to hold proceedings on marae) in the Boulton et al. (2020) report.
- Implement the detailed recommendations in the Office of the Children's Commissioner's *Children with offending behaviour* (2020b) – included in Appendix D.
- A recommendation arising from these findings may be to implement a specialised child welfare court, which may emulate the therapeutic Youth Court model. In other words, such a court may:
 - Involve Judges with a special interest in these cases and who are skilled to effectively engage with children and whānau.
 - Hold hearings more regularly than seems to be currently possible in the Family Court.
 - Have the same Judge presiding over cases and require all professionals involved in cases to regularly attend court hearings. This is likely to ensure greater oversight and accountability over the implementation of plans.
 - Emphasise the routine involvement of lay advocates and communication assistants to support families and ensure informed participation.
 - Emphasise the specialist assessment of the needs of children, for example, having a youth forensic nurse for initial evaluations; a clinical or behavioural psychologist present to provide clinical input or counselling plans; educational advisors etc.
 - Be embedded in culturally appropriate practices.
 - Have the same resources as available in the Youth Court (e.g., ready access to assessments, therapy, mentors).
 - Consider legislative tools to increase accountability of Oranga Tamariki if child welfare practices and plans are not sufficiently adhered to.

Notably, the above recommendations appear consistent with recent Oranga Tamariki Act 1989 amendments, namely to encourage the participation of and expression of young people (e.g., through communication assistance), placing the wellbeing of young people at the centre of decision-making (e.g., assisted by in-depth knowledge of children's and families' needs due to comprehensive assessments, emphasising the need to effectively address child welfare concerns at the earliest point possible, and ensuring children's and families' informed and meaningful participation), and by 'protecting a young person's mana tamaiti and wellbeing by acknowledging their whakapapa and the whanaungatanga responsibilities of their family, whānau, hapū, and iwi' (e.g., by embedding child welfare and court proceedings in culturally appropriate practices) (Walker, 2020, p. 7). While these amendments were emphasised by Principal Youth Court Judge Walker (2020) in relation to practices in the Youth Court, it appears obvious to those we spoke to that these principles need to be embedded in the child welfare and Family Court system.

Given that child welfare concerns tend to also be frequently evident in non-statutory proceedings (e.g., in sub-threshold domestic violence or custody proceedings), it may be advisable that cases with sub-threshold needs are also dealt with in such a therapeutic court. In turn, this may reduce the risk of such needs escalating to meeting the care and protection threshold. Alternatively, the creation of a specialist care and protection court may ensure that non-statutory cases in the Family Court receive greater time and oversight given reduced caseloads overall because of a separate care and protection court. A recommendation specific to Oranga Tamariki might be to implement a dedicated work stream within Oranga Tamariki that responds to children who have offended to ensure the needs of these children are effectively addressed and the risk of children escalating to the youth justice system is reduced.

8.6. Child offending referral processes

A further issue regarding child offending proceedings is ambiguity in referral processes. As participants explained, police officers have multiple ways of responding to children apprehended for offending behaviour (e.g., warning, alternative action, or s14(1)(e) FGC referral) and understanding which response may be most appropriate can be limited. A widely praised reference tool, the *Child Offender Manual*, is outdated and without replacement, meaning professionals who come into contact with children who have offended are often left unsure of how to deal with these children. The development of an evidence-based assessment tool may support frontline police officers in such decision-making, perhaps building on a Youth Court trial with the ROIT (a Remand Options Investigation Tool; Oranga Tamariki Evidence Centre, 2018).²¹

More generally, participants felt that the ambiguity regarding the roles and responsibilities in relation to child offending cases means that professionals and agencies may be reluctant to engage with these cases at times. This even applies within the same agencies, such as the care and protection and youth justice divisions of Oranga Tamariki. Family Court paperwork for child offending is complex, increasing the amount of time police officers spend on filing such applications. In some instances, our participants were aware this may lead to an inevitable reduction in care and protection applications (i.e., s14(1)(e)), suggesting children may be dealt with via alternative pathways that do not necessarily allow for assessment of these children's needs and the best-possible assistance. As a result, recommendations include the following.

Recommendations: Enhance child offending referrals

- Provide training to professionals coming into contact with children who have offended to ensure more thorough understanding of child offending processes, which response may best support children's needs, and the roles and responsibilities of professionals and agencies involved. This may increase professionals' willingness to work together and reduce interagency conflict (e.g., between Oranga Tamariki and Police).
- Update the *Child Offender Manual* so recommended actions align with current law and are clearer for staff.
- Simplify/streamline Family Court paperwork (e.g., s14(1)(e) applications).
- Consider the development of an evidence-based assessment tool that allows frontline police officers to determine how best to respond to children who have offended.

Overall, the findings of this research clearly demonstrate several opportunities for improvement within child welfare and Family Court proceedings to ensure more positive outcomes for children at risk of (re)offending. Child welfare concerns, which precede child offending in virtually all cases, can typically be readily identified in primary schools and often before children reach school. Given the potentially detrimental consequences of such concerns escalating, and the cumulative harm children and whānau are often exposed to in the process, early and effective intervention is critical to ensuring more positive outcomes for our most vulnerable children and families. As such, while it is certainly not too late to achieve positive outcomes by the time children reach the Family Court, the findings of this research suggest that it does not need to reach this point. Improvements in Family Court proceedings, such as more efficient proceedings, greater assessment and response to the underlying needs of children's offending, and greater oversight over cases may serve to better address the needs of children and reduce the number of children escalating into youth justice system. Establishing a specialist child welfare court that is adequately resourced, culturally responsive, and solution-focused may best support the needs of children and families.

²¹ The ROIT is a framework of questions about a young person to help guide decisions about whether a young person should be put on remand in a secure youth justice residence or use other placement options. Beyond a focus on just the crimes committed, the ROIT requires cross-agency input on cultural factors, trauma, resilience, child development issues, drivers of crime and other risk and protective factors.

9. Conclusions

The recommendations arising out of the IDI data analysis, Oranga Tamariki case-file analysis, and stakeholder interviews presented in the discussion were then discussed in sector hui and across the research group. This has resulted in the final list of recommendations that are presented in the *Executive Summary*.

There have been many recommendations made about improvements to child welfare and justice processes over many years, and there have been changes to systems and services. Where there has been a focus on children who offend, actions called for are primarily after the fact of offending. As our comprehensive, up-to-date research has shown, there are definitely improvements that can be made to the experiences of children who offend and their families, but more importantly there is much more that can—and must—be done to prevent the adverse circumstances and system failings that set an infant on a pathway to offending.

We are also aware that there are child welfare and justice system changes underway as we complete this research. People may say that the changes called for are already being done. That is great if it is so—but where is the evidence? Who is monitoring the changes? Can we return to our key stakeholders next year and hear about real change? Can we review Oranga Tamariki case files in 3 years' time and find stories that are ending differently? We really hope so.

9.1. Research limitations

This was the first study in Aotearoa NZ that integrated both quantitative and qualitative research methods to comprehensively investigate the characteristics, backgrounds, and trajectories of children who offend, as well as the systemic responses to child welfare concerns and child offending. There is, however, more to be done.

In terms of the IDI, we were unable to track offending into adulthood. This problem could have been avoided if we had used a younger cohort (i.e., children born before 2000). However, we prioritised investigating the most recent sample of children to understand the trajectories of children who offend in the context of current child welfare and Family Court proceedings. Being put into the custody of the state is still associated with adverse outcomes for children and is significantly associated with offending right now—it is not only a historical practice that the Royal Commission of Inquiry into Abuse in Care is currently investigating.

Access to the linked administrative data of the IDI enabled us to gain broad and longitudinal understanding of population-level offending groups across a range of areas, including child welfare, education, justice, and socioeconomic indicators (Statistics New Zealand, 2020). As such, they enabled valuable information on the various factors associated with different offending groups among a national (and therefore large and representative) and recent cohort of New Zealand children and young people.

However, data analysed for the IDI are limited to data prioritised by the systems that are also failing these children; for example, the IDI does not include outcome measures of reconnection with hapū and iwi, or restoration of mana tamaiti as valued outcomes; categories of 'risk' can become a self-fulfilling prophecy where an ability to predict future behaviour is assumed (i.e., 'predictive risk modelling' Kukutai & Cormack, 2019). Administrative data are unlikely to address the needs of specific cultural populations and the ongoing comparison of Māori and Pasifika people against other ethnic groups is seen as potentially further disadvantaging them (Bowden et al., 2020; Kukutai & Cormack, 2019):

Data points are not self-evident facts but reflect the social, political and cultural contexts in which the data are collected, analysed and interpreted. (Kukutai & Cormack, 2019, p. 203)

Researchers point out that, although databases like the IDI are a valuable source of population-wide data, they are set up for governmental monitoring and operational requirements, not specifically for research purposes (Milne et al., 2019). Therefore, coverage of very specific population groups or communities, managing linking errors, or difficulties with how data are defined and gathered,²² are less research-oriented (Kukutai & Cormack, 2019; Leach et al., 2015). Administrative databases replicate systemic biases, such as racism in the justice system that sees more Māori than non-Māori justice-involved (Children's Commissioner, 2020c; Ministry of Justice, 2019a). Also, administrative databases are not generally designed for capturing information on outcomes from interventions, especially where these are delivered by non-governmental organisations (Simpson et al., 2000).

Limitations of the Oranga Tamariki case-file analyses concern the validity and reliability of information written in the case files, an inevitable limitation of the subjective and variable reporting practices of frontline workers, as with any case-file analysis (Hall, 2019). The dense chaos of the filing system made analysis challenging, but the dominant pattern of children being repeatedly brought to the attention of various systems, and yet ending up as 'a 14(1)(e)', was nevertheless abundantly clear. Exploring files of children who have experienced similarly traumatic circumstances but who did not offend, would be useful – did they get effective help (from within or outside of 'the system')? Did they eventually appear in mental or physical illness statistics, as the health effects of trauma and disadvantage played out? Did they and their siblings and their whānau continue to suffer, albeit below the threshold required to be noticed by child welfare services, or beyond the reach of systems that have largely been incapable of engaging effectively with them? These seem critical questions for ministries to answer.

While the key stakeholder consultations drew on a relatively large and diverse sample, gaining the perceptions of greater numbers of social workers, teachers, police officers, and other professionals, including from the South Island, who interact with children at risk of (re)offending and their families may have provided additional insight into how systemic responses could be improved to lead to better outcomes for children.

The opportunity to speak to some adult whānau members affected by the system was invaluable; another key stakeholder invited some Pacific family members, who had lived experience of child welfare and Family Court proceedings, to participate but they were not able to. Hearing more from those who have survived these systems would be instructive. We did not interview children who have experienced child welfare and Family Court proceedings and engaged in child offending. This decision was made to keep the study focused on the experiences of professionals (who can comment from within the powerful systems that children and caregivers are largely powerless to change). Obviously, an enquiry into the experiences of children would provide invaluable, child-centred insight into opportunities to improve these proceedings; future research may focus on that, if 'the system' is finally ready to listen.

²² *Child abuse, for example, may need several 'categories' to be reported in one 'event' (e.g., a physical assault that also showed ongoing neglect and verbal/emotional abuse). Patchy record-keeping/reporting can be due to children moving around, leading to multiple, or missing, records (Simpson et al., 2000). As noted, the child sexual abuse (CSA) rates reported for this cohort were likely an underestimation, as CSA is known to be vastly underreported. Research has shown administrative databases (like the IDI) may vary widely in whether case workers report a 'well-founded suspicion' of CSA or only report an 'event' that a child has fully disclosed. Policy changes also affect what data are collected, meaning that, overall, a small proportion of CSA in the wider community is captured (Leach et al., 2015).*

9.2. Future action

There is often a 'future research' section in reports such as this; we have instead entitled this section *Future action*. We are concerned that what our extensive research project has shown reiterates and extends what other reviews and reports, here and elsewhere, have shown for decades – that children who offend are children who have been failed largely by the people and systems that should have supported them to flourish.

Our key stakeholder participants and adult whānau could see the failures and the opportunities missed and what needed to happen instead. The Oranga Tamariki case files illuminated the failures, one child at a time. The IDI linked the statistical trajectories from early abuse and failed caregiver placements, on to school suspensions and child offending, and onward to full-blown youth offending up to age 17, potentially ready to advance into the adult criminal justice system.

As one of our report's peer reviewers noted:

There must surely be a limit to how much longer society is prepared to watch very young children offend, tumble into that prison pipeline and end up in adult prison some 15 or so years later.

These children are disproportionately Māori and disproportionately affected by longstanding social inequity and disadvantage. Over the time since we applied for Michael and Suzanne Borrin Foundation and New Zealand Law Foundation funding, and carried out the research, including through COVID-19 delays, the requirement for non-Māori systems to get out of the way has become ever more apparent. For example, in a review of the care and protection system in which he called for a transfer of responsibility regarding the care of children to Māori, the Office of the Children's Commissioner (2020c) noted that:

We also recognise the care and protection system sits in the context of entrenched socioeconomic disadvantage and inequities in the health, education, and justice systems. All of these problems increase stress and difficulties for families. These stresses are associated with a higher risk of child abuse and neglect. Addressing these inequities is key and would have the biggest effect in addressing disproportionately poor outcomes for some tamariki Māori – but they are outside the control of a child protection system. (p. 7)

Future research needs to be future action – by Māori, for Māori – with access to any of the resources our key stakeholders longed for, to assist these children to get off the justice system pathway, and ensure the next generation can flourish. According to our participants, revitalised systems will also benefit Pasifika, other minority groups and Pākehā; our current systems regularly fail children from all groups and backgrounds.

Evaluations regarding the effectiveness of particular initiatives and programmes that specifically target young people at risk of (re)offending are needed; meaningful measures of new systems likewise. The New Zealand Law Foundation and Michael & Suzanne Borrin Foundation sought insights of particular relevance to the Court system, but it is the care and protection systems that are failing, even more than the 'child offender' system.

9.3. Concluding comments

Child offending is about children, children who have been born into poverty, experienced abuse and neglect, and whose subsequent psychosocial vulnerabilities lead to cumulative and cascading difficulties over the course of their development. It is about families who have experienced serious hardship, often over multiple generations. It is also about innocent victims – children and caregivers – who then go on to victimise others by their offending.

At its root, it is about socioeconomic and structural inequalities and the failure of policymakers to implement policies that seek to fundamentally improve the wellbeing of all New Zealanders, but particularly Māori. Although the needs of such children and families are often known to child welfare services, under-resourcing and poor systemic processes impede the provision of effective assistance to families. The net effect of these problems is that children's needs escalate, at times culminating in child offending. In turn, these children are at increased risk of engaging in persistent, long-term offending, relative to those whose first offence occurs in adolescence, and causing significant victimisation throughout our communities. Considering that virtually all children who have offended had known child welfare concerns, earlier and more effective assistance to children at risk of (re)offending and their families will improve outcomes for children, families, and communities.

Using quantitative and qualitative research methods, including IDI analyses never before utilised in research with children who offend, this research provides up-to-date evidence regarding the characteristics, backgrounds, and trajectories of these children. Findings were consistent with those demonstrated previously – children experiencing hardship are at increased risk of offending in childhood and beyond – and particularly highlighted the importance of children living in stable environments and remaining in school. The Oranga Tamariki case-file snapshots vividly showed the multiple adverse events and circumstances experienced by these children, and often their siblings on similar trajectories before or after them. In addition, key stakeholder consultations identified several opportunities for improvement in child welfare and Family Court practices in relation to children at risk of (re)offending.

Transformative change in child welfare and Family Court proceedings is urgently needed to ensure more positive outcomes for Māori children and whānau in particular, and for all those children who are unable to flourish in our current systems.

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Appendix A. IDI datasets

Source datasets for each variable are added here to the basic *IDI variables investigated* table in the *Methods* section. Firstly, detail on the creation of the cohort of almost 49,000 children born in 2000, and the methodology for the offending variables, is summarised.

Table 53. Methodology of cohort creation and offending variables

Detailed methodology of the creation of the cohort

- The 20200120 refresh was used.
- The Personal Detail table was used to identify those born in the year 2000.
- This dataset of those born in the year 2000 was merged with the Stats NZ Estimated Resident Population table.
- Using the IDs in the merged table, the number of years resident was counted for each person. Specifically, the number of years the person was estimated to be resident as at 30 June from 2007 until 2019 inclusive was counted based on activity in administrative datasets in the 12 months prior to 30 June.
- People that were usually resident for at least 11 years out of the 13 year period from 1 July 2006 to 30 June 2019 were included in the cohort.
- The Births data was used to identify those born in NZ. It was assumed that any people born in NZ were resident from 2000 to 2006. (Statistics NZ uses this method to get their Estimated Resident Population table for those under age 5 and so we extended this to age 7 and used this method for ages 1–6 instead of just 1-4 like Statistics NZ does.)
- All birthdays were considered to have occurred on the 15th of the month (as only the year and month are available).
- The visa data (DOL-Decisions) was used to see, of those people assumed not to have been born in NZ, if and when a visa was approved (excluding visitor and transit visas).
- Those people without a visa approval (or only a visitor or transit visa) and those with visa approvals after their 2nd birthday were excluded from the cohort.
- Those with a visa approval on or before their 2nd birthday were included in the cohort and were considered to be resident from the time of their visa approval until 2007 (just as we did for those born in Aotearoa NZ).

Methodology for the offending variables

- We were interested in age at proceeding. However there appeared to be mistakes in the Stats NZ `pol_pro_age_at_occurrence_code` variable. So, we used `pol_pro_age_at_proceeding_code` as a proxy for the age at occurrence.
- Unfortunately, `pol_pro_age_at_proceeding_code` also had a number of occurrences where the age at proceeding (in the Stats NZ variable `pol_pro_age_at_proceeding_code`) did not appear to be correct.
- This was determined by calculating the age at proceeding from the person's date of birth (from the personal detail table) and the date of proceeding (`pol_pro_proceeding_date`). This variable was called `pro_age_floor`.
- If the difference between the calculated age at proceeding (`pro_age_floor`) was 1 or -1 and the birth month and the proceeding month were the same, then the proceeding age (in `pol_pro_age_at_proceeding_code`) was deemed to be correct.
- If the Stats NZ proceeding age (`pol_pro_age_at_proceeding_code`) was deemed to be correct, then it was used. If it was not deemed correct, then the manually calculated proceeding age, `pro_age_floor` (using the birth date with the 15th of the month for the day and the proceeding date), was used.
- The age at occurrence (`pol_pro_age_at_occurrence_code`) was then compared to the corrected age at proceeding. Differences ranged from -1 to 15 and there was one difference of -981. This large difference was due a missing value code of 999. For this case, the proceeding age was used as the occurrence age.
- When the data showed the occurrence to happen after the proceeding (age at occurrence being older than (the corrected) age at proceeding), then the age at occurrence was deemed incorrect and the age at proceeding was used as a proxy for the age at occurrence.
- When the difference between the age at occurrence and the age at proceeding was 2 years or more, the age at proceeding was also used as a proxy for age at occurrence.
- Seriousness of offending: Having a charge laid was determined by linking the people in the cohort to the court charges (`moj_clean_charges`) and using the charge laid date to determine whether a charge was laid/filed for specific time periods. The seriousness score for each charge laid was linked via the MOJ metadata via the offence type code.

Table 54. Source datasets for IDI variables

| IDI variable | Source datasets |
|---|--|
| Oranga Tamariki | |
| Reports of concern (ROC)/ notifications | Reports of Concern (ROCs) were defined by using <code>cyf_ind_cnp_notification_ind = Y</code> and notifications are defined by using <code>business area = CNP</code> , and excluding intake type codes for adoption. Almost all children (98%) who had a notification also had a report of concern. |
| Out-of-home placements and state care | Codes based on variable <code>cyf_placement_type_Code</code> were considered placements for our study including residential placements, supervised group homes, foster care placements, emergency residential placements (CYF residence), boarding school/hostel placements, family/whanau placements, YSS one-to-one care placements etc. |
| Experience of abuse and neglect | <p>Rates of state care were calculated by merging onto our cohort, the variables from the legal status tables (<code>cyf_ev_cli_legal_status_cys_f</code> and <code>cyf_dt_cli_legal_status_cys_d</code>).</p> <p>Abuse and neglect uses 'abuse finding event' records, the assessment that an Oranga Tamariki social worker makes about whether or not a client has suffered abuse, including physical, sexual, emotional abuse and neglect.</p> <p>The abuse finding event records were in the <code>cyf_abuse_event</code> table. The <code>cyf_abe_source_uk_var2_text</code> variable, which is the <code>assessment_finding_type_code</code>, was used to determine whether evidence of abuse was found and, if so, what type.</p> |
| Self-harm or suicide indicators | Rates of self-harm and suicide indicators were one of the 'abuse finding event' types in the above abuse dataset (therefore only as assessed and reported by Oranga Tamariki social workers). |
| Family group conferences (FGCs) | FGCs were calculated by merging the <code>fgc</code> tables (<code>cyf_ev_cli_fgc_cys_f</code> and <code>cyf_dt_cli_fgc_cys_d</code>) with the cohort. Only distinct FGCs were counted by using the filter <code>fgc_reason_type_Code='NW'</code> reconvened and review FGCs were excluded). |

| IDI variable | Source datasets |
|--|---|
| School | |
| Suspension or standdown | Standdowns and suspensions were identified using the moe.student_interventions table, specifically, (moe_inv_intrvtn_code='8' or moe_inv_intrvtn_Code='7'). |
| Exclusion or expulsion from school | Exclusions or expulsions were identified using the moe.student_enrol table, specifically, (moe_esi_leave_rsn_code='20679' (exclusions), moe_esi_leave_rsn_code='20677' (expulsions)). |
| School decile at age 6 and age 9 | Cohort birth dates and school decile at that time were used from moe_School_Decile_History_20171020. There were missing data for up to 5% of the children at age 6 (either school decile information missing or there was no information on school enrolment for the child) and 3% missing at age 9. |
| Number of school enrolments up to age 14; attending school at 16+; truancy | <p>Number of enrolments by age 10 was determined by linking our cohort to the data on the schools the child was enrolled at up to and including the day of their 10th birthday. The data used was moe.student_enrol. Duplicate enrolment records were excluded and did not contribute to the count of the number of enrolments. Same process for enrolments by age 14; and for enrolment at age 16+.</p> <p>Schools can refer students who are consistent truants to attendance services - IDI data were drawn from MOE student interventions data (moe_inv_intrvtn_code='9' or code='32')</p> |
| Parents | |
| Justice-involved parents with a charge filed | The snz_uids of the biological parents of the people in our cohort were identified using dia.births. The MOJ charges information on each parent was linked to the cohort. A charge was considered to have been laid if there was information in the moj.charges dataset. |
| Primary caregiver being entitled to an income support benefit | The people in our cohort were linked to the 'child' table in the Ministry of Social Development (MSD) datasets (msd_child) in the IDI and using the from and to dates to determine benefit receipt for specific time periods (e.g. before the person's 10th birthday). In New Zealand, income support is family based. If a child appears in the 'child' table in the Ministry of Social Development (MSD) datasets in the IDI then they are part of a family who is entitled to receive income support payments. Entitled means they are eligible but may not be receiving income support payments (e.g. payments have been suspended due to the family not providing all information needed on time). Entitlement is, however, a good indicator of financial hardship. The benefits counted were youth and working age benefits (young parent payment, jobseeker, sole parent support, supported living payment etc.). Supplementary benefits (e.g. accommodation supplement but no main benefit) and pension-related benefits (NZ Super and Veterans) were not included. |

Appendix B. Oranga Tamariki case-file analysis methodology

Accessing the data

Application was made to Oranga Tamariki to access data on children who had offended. As outlined in the Oranga Tamariki Privacy Impact Assessment (PIA), the access was sought in order to 'identify the antecedents of high-risk child offending and be able to improve early identification and intervention efforts'. Our application was in line with the stipulation of secondary data analysis in the PIA (in that we were not approaching Oranga Tamariki service-users to collect data but analysing data that already existed), where 'personal information is not being collected by the research, rather, they are utilising already lawfully collected information for shared research purposes that can be considered a furtherance of the Ministry's objectives'.

Ethics and confidentiality

Ethical approval from the Oranga Tamariki Research and Data Access Committee (RADA) and the appropriate police vetting required prior to accessing case-file information about children were obtained for our data analyst and lead researcher. They were then oriented to the online file management system CYRAS²³ on an internal, secure laptop.

The researchers only had access to:

- Encrypted USB Keys
- Encrypted and password protected files
- Data de-identification following rigorous protocol

Strict confidentiality was maintained in accordance with the PIA Para 25, that 'The information will be used for research purposes that won't identify those concerned; and it is being used expressly for research purposes (in a form that won't identify those concerned)' and Para 29: 'The personal information identified and reviewed for analysis, moreover, must continue to be safeguarded by the research in a suitable (anonymous/de-identified) format and with suitable protocols around storage and security'.

File identification

Oranga Tamariki system administration produced a spreadsheet of specific client identification numbers of all children who had been classified under Section 14(1)(e) in New Zealand over a one-year period (1 July 2019 to 30 June 2020). We were given access to files of the children who were classified over that period on the Oranga Tamariki system, including digital and paper files.

23 CYRAS stands for Care and Protection, Youth Justice, Residential and Adoption Services

Data inclusion and exclusion criteria

Based upon the purpose of the current research, the data analyst was instructed to explicitly gather qualitative data from the 14(1)(e) child's CYRAS file as well as the paper files (if available).

Overall, we wanted a holistic overview of each 14(1)(e) child, encompassing the psychosocial background that potentially underpinned their offending (within the broader sociocultural and environmental factors, positive and negative, that supported it). This included but was not limited to:

- the environment the child was brought up in, including the behaviour they were exposed to as a child (siblings, peers and parents) which may have had an influence on them
- the behaviour they displayed as a child, including developmental or behavioural conditions, as well as learning difficulties e.g., FASD, ADHD, autism spectrum disorder, neurodiversity etc
- specific behaviours indicating trauma and mental health concerns such as abuse of animals or siblings, self-harm, suicide, or sexual assault
- the charges which caused them to be classed as a 14(1)(e) child. This was established based upon the nature, magnitude and number of their offences e.g., arson, sexual assault, theft, aggravated robbery.

The data analyst also noted any other general relevant information, such as whether the child committed offences with a sibling or another 14(1)(e) child, if they had a sibling who was also classified as 14(1)(e), or had experienced school suspensions/expulsions.

The data analyst excluded data relating to court documents and Youth Justice files as they tended to only include specific details of the child's crimes.

Notifications that did not include the 14(1)(e) child were excluded, unless they were significant—that is, where they depicted the home environment of the child or the physical or sexual abuse of a sibling. However, due to the configuration of CYRAS and the sheer volume of information on the system, this exclusion was easier said than done. A CYRAS file on a child included notifications of concern about other family members, such as an older sibling involved in Youth Justice for offending such as burglary. So, although the 14(1)(e) child might not have been involved in the sibling's offending – or may not even have been born at the time of that offending – the notifications about multiple siblings and half-siblings are included under the index child's CYRAS information. Furthermore, some CYRAS profiles included notifications from their parents' histories if they too were offending during their adolescence, and were involved with child welfare back then. A single notification on CYRAS could have more than 40 case notes attached, with brief titles like 'Email from school' or 'Txt message from mum', each of which needed to be opened to view how relevant the content might be to the child's situation.

It is important to see a child within their family context, but the user-unfriendliness of the software and the notifications about various people, dating back years, that were poorly set up for navigation, made for time-consuming analysis. Wherever possible, the data analyst would particularly focus on notifications in the household just prior to the 14(1)(e) child's birth or notifications that included all the children within the household. We did not delve significantly into 'minor' notifications related to the child's home environment e.g., verbal altercations between parents—instead, we just noted that there was a significant number of such notifications and focused primarily on the key, multiple reports of concern on the index child.

Process of gathering the data from CYRAS and the paper files

Due to the configuration of CYRAS, we could not do specific word searches. For example, we could not search a word like 'suspension' from school or 'psychologist' as an intervention to track their journeys. So, the data analyst checked summary reports and assessments, and reviewed case notes, to distil sufficient information to illuminate the journey of these children through the system. The senior researcher also reviewed numerous files and cross-checked notes and definitions with the analyst.

Typically, to gather information from CYRAS, the data analyst would:

- Begin from the earlier/earliest notification recorded in CYRAS
- Read the reports of concern (notifications made)
- Read the various case notes attached to the report of concern (tended to not spend too much on and skim over case notes to do with setting up meetings or attempts to text/call someone)
- Read any relevant reports or notes made e.g., reports of concern, interviews/conversations with the individual or others within the child's life such as whānau, teachers/principal, MOE reports, social work reports, reports from psychologists/psychiatrists, GPs or any services that were involved with the child.
- When recording the data, we noted the timeframe of the relevant notification it was under (e.g., Notification period 10 May 2011 to 29 September 2011 – Case note – SW report 23/06/11). Having the specific date of the report helped manage duplication if there were multiple copies of the same report done for a notification.

Typically, when gathering information from the paper files, the data analyst would:

- Use a similar process as for the CYRAS data gathering as described above. However, paper files sometimes did not have a date for some documentation; there were no sections (therefore, for example, no way to check interventions vs. notifications vs. meeting notes etc, the papers were just roughly in date order); plus, there was often more than one copy of the same document, which slowed down processing.
- Some of the data gathered from the paper files was a little more descriptive than that in CYRAS or we would recognise that there were multiple 14(1)(e) children offending together or particular services involved with this child.

Interventions

The data analyst tried to examine, where possible, what was proactively done by services. This was difficult to sufficiently gather from CYRAS and the paper files. We had hoped for perhaps 'tidy' information in the case files that would give, for example, an account of Child A facing Challenge B (e.g., trauma from physical abuse), being provided with Intervention B (e.g., trauma-informed psychological therapy with a specialist), and, upon completion, Outcome X was evident (e.g., pre-post reduction on anxiety measures; increased attendance at school). Instead, there would be a note in the file that a referral had been made to a service, but no further detail as to what had happened. Or there would be a file that had been closed, then reopened some years later with the whānau relocated or a child in a different placement, with no detail as to whether a successful intervention accounted for the gap, or it was due to disengagement and loss to follow-up.

Therefore, we did not attempt to count interventions or definitively track outcomes, as this was not possible.²⁴ Instead, we became aware that the impact of the Oranga Tamariki case-file review on the research team related to the stories being told. Behind the IDI numbers and patterns of data that we were analysing in the rest of the study was a child who had had a number of reports of concern as a baby or infant, whose siblings were reported as having been uplifted, or as being involved in the youth justice system, who then, as the years passed by, embarked on their own offending career that was sufficiently well underway to meet criteria for the 14(1)(e) classification and be part of our research cohort.

²⁴ This could be the task of an internal Oranga Tamariki investigation of each 14(1)(e) child with the social workers involved across the children's lives, to consider what, if anything, any of the services involved could have done differently, e.g., when the early childhood notifications were made.

How confidentiality was maintained

To ensure that the confidentiality was maintained throughout the data collection process of this research project, the data analyst was solely assigned a laptop by Oranga Tamariki that was password- and fingerprint-protected and all work from this research project was saved onto only this computer. Each document that was created on the computer was password-encrypted and deidentification of each saved document was maintained.

Deidentification of each document saved onto the laptop involved sectoring each saved computer document into an allocated file based upon the 14(1)(e) child identified gender (M/F), the age of the child during the time of this research (14/12 etc), as well as assigning them a random number. Thus, F146 would be a 14-year-old female, random number 6; these numbers were then used for the illustrative aggregate of a number of females around that age. No documents from the assigned research computer were able to be saved onto any external USB devices, thereby further ensuring that no documents created from the assigned computer were able to be replicated or shared. When not in use, the assigned laptop was locked away in a University of Auckland filing cabinet.

Examining the 14(1)(e) paper files was done on-site at an Oranga Tamariki office within central Auckland, no paper files were taken off-site. The paper files that were currently being examined by the researchers were kept in a locked cupboard at the Oranga Tamariki office at which they were based. Paper files were traced and delivered from across the country and sent via tracked courier to the central Auckland Oranga Tamariki office where we were based. Documents came from various Oranga Tamariki offices nationwide, as well as from the Oranga Tamariki paper file storage facility.

At the completion of the data gathering, the laptop was returned to Oranga Tamariki.

Also, as part of our permission to access this material, we were required to send the final draft of this report to Oranga Tamariki for them to confirm that the material remained de-identified and was being used for the intended research purposes.

Appendix C. Stakeholder consultation methodology

Interview process

Semi-structured interviews of around 60 to 90 minutes were conducted to capture participants' perceptions and experiences of child welfare and Family Court proceedings in relation to child offending.

Professional interviews

Professional interviews took place between July 2019 and January 2020 and were conducted in cities and regional centres across the North Island. Except for one, all interviews were conducted face-to-face at the participant's venue of choice. These included law offices, psychology clinics, Oranga Tamariki sites, police stations, and schools. Māori and Pacific participants were asked if they had a preferred way to start the session, such as a karakia (prayer).

For these interviews, the questions were based around participants' perceptions of shortfalls and opportunities for improvement in child welfare and Family Court proceedings to ensure more positive outcomes for children at risk of (re)offending and their families. The interview questions were as follows:

- *If we're thinking about children who offend or those at risk of offending before the age of 14, what comes to mind for you?* This question was asked to ensure participants were clear on the focus of this research (i.e., children at risk of (re)offending under the age of 14) as well as to elicit some general thoughts regarding their perception of such children, their offending, and its context. This question informed Part 1 of the research.
- *What do you think the child welfare and Family Court system could do differently to prevent child offending, reduce the risk of reoffending, and the risk of YJ cross-over?* This question was fundamental to the purpose of the research and served to explore participants' perceptions of the shortfalls and opportunities for improvement within current child welfare and Family Court proceedings in relation to child offending. Follow-up questions were based on the particular expertise of the participants (e.g., lawyers were asked to provide more specific information regarding Family Court practices whereas the school principal was asked about potential opportunities for improvement from an education perspective). The data gained from this question informed Part 2 of this study.

Whānau interviews

Whānau interviews were conducted between November 2019 and January 2020 and were held at participants' preferred venue, including community centres and whānau homes. All interviews were held kanohi-ki-te-kanohi (face-to-face), which was considered to be particularly important with whānau participants given the sensitive and personal nature of this research. Interviews were held in Auckland and surrounding regions. Following the introductory phase of the interview (small talk, whanaungatanga, explaining the kaupapa of the research, answering any questions, offering a karakia), these interviews commenced with gaining an understanding of the participants' whānau (e.g., number of children, number of children placed in care). This was then followed up with the main interview question (*'How has been your experience of engaging with the child welfare and Family Court system?'*) and proceeded by following the flow of participants' kōrero (conversation).

Given the sensitive nature of participants' experiences with these systems, care was taken to validate participants' experiences, follow the participants' pace, and provide space to process deeply affecting experiences when appropriate. Participants were also informed that they could stop the interview at any point or choose not to answer particular questions. At the end of the interview, whānau participants were provided with an opportunity to talk about how they felt after discussing personal and stirring experiences and were offered support from a clinical psychologist independent of the research team if needed.

Data analysis

Interviews were recorded on a voice-recorder, transcribed by a professional transcriber (who had completed confidentiality protocols), and entered into NVivo11 software for analysis. Data were analysed using thematic analysis, which is a flexible method of systematically identifying, organising, and making sense of patterns and themes that emerge from the data (Braun & Clarke, 2006). Emerging themes and findings were regularly discussed among the researchers to ensure these accurately represented the data. Strict confidentiality guidelines were adhered to at all times with data de-identified, pseudonyms allocated, and identifiable information about participants removed.

Appendix D. Recommendations from OCC report

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RECOMMENDATIONS

1. Leadership and direction

That the Chair of the Youth Crime Action Plan (YCAP) with the oversight of the Justice Sector DCE Group:

- (a) develops a strategic vision and action plan that addresses the identified needs of children aged 10-13 years with offending behaviour, referred under s14(1)(e), and their whānau, and ensures that recommendations made in this report are implemented in a timely fashion;
- (b) oversees the implementation of this plan and to drive improvements in the system.

2. Addressing complexity

That Oranga Tamariki:

- (a) works with the Ministry of Justice and Police to develop an updated version of the existing 2007 Child Offender Manual to ensure a current and shared understanding of the purpose of s14(1)(e) of the Oranga Tamariki Act 1989. As well as clarifying the purpose of this section of the Act, it should also provide clarity regarding the policy, principles, processes and respective roles and responsibilities of the Police and Oranga Tamariki.
- (b) works with Police and the Ministry of Education to create an exemplar process that is easily available to all agencies involved in the s14(1)(e) process, so they have a readily accessible reference tool that supports a shared understanding of best practice with children referred for an FGC under s18(3).

3. Enabling collaboration and information sharing

That Oranga Tamariki:

- (a) works with community and government agencies to ensure they have a clear understanding of the information sharing guidelines introduced to the Oranga Tamariki Act 1989 from 1 July 2019. This will enable them to confidently share and request information that supports effective interventions with this cohort of children.
- (b) addresses the current capacity, capability and system barriers identified in this report to ensure Youth Justice and Services for Children and Families provide consistent, timely, high-quality, and collaborative practice for these children.

That Police:

- (c) develop a recording system that identifies when Police have approached Oranga Tamariki to make a s14(1)(e) referral and the outcome of that referral, including where no FGC is held. This will provide a fuller understanding of the total number of children considered for a s14(1)(e) referral, the reasons these did not progress to FGC and alternative actions taken to address the identified concerns.

4. Improving education outcomes

That the Ministry of Education:

- (a) ensures that education assessment requests are made early to ensure they are consistently completed for FGCs convened in response to s14(1)(e) referrals and, that relevant Education staff attend FGCs and present this information in ways that support the development of responsive FGC plans, tailored to meet the complex education needs of these children. This aligns with the Child and Youth Wellbeing Strategy and ensures that children are positively engaged with and progressing and achieving in education.
- (b) ensures that schools and attendance services have consistent access to the level of support and training required to help them maintain this group of children successfully in school.
- (c) ensures that the families and whānau of children subject to a 14(1)(e) referral who are stood down, suspended, excluded or expelled have ready access to advocates who can support them to engage with school principals and Boards of Trustees to enable their child/ren to remain in school.

5. Access to specialist services

Oranga Tamariki:

- (a) engages with Ministries of Health and Education to develop a co-ordinated approach to identifying and addressing the shortfall of specialist services for this cohort of children, their families and whānau, as per the Child and Youth Wellbeing Strategy.

6. Addressing complex family issues

Oranga Tamariki:

- (a) pays specific attention to the needs of families and whānau of children aged 10-13 years, subject to s14(1)(e) referrals, as the agency implements its new intensive intervention service, ensuring they receive the level of wrap-around support they require to resolve the often-complex care and protection needs underpinning their child's offending.

7. Working successfully with Māori

Oranga Tamariki consistent with s7AA and the Treaty of Waitangi:

- (a) continues to strengthen its focus on the cultural makeup of its workforce and the development of cultural confidence and capability for all staff, to ensure that tamariki Māori and their whānau receive services that are informed by and delivered from a Māori world view and build the trust necessary to support tamariki and whānau effectively.
- (b) continues to focus on ensuring that there are sufficient opportunities for iwi and Māori social services to build the capability and capacity they need, to meet the needs of this cohort of tamariki and their whānau. The Child and Youth Wellbeing Strategy expects that all children will be connected to their culture, language, beliefs and identity.

From Office of the Children's Commissioner. (2020b). *State of care: Children with offending behaviour*. <https://www.occ.org.nz/assets/Uploads/ChildrenWithOffendingBehaviour2020.pdf> (pp. 19-20)

