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Special Issue on Crime and Punishment

Punishment and Correctional Practice: Ethical and Rehabilitation Implications

Tony Ward

Are there Lessons to be Learned from the Youth Justice System?

Andrew Becroft

Children, Parenting and Education: Addressing the Causes of

Offending

Cindy Kiro

Back to Churchill – An Old Vision for Prisoner Reintegration

Kim Workman

3

9

19

24

Value for Money from Public Services under Continually Constrained Budgets: A Strategic Approach

Len Cook and Robert Hughes

The Auckland Debate: Is Big City Governance Always This Difficult?

Mike Reid

Closing Windows and Opening Flood Gates: Recent Climate Change Science and Implications for Climate Policy

Andy Reisinger

Innovative Political Management: Multi-party Governance in New Zealand

Jonathan Boston

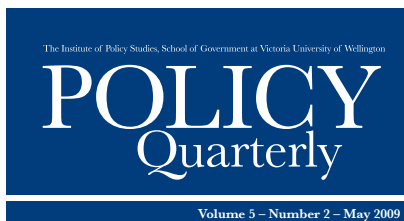
32

39

45

52

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Editorial Note

The previous issue of *Policy Quarterly* gave particular attention to the financial crisis gripping the world since the latter part of 2008. This issue addresses another serious policy problem, but one of a very different kind and a more enduring nature – namely, how to reduce criminal offending and re-offending. In late February 2009, the Institute of Policy Studies hosted a two-day symposium in Wellington on the underlying causes of crime. The event was organized by Dr Gabrielle Maxwell, a leading criminologist and an Associate of the Institute, and included presentations from over 30 academics, policy makers and practitioners.

It was a salutary experience for many who attended the event. This was not merely because of the nature and scale of the challenges we confront, but also because the disjunction between the empirical evidence (i.e. concerning what actually works to reduce offending) and the policy prescriptions often favoured by governments. Too often, it seems, governments are inclined to adopt policies which simply do not work, or at least do little to improve overall social outcomes. The National-led government's proposal to introduce 'boot camps' provides a classic example: politically attractive but empirically flawed.

An immediate output of the symposium was the publication of a book edited by Dr Maxwell – *Addressing the Causes of Offending: What is the Evidence?* Four of the substantive chapters contained in this volume are included, albeit with some additions and deletions, in this issue of *Policy Quarterly*. First, Professor Tony Ward discusses the various philosophical justifications for state-inflicted punishment, and the ethical challenges that some of these justifications create for clinicians and others working in the criminal justice system. Next, Judge Andrew Becroft (the Principal Youth Court Judge) explores the nature of the youth justice system in New Zealand and outlines some of the options for improving this system and thus reducing the likelihood of re-offending. Following this, Dr Cindy Kiro (the Children's Commissioner, 2003-09) reflects on the causes of offending and, on the basis of the available evidence, argues that the most cost-effective approaches involve early intervention, so that children have the best possible start in life. Finally, Kim Workman (a former head of the prison service in New Zealand) makes a strong plea for policy makers to give greater attention to the crucial issue of prisoner integration. In so doing, he highlights the ideas of Winston Churchill (when he was the Liberal Home Secretary in Britain in 1910) and the failure of governments, both here in New Zealand and elsewhere, to act on Churchill's advice to put in place adequate community support for released prisoners.

The remaining articles in this issue of *Policy Quarterly* cover four very different policy matters. Len Cook and Robert Hughes explore the implications of the global financial crisis (and the resulting economic recession) for New Zealand's public sector. Drawing on their extensive experience in public management and the lessons arising from previous economic downturns, they outline a strategic approach for achieving greater value for money, particularly in relation to the delivery of public services and the management of capital investments, including priority setting for new investments.

Next Mike Reid critically assesses the recent report of the Royal Commission on Auckland Governance and the policy response of the National-level government. In so doing, he highlights the risks associated with the government's decision to reject some of the Royal Commission's central recommendations – especially its rejection of the Commission's proposal for six local councils (with the framework of a unitary authority) and its preference instead for the establishment of 20-30 local boards (the powers and functions of which remain vague).

On a very different theme, Andy Reisinger provides an update on the evolving science of climate change since the publication in 2007 of the Fourth Assessment Report of the Intergovernmental Panel on Climate Change. He focuses particularly on two areas where significant advances in the science have occurred in recent years – the risk of an accelerated rise in sea level from the loss of polar ice, and evidence that the window of opportunity to stabilise greenhouse gas concentrations at low levels is closing rapidly. An early indicator of whether the global community has the courage and fortitude to respond to such evidence will be the success or otherwise of the major UN climate conference in Copenhagen in December this year.

To conclude this issue of *Policy Quarterly* I explore the origins, nature and implications of the unusual inter-party governance arrangements that have been crafted in New Zealand under proportional representation, especially since 2005. Such arrangements not merely highlight the flexible nature of the country's constitutional framework, but also pose an interesting puzzle: why have other countries with much longer histories of multi-party parliaments not experimented with such devices, and will New Zealand yet again serve as a model for others to follow?

Jonathan Boston

Tony Ward

Punishment and Correctional Practice:

Ethical and Rehabilitation Implications

Introduction

Practitioners working in the criminal justice system pride themselves on their high standards of ethical behaviour and are typically adamant that the assessment and rehabilitation of offenders can proceed according to traditional, although possibly modified, professional codes of practice

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(Bush, Connell and Denny, 2006; Haag, 2006; Levenson and D'Amora, 2005).

The claim made by such individuals is that offender rehabilitation meets the ethical standards of mental health practice and does not involve coercion or punishment in any meaningful sense. However, some researchers have strongly contested this view and argue that the treatment of offenders departs so radically from traditional rehabilitation practice that it is best conceptualised as a form of punishment. According to this perspective, traditional professional codes are hopelessly inadequate to guide correctional and forensic interventions and ought to be replaced by legal frameworks (Glaser, 2003). Indeed, in a recent paper Bill Glaser argued that because of their focus on community protection and the administration of mandated interventions, sex offender interventions ought to be viewed within a

therapeutic jurisprudence framework. Glaser asserted that approaching therapy with sex offenders through a legal lens is likely to result in greater ethical outcomes and avoid the inevitable conflicts and confusions that arise from transplanting mental health ethical codes to forensic settings.

In my view, theories of punishment and rehabilitation models are best construed as distinct but complementary normative frameworks that address quite different problems: censure of a crime and the imposition of a burden on the offender versus problem reduction and well-being enhancement (see Ward and Langlands, forthcoming). However, I agree that the two frameworks overlap to some degree and that aspects of what have been regarded as rehabilitation are in fact punishment.

The issue of justifying punishment arises because the harms inflicted on offenders may cause them significant suffering, be contrary to their best interests and also result in marked hardships to family, friends and even the broader community.

The primary focus of this paper is on the relationship between correctional interventions and the concept of punishment. The literature on punishment and its justification is large and it would take a book-length treatment to fully explore the practice and ethical problems arising from punishment in correctional practice arenas (Bennett, 2008; Boonin, 2008; Glaser, 2003; Golash, 2005; Kleinig, 2008). My aims in this paper are much more modest and I provide a brief outline of three major punishment theories and discuss their implications for correctional practice. Finally I conclude with some suggestions for future research and practice.

Punishment: definition and problems

State-inflicted punishment in the criminal justice system involves the intentional imposition of a burden on an individual following his or her violation of important social norms that are intended to protect the significant common interests of members of the political community (Bennett, 2008; Duff, 2001). Specifically, punishment in the criminal justice system has five necessary elements (Boonin, 2008): it is *authorised* by the state, *intentional*, *reprobative* (expresses disapproval or censure), *retributive* (follows a wrongful act committed by the offender) and *harmful* (results in suffering, a burden or deprivation to the offender).

The issue of *justifying* punishment arises because the harms inflicted on offenders may cause them significant suffering, be contrary to their best interests and also result in marked hardships to family, friends and even the broader community. The deliberate infliction of suffering is something that is ordinarily considered to be morally wrong and thus requires explicit ethical justification if the various actors of the criminal justice system are not to be ethically culpable.

There are at least three major reasons why practitioners cannot avoid confronting the ethical challenges created by the institution of punishment. First, from an external perspective, the day-to-day professional actions of psychologists, social workers, therapists and programme staff are embedded within criminal justice contexts. If they become aware of the infliction of unjustified harms on offenders then they have an ethical obligation seek to end such injustices. Failure to do so would arguably make them complicit in unacceptable practices.

Second, the assumptions concerning punishment are likely to be reflected in the specific penal policies and practices embedded in the criminal justice system and constrain or even directly shape the professional tasks constituting the roles of correctional practitioners. For example, consequentialist views of punishment are usually linked to crime reduction by way of an emphasis on deterrence, incapacitation or reform of offenders. A primary goal therefore is to reduce crime and the risks posed by offenders. Within a risk reduction paradigm the professional roles of psychologists will be centred on risk detection and there will be less time for other types of therapeutic interventions. In a real sense, what comprises good psychological practice is partly determined by policies underpinned by punishment assumptions (see below).

Third, a more subtle point concerns the relationship between punishment practices and the assessment and rehabilitation tasks undertaken by practitioners. I have argued in a previous paper that punishment and rehabilitation involve two distinct frameworks, each centred on different types of values (Ward and Langlands, in press). Punishment and related responses such as restorative justice are designed to respond to crime from an ethical viewpoint. Rehabilitation on the other hand revolves around prudential values: the object is to improve offenders' social and psychological functioning by providing them with skills and resources to live better lives (Ward and Maruna, 2007). As both frameworks are relevant for programme staff, some aspects of programmes may be better characterised as punishment than as treatment. For example, cognitive restructuring in sexual offending programmes usually involves confronting the offender (constructively) about the nature of his offence and the degree to which he is responsible for the harm suffered by victims.

These examples indicate that the justification of punishment is of relevance and ethical concern for all

practitioners. It is not possible to insulate the role of programme deliverers or treatment providers from ethical issues associated with punishment. Therefore, practitioners need to have some general familiarity with different theories of punishment and the clinical and ethical implications that follow from them.

Punishment and practice: consequentialism

Theory

Consequentialist theories of punishment locate their justification in the consequences of the practice: they are *forward-looking* theories (Bennett, 2008). The claim is that punishment functions to deter, incapacitate or reform offenders and that these effects in turn reduce the overall crime rate, and that this is what justifies them. There is nothing particularly important about punishment as an institution from this standpoint; it is simply viewed as the most effective way of cutting the crime rate. Thus it is argued that a threat of punishment may deter individuals from committing crimes in the first place or stop offenders from committing further crimes because they want to avoid additional suffering. It is accepted that infliction of suffering is ordinarily a bad thing but that in the case of state-inflicted punishment any harmful effects of punishment on offenders and their families are outweighed by the greater reduction of suffering to victims, potential victims and the wider community. The relationship is called a contingent one because its justification is based on the actual effects punishment has on crime rates. Thus, if other ways of reducing the crime rate, such as situational crime control, education, persuasion and so on, result in larger overall reductions in offending, then, according to consequentialist theorists, they should be implemented in its place.

Practice implications

A first comment is that an emphasis on deterrence, prevention or incapacitation is liable to create a practice environment where there is significant pressure on staff to detect and manage risk variables in individual offenders and within correctional contexts. The primary focus will be *technical* and revolve around the development of procedures designed to reliably measure dynamic and static risk factors and then putting procedures in place to reduce or minimise these risk factors in the most cost efficient manner.

Second, an exclusive focus on crime reduction by way of deterrence, reform or incapacitation regards offenders as simply a *means* through which the community's aims for safety are pursued, rather than as independent moral agents who ought to be reasoned with not coerced. The lack of recognition of offenders as beings with inherent dignity and whose autonomy and equal standing should be acknowledged regards them as objects rather than fellow human beings (Bennett, 2008).

Punishment and practice: retribution

Theory

Retributive theories are *backward-looking* and justify punishment in terms of 'its intrinsic justice as a response to crime' (Duff, 2001, p.19). Offenders are to be held accountable for their crimes by the inflicting of burdens that are roughly equal in harm to those inflicted on their victims. It is also claimed that such punishment is justified by its beneficial consequences. However, the state is thought to be ethically obligated to punish offenders simply because of the nature of the wrongful act and not for any other reasons. Therefore, the fact that punishment does not reduce crime is not of major concern to retributive theorists; it is fitting and just to punish in order to balance the moral ledger – offenders 'deserve' to suffer for the wrongful acts they have committed. The notion of desert is vague and has been unpacked in terms of distributive justice, vindication of victims and expression of anger (Boonin, 2008; Golash, 2005). The *justice* variant speaks to the supposed advantages that offenders accrue

The reason for the accent on responsibility rather than crime reduction and/or offender reintegration is that punishment is thought to be intrinsically related to the wrongful acts rather than to future beneficial consequences.

over law-abiding citizens and the need to annul any illegally gained benefits by imposing proportionate burdens on them: for example, fines or imprisonment for particularly serious offenses. The claim that victims are *vindicated* by punishments speaks to a need to respond to serious norm violations by signaling to offenders and community that what was done is unacceptable. Failure to impose punishment is thought to imply that the norms violated are not taken seriously and that the subsequent suffering of victims is not important, an unacceptable ethical response. Finally, punishment can be viewed as a natural response to crime in that it is an institutionalised form of expressing *blame* and resentment toward offenders, but in a way that is proportionate and modulated. Punishment acknowledges the autonomy and responsibility of offenders and the significance of the norms violated by holding offenders accountable. Failure to hold offenders accountable and to punish can be seen as an unacceptable form of paternalism where individuals are viewed as morally deficient and lacking an understanding of what they did.

Practice implications

A major implication is that less attention is given to the question of how to intervene therapeutically in offenders'

lives and more on holding them accountable. That is, overall, retributive theories are associated with correctional policies and practices that are *responsibility-focused*. The reason for the accent on responsibility rather than crime reduction and/or offender reintegration is that punishment is thought to be intrinsically related to the wrongful acts rather than to future beneficial consequences.

Relatedly, the emphasis on offender accountability means that victims' rights and the community's views will be given a priority in the sentencing process and subsequent correctional interventions. Because retributive reactions to crime are essentially backward-looking, punishment allows victims to express their anger and to have their experiences taken into account in the sentencing process. Accountability from a retributive perspective encourages offenders to face up to the nature of the harm inflicted and to make amends through accepting the burdens associated with hard treatment (i.e., criminal sanctions such as imprisonment or probation).

The inclusiveness of the response to crime and its aftermath that is characteristic of communicative theories of punishment such as Duff's bears a striking relationship to restorative justice practices.

The reduced interest in treatment programmes and post-release planning is to be expected because offenders are considered to be moral agents and therefore responsible for their crimes. The significant issues confronting correctional personnel are thought to be rooted in matters of accountability and redress rather than therapy; in fact, rehabilitative interventions are looked at with suspicion because of a fear that they imply a lack of autonomy and responsibility in offenders. A danger of highlighting moral accountability is that ethical considerations will be elevated over prudential or psychological ones and any areas of psychological or social need overlooked.

Punishment and practice: communication

Theory

Communicative justifications of punishment have their basis in a liberal communitarian view of political and moral public institutions (Duff, 2001). According to Duff (2002), it is important to pay attention to the rights of all stakeholders in the criminal justice system, including offenders, because of their equal moral status; thus communicative theories of punishment have a *relationship focus*. From this perspective, offenders are viewed as members of a normative community (i.e., 'one of us') and therefore are bound and protected by

the community's public values: autonomy, freedom, privacy and pluralism. In essence, these values are those of a liberal democracy where all human beings are deemed to have inherent dignity and have equal moral standing. A major assumption of such a viewpoint is that any punishment should be *inclusive* of offenders rather than exclusive. That is, while individuals who have committed public wrongs ought to be held to account because they have committed harmful actions against others, they ought to be approached as beings of value and dignity and treated with respect in the process of administering punishment. The notion of equal moral status means that punishment should seek to persuade rather than force offenders to take responsibility for their crimes. Furthermore, because offenders are viewed as fellow members of the moral community it is taken for granted that the aim of punishment is to communicate the wrongness of their actions in order to give them an opportunity to redeem themselves and ultimately be reconciled to the

community. Duff argues that hard treatment such as imprisonment is obligatory because it draws offenders' attention to the seriousness of the wrongs they committed and appropriately expresses social disapproval. Crimes are viewed as violations of important community norms that the offender is assumed to endorse as well. Duff argues that there are three aims integral to the institution of punishment: secular repentance, reform, and reconciliation through the imposition of sanctions. More specifically, he argues that punishment is 'a burden imposed on an offender for his crime, through which, it is hoped, he will come to repent his crime, to begin to reform himself, and thus reconcile himself with those he has wronged' (Duff, 2001, p.106).

Practice implications

As a theory of punishment Duff's communicative theory has the virtue of being inclusive rather than exclusive. All the stakeholders affected by crime are taken into account in the implementation of punishment. The offender is regarded as an equal moral agent and treated with the respect and dignity this status entails. A notable feature of inclusive theories is that they conceptualise crime as a community responsibility rather than simply as an individual one. Thus offenders are held accountable to the community. Victims do not have to forgive but owe offenders the chance to reintegrate into the community once they have served their sentence; and the community is obligated to facilitate the process of integration by providing necessary resources such as education, training, accommodation, access to social networks and so on.

The inclusiveness of the response to crime and its aftermath that is characteristic of communicative theories of punishment such as Duff's bears a striking relationship to restorative justice practices (Johnstone, 2002; Walgrave, 2008; Ward and Langlands, 2008). According to Walgrave, restorative justice is 'an option for doing justice after the occurrence of an offence that is primarily oriented towards

repairing the individual, relational and social harm caused by that offence' (Walgrave, 2008, p.21). For our purposes, this means that some of the restorative justice initiatives, such as family conferences, sentencing circles and victim-offender conferences, may be accurately viewed as aspects of punishment as conceived within the communicative theory.

From a practice viewpoint, *secular repentance* takes seriously the moral agency of offenders and the importance of their appreciating the harm they have inflicted on victims and community. The *reform* element of the communicative theory refers to the offender becoming motivated to change his or her self and behaviour for ethical as well as prudential reasons. The realisation that they have unjustifiably caused other people to suffer will hopefully lead to a firm resolution to do what is necessary to make sure they do not do this again. Finally, the *reconciliation* element of the communicative theory of punishment expresses both offenders' and the community's desire for reconciliation. There are two facets to reconciliation that are clinically relevant: offenders' obligation to apologise and make reparations, and the community's obligation to help the offender reintegrate back into the community once hard treatment is served.

Punishment and professional codes of ethics

I would like to briefly discuss the implications of our analysis of punishment for the normative status of practitioners' codes of ethics. As stated in the introduction, some theorists have argued that because professional codes of mental health ethics are not easily transferred to forensic treatment contexts, practitioners ought to look elsewhere for ethical guidance, possibly to legal paradigms such as therapeutic jurisprudence (Glaser, 2003). A notable feature of this argument is its claim that correctional treatment amounts to punishment because of its coercive (implicitly or explicitly) nature and close association with criminal sanctions. The assertion that an overlap between punishment and treatment exists is in my view correct, as is the contention that traditional ethical mental health codes are insufficient on their own to provide comprehensive guidance to therapists working with offenders. However, the existence of an overlap between the normative frameworks of punishment and rehabilitation does not necessarily mean they do not also have unique domains of application. Punishment is an ethical response to public wrongs, while rehabilitation deals with prudential concerns of offenders. A unique feature of work with offenders is that practice is concerned sometimes with the implementation of punishment (e.g., aspects of cognitive restructuring) and on other occasions with helping offenders to enhance their functional competency (e.g., communication skills). The dual nature of practice roles suggests that neither traditional mental health ethical codes nor norms regulating punishment are able to satisfactorily cover the range of tasks

confronting programme providers and practitioners working within the criminal justice system. Rather, I propose that a mixed or *hybrid ethical code* is required, containing a set of: (a) principles and standards derived from mental health codes, and (b) principles and standards adequate to guide the action of criminal justice personnel involved with the delivery of state-sanctioned punishment. That is, I argue that a correctional practice code of ethics that explicitly addresses both the punishment and rehabilitation tasks constituting

The concept of dignity and its elaboration into human rights values is especially useful in the resolution of conflicts between lower-level systems of norms because it is a foundational moral concept accepted across different cultures and states

the professional roles of psychologists, social workers and programme deliverers employed within correctional services is necessary. Human rights values and the concept of human dignity that these values protect can be consulted when there are conflicts between the rehabilitation and punishment strands comprising a hybrid correctional code (Shultziner, 2007; Ward and Birgden, 2007; Ward and Syversen, 2009). The notion of human dignity is a seminal moral concept that signifies the intrinsic value and universal moral equality of human beings. Due to their inherent dignity, all human beings are presumed to have the same degree of moral standing when it comes to considering the social and political arrangements that directly affect their core interests and subsequent well-being. The concept of dignity and its elaboration into human rights values is especially useful in the resolution of conflicts between lower-level systems of norms because it is a foundational moral concept accepted across different cultures and states (for an analysis of dignity and its role in correctional ethical decision making see Ward and Syversen, 2009).

Arguably, a rich theory of punishment such as Duff's (2002) communicative theory has the conceptual resources to survive inevitable tensions arising from a mixed ethical code, but I have reservations that pure consequentialist or retributive justifications of punishment will be able to face any subsequent conflicts as well. The reason why consequentialist theories are likely to struggle to effectively deal with the dual role of correctional practitioners is due to their subversion of offender agency and dignity in the pursuit of crime reduction. From a consequentialist viewpoint, there is no intrinsic value or point to considering offenders' human dignity or agency. Meanwhile, a major problem for retributive theories

occurs due to an emphasis on individual responsibility and a tendency for practices based on retributive assumptions to be implemented in vindictive and offender-exclusive ways (Golash, 2005). A worry here is that individual responsibility issues may drown out calls to acknowledge offenders' standing as fellow citizens and thus deserving of meaningful opportunities to be successfully reintegrated. By way of contrast, the inclusive nature of communicative theories of punishment, with their valuing of reconciliation and reform, means they are more welcoming of reintegration initiatives and accept the right of offenders to be treated with respect due to all members of the normative community.

Conclusions

It is evident from my analysis above that there are different justifications for punishment, each with unique varying implications for practice. However, it could be argued that while punishment may be ethically justified in a world characterised by equality and justice, it cannot be justified in the world as it currently exists. That is, offenders are often victims of such severe social and psychological disadvantages that their capacity for moral agency is considerably eroded (Gatti, Tremblay and Vitaro, forthcoming). Aside from the existence of factors having an impact on offenders' moral competency, it could also be asserted that the power differentials currently evident within the criminal justice system make it practically impossible to engage in any

system of punishment that is fair and respectful of offenders' inherent dignity (Duff, 2001). While I acknowledge these criticisms, it is still the case that punishment practices evident in the criminal justice system rest on ethical assumptions and it therefore makes sense to critically evaluate the cogency of these assumptions and their supporting theories. Normative analysis can help policy makers and practitioners become aware of the ethical legitimacy of current punishment practices and of their subsequent responsibilities to press for any changes needed in the light of such investigations.

Irrespective of the above questions, a clear message emerges from my analysis of punishment theories: correctional practitioners ought to be aware of the tasks they are involved in and to what degree such tasks are ethical, prudential or a combination of both in nature. Importantly, correctional practitioners need to critically reflect on the theory of punishment (or indeed, theories) that underpins their work in correctional contexts and ensure that the practice components following or associated with these assumptions are ethically warranted. Offenders are subject to state-sanctioned intended harms and have severe restrictions placed on their lives. In my view, practitioners do offenders a grave injustice if justifications for these imposed burdens are carelessly arrived at and thoughtlessly delivered.

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Andrew Becroft

Are there Lessons to be Learned from the Youth Justice System?

Introduction

It has been almost 20 years since the introduction of the ground-breaking Children, Young Persons, and Their Families Act 1989 (CYPF Act)¹. When introduced the act revolutionised New Zealand youth justice practices (Watt, 2003). It was responding to significant perceived problems with the existing system, including:

- too many young people being brought before the courts;
- too much reliance on an institutionalised, residential approach (often criminalising behaviour which was really the result of care and protection deficits); and
- insufficient opportunity for family and cultural input.

The CYPF Act envisaged that everything that we as professionals did would look towards giving [the opportunity to help the young person put things right] to the family and that, in all the decisions and all the processes, we could say that what we had done has strengthened this family and this family group so that in future they would be stronger to deal with the problems of their own young people. ... It envisaged that in all our ways of working we did not get in the road of the power, the opportunity, the energy and the imagination of families as they attended to their children's problems. (Curruthers, 1997, p.6)

Judge A.J. Becroft is the current Principal Youth Court Judge of New Zealand. After practicing law at Fortune Manning & Partners, establishing the Mangere Community Law Centre and practicing as a criminal barrister in South Auckland, he was appointed to the District Court bench in 1996. He has been Principal Youth Court Judge since 2001.

Twenty years on, it is time to take stock: to celebrate the success of the act and the strengths of the youth justice system, but also to reflect on the system's weaknesses and some key challenges for the future.

Some strengths of the youth justice system

Diversion

A diversionary approach is a key focus of the youth justice system and one of its biggest successes. Section 208(a) of the CYPF Act emphasises that 'unless the public interest requires otherwise, criminal proceedings should not be instituted against a child or young person if there is an alternative means of dealing with the matter'. Research supports this principle and shows that offenders dealt with at a lower level are less likely to be convicted as an adult and to have poorer life outcomes (Maxwell et al., 2004, p.25). Contact with the formalised youth justice system can have detrimental effects on a young offender, such as:

- *‘Inoculation’ to the system*
All criminal justice systems rely upon a sense of authority to instil respect, and consequently produce compliance and feelings of remorse. Too much exposure to a system may increase familiarity and lessen the ‘awe’ factor.
- *Peer contagion*
Exposure to, and association with, other youth offenders during contact with the youth justice system has been shown to significantly detract from the benefits of any treatment that may be provided in that setting. Peer influence is hugely important in this age group.
- *Living up to the label*
Once an identity is established as an offender, this may colour all that young person’s dealings with family, friends and public agencies. It may be harder to break people’s assumptions than to live up to them.
- *Acquiring a ‘badge of honour’*
Some young people, particularly if surrounded by a criminal culture amongst adults, may find contact with the formal youth justice system to be a matter of pride, a mark of maturity or a ‘right of passage’.

In practice, this approach means that Police Youth Aid make extensive use of warnings and diversionary programmes as alternatives to criminal proceedings. Of the approximately 30,000 offences committed by young people in 2006, the statistics show that 23% were dealt with by way of a warning or caution, 39% were dealt with by diversion, 6% were the subject of intention-to-charge family group conferences, and 29% were dealt with by way of proceedings before the

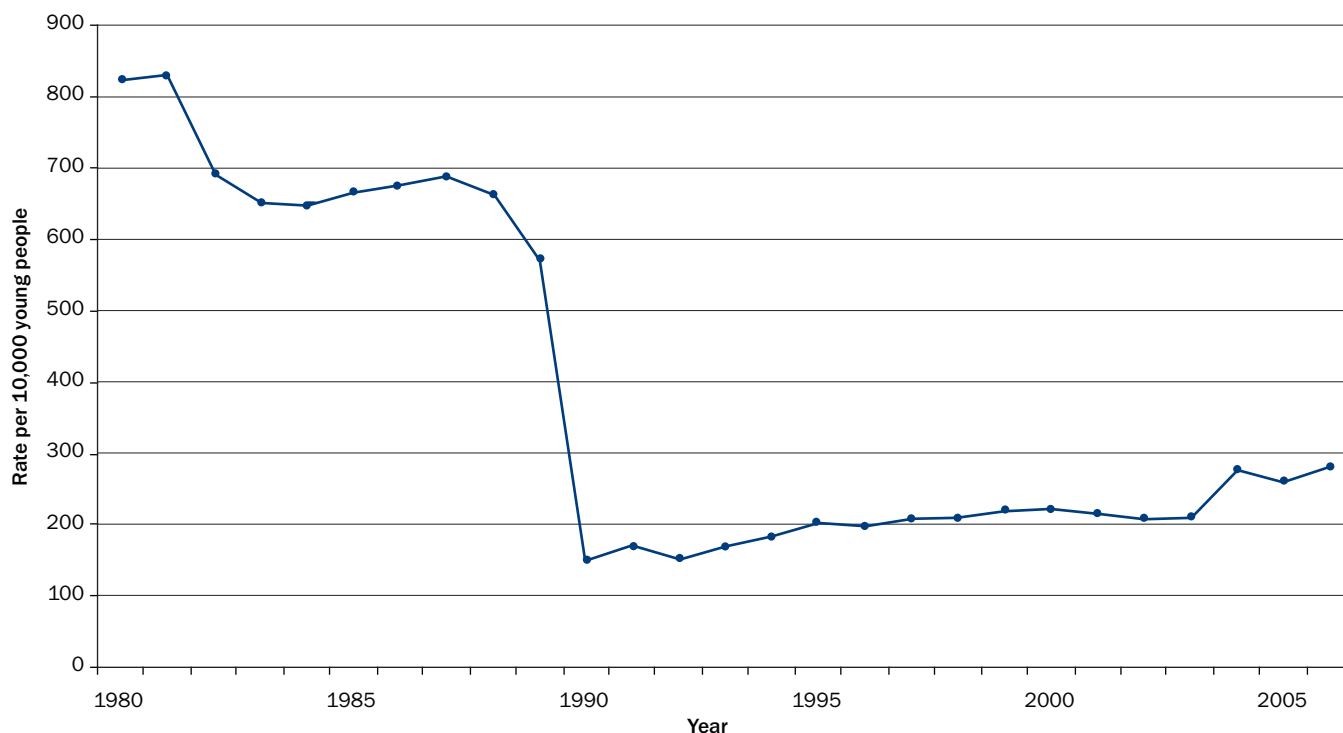
Youth Court (Chong, 2007). It should be noted, however, that these figures are probably deceptive. The real rate of proceedings before the Youth Court is closer to 20%. Indeed, between 1998 and 2004 the prosecution rate remained stable at approximately 17%. The recent ‘apparent’ increase in prosecutions is probably the result of inaccurate collation of statistics.

Very minor incidents are handled by front-line Police with an immediate warning to the young person. These incidents are recorded on standard forms and sent through to Youth Aid for their records (Maxwell et al., 2002a, p.1).

If the incident is more serious, but not serious enough to warrant Youth Court proceedings, the matter will be reported to Youth Aid for action. The Youth Aid officer will decide on a plan after talking to the young person and visiting their family and the victim. The limits of this type of programme are the limits of the imaginations of those involved. The best Police Youth Aid officers spend considerable time and effort tailoring solutions that satisfy victims, prevent reoffending and reintegrate young people into their communities. Examples of the sort of measures taken might include:

- where a young person has been involved in offending involving a motor vehicle –
 - writing a letter of apology to the victim (to be approved by the Police before it is sent);
 - making a reparation payment towards, for instance, the repair of the victim’s car;
 - taking a defensive driving course (from which the young offender learns the value of working towards and achieving a goal); and

Figure 1: Rate per 10,000 population of 14 to 16 year olds, of cases appearing in the Youth Court, 1980–2006



Source: Becroft, 2007b, p.50

- undergoing agreed community work.
- where a young person steals from someone’s home while under the influence of alcohol –
 - listening to the victim’s account of how the offence affected him or her (where victims are willing to participate in this way, confronting a young person with the personal effects of his or her actions can have a profound and lasting impact, often leading to acceptance of responsibility and remorse);
 - returning any stolen property still in his or her possession, or helping the police recover it;
 - attending a programme for alcohol dependency (if this was a relevant factor); and
 - producing a project on how alcohol affects a person’s body and judgment.

(Becroft, 2006, pp.8-9)

The success of this diversionary approach in the 1989 Act was rapid, and demonstrated by a dramatic reduction in the number of offences dealt with in the Youth Court (see Figure 1).

Research has also demonstrated that young people who are dealt with by diversion have a much lower likelihood of reoffending. Table 1 shows that only 16% of young people in a randomised sample dealt with by diversion reoffended within 18 months. That figure compares with 37% for young people dealt with by a pre-charge family group conference, and 51% for young people dealt with by criminal proceedings in the Youth Court (Maxwell and Paulin, 2002, p.70).

To some extent these figures simply reflect that the more serious and formalised responses will be reserved for the more serious charges committed by the most problematic young people, and therefore the rate of reoffending will probably be higher for these young offenders. Nevertheless, there is certainly room to argue that withholding the use of Youth Court prosecution (whenever consistent with the public interest) gives a significantly greater chance of the young person not entering the formalised youth justice system. Are there lessons here, pointing to a greater and more flexible use of diversion in the adult courts?

Specialist Police Youth Aid force

New Zealand is the only country in the world to have a specialised police force dealing with young offenders. There are currently 220 dedicated Police Youth Aid officers in New Zealand. The levels of knowledge and experience that have been built up within this division of the Police is a credit to

the New Zealand Police, and a large factor in the success of the youth justice system under the CYPF Act.

In addition, New Zealand is also the only country to have specifically trained lawyers for the Youth Court (called youth advocates), paid for by the state.

Family group conferences

Family group conferences are the lynchpin of the New Zealand youth justice system. Their use is mandatory for all those who come before the Youth Court unless the charges are dismissed after a denial and defended hearing. It is the family group conference through which control over, and responsibility for, youth offending is given back to the community and families.

In a family group conference the young person and their family, together with the victim and their family, make decisions on how to address the offending. The young person hears the victim talk about the impact of the offending, and he/she has an opportunity to talk about how they feel about their offending. The final goal of the family group conference is to formulate a plan, agreed to by all the participants, addressing both the ‘needs’ and ‘deeds’: that is, that the offender demonstrates that they take responsibility for the offending, that they should make amends for their offending, and that changes in their life are planned which will encourage them not to reoffend. A significant challenge remains for the adult courts to meaningfully and comprehensively involve victims.

Reducing institutionalisation

In 1988, 2,000 children in New Zealand were in state institutions. By late 1996 the figure was under 100. Research had firmly established that incapacitating ‘hard core’ young offenders did not deter them from future offending. Putting offenders into state institutions was more likely to reinforce their criminal identity and restrict their opportunity to choose a non-criminal lifestyle through normal integration in the community (Walters, 1997, p.26).

As a result of this new approach, and the decreased number of children in state care, the New Zealand government was able to close down many borstals and boys homes.

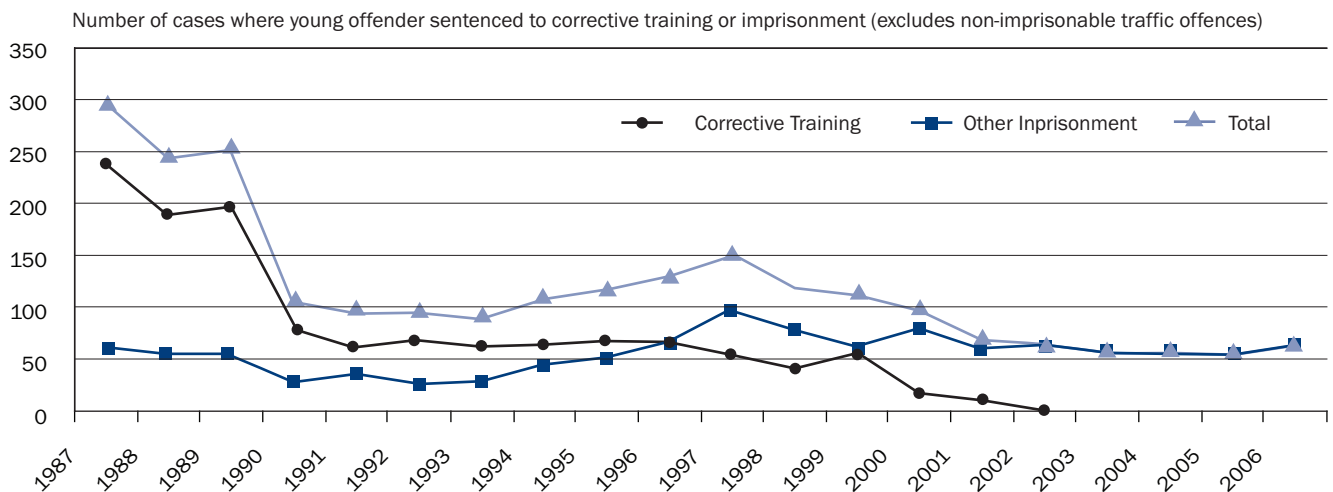
Reduced rates of imprisonment

After the introduction of the CYPF Act and the statutory enjoiner to consider alternatives to criminal proceedings, to impose the least restrictive sentence, and to keep young offenders in the community whenever consonant with public safety, rates of imprisonment fell dramatically.²

Table 1: Rate of reoffending within 18 months of young people in sample, according to police response to their first offence

Police response	Total number of young people	Total number of young people who reoffended	% of young people who reoffended
Warning/other	649	60	9.2
Diversion	464	74	15.9
Intention-to-charge FGC	94	35	37.2
Youth Court prosecution	231	118	51.1
All responses	1438	287	20.0

Figure 2: Custodial sentences for Youth Court cases, 1987–2006



Source: Becroft, 2007b

Between 1987 and 1996 the bulk of custodial sentences were corrective training (Maxwell et al., 2002b, p.97). Corrective training, first instituted in 1981 for young offenders aged 16 to 19 years old, was a style of ‘boot camp’ involving tough military-style discipline and physical activities. Research throughout the western world demonstrates overwhelming evidence that boot camps simply do not work, at least in the sense of reducing reoffending (Lipsey and Cullen, 2007). A New Zealand Department of Justice study in 1983 found that 71% of correctional trainees were reconvicted within a single year of release (Walker and Brown, 1983). An analysis of Ministry of Justice data of all people convicted in 1988 found that correctional trainees had a reconviction rate of 92%, the highest of any sentence (Department of Corrections, 1997). The ineffectiveness of this sentence resulted in a reduction in its use and its eventual abolition in June 2002. The fall-off in use of corrective training initially saw an increase in the use of prison sentences from 1997, but the decline in custodial sentences for young offenders continued (Maxwell et al., 2002b).

Since 2001, rates of imprisonment of young people have remained fairly stable at around 50 per year. This contrasts with the position in the United Kingdom, where there has been a sharp increase in the number of young people imprisoned. On 31 January 2003 there were 2,890 young people under 18 years old in prison in England and Wales – more than twice as many as 10 years before this date (Monaghan, Hibbert and Moore). Is there a lesson here for the adult court?

The challenges for the youth justice system

Better statistical reporting and more research

Currently the Ministry of Justice collects and reports on a range of youth justice statistics. This is a valuable resource, but more comprehensive information is required to understand more clearly how the system is working. Particular needs are:

- *Tracking individuals through the system*
We need to be able to assess on an annual basis how many young people who have passed through the Youth Court go on to be dealt with by the adult courts. Also, how many people in the adult court have a youth justice or care and protection history?
- *Assessment of the effectiveness of top-end orders*
For example, what are the rates of reoffending of young people dealt with by the youth justice system? Do young people who are subject to a supervision with residence order do better than young people who are transferred to the District Court for sentencing? Do supervision with activity orders decrease the chance of future reoffending? After 20 years of the act’s operation it is ludicrous that there is no completed quantitative research into the success or otherwise of the top-end Youth Court orders. In what other jurisdiction would judges impose sentences, the efficacies of which are unknown?
- *Regional statistics*
Are there ‘bubbles’ in certain regions of New Zealand, meaning that regionalised aspects of the youth justice system need attention?
- *Youth Offending Strategy – key focus area 2 information*
In 2002 the Youth Offending Strategy (Ministry of Justice, 2002) recommended seven key focus areas that needed attention in order to prevent and reduce offending by young people. The second key focus area was identified as ‘Information: the development of consistent and comprehensive information about offending by young people’. In particular, the strategy identified the ability to track a young person’s progress through the youth justice system, compatibility of data between agencies and between the youth and adult justice systems, and regular and high-quality evaluation of the response to youth offenders, as necessary outcomes. Without the development of this information, the true nature and extent of youth offending is unclear, effective responses

by agencies to offending by young people are hindered, and there are consequential implications for the quality and robustness of policy advice provided to government.

Improving family group conference outcomes

While they have been shown to be effective in reducing rates of recidivism and increasing the chances of positive life outcomes for young offenders, there is still a concerning lack of confidence in the family group conference system in some quarters.

The success or otherwise of a family group conference will always depend, to a large part, upon the capability of the person co-ordinating it and the support resources provided. Research has shown (Maxwell, 2003, p.10) that a successful family group conference (one which makes reoffending less likely) requires a number of elements to be present:

- *Good preparation before the conference*

Good preparation means ensuring that as many people as possible who are involved in the offending are present and able to contribute to its resolution. It means making sure all relevant information is prepared and made available to the conference. It means that victims are visited in advance and that all that is possible is done to ensure their attendance.

- *Support for the offender*

At the conference the young person should feel supported, understand what is happening, participate and not feel stigmatised or excluded.

- *The generation of feelings of remorse during the conference*

A conference that generates feelings of remorse, of being able to repair harm and of feeling forgiven, and which forms in the young person the intention not to reoffend, is most likely to reduce the chances of further offending.

- *Low-level outcomes*

Processes that are diversionary, sanctions that are least restrictive and outcomes that are constructive are associated with positive life outcomes.

Family group conferences fail for a number of reasons. Often it is simply that not enough effort has gone into ensuring that the right people are attending – people who can support the offender through the conference and through the execution of the resultant plan.

Developing sector-wide training and capability

There is a need to develop a more specialised and highly-trained, youth-specific workforce. This need covers the whole youth justice system, from government agencies (CYPF, Police Youth Aid, youth advocates, health and education workers) to the community sector. A specific qualification offered to family group conference co-ordinators has been a longstanding need, and this is currently being addressed by the Child, Youth and Family Service.

Standardised training is urgently required for people who operate in this sector on generic matters such as working with adolescents, the teenage years, what works and what doesn't

work, and the youth justice system itself. Too often training takes place within government 'silos', or not at all.

Better use of community-based options

The CYPF Act embodied a vision that families and the community should be entrusted to attend to their children's problems (Curruthers, 1996, p.6). With support, community-based groups are almost always in the best place to address the causes of offending by young people. Full-time residential options, which aggregate young offenders together, although sometimes necessary in the public interest seldom provide an effective environment for sustainable rehabilitation.

Over time, the vision of the 1989 Act has been allowed to wither. Too often government agencies that decide it is easier to retain a control and monitoring role over a young person's course through the youth justice system, rather than relinquishing that control to the community. Too often community agencies have not been supported to enable expertise and experience to develop.

Young people need a great deal of help to reintegrate back into a normal community in a successful way, and without falling back into old habits.

This problem is best illustrated by the decline in use by the Youth Court of supervision with activity orders.³ In 2006 there were just 122 supervision with activity orders, compared to 240 supervision with residence orders.⁴ The supervision with activity order has the potential to link a young person with positive role models, and to help them establish lasting supports and relationships within their community. Such an order can make it harder to build relationships with other offenders, which can lead to further offending (MacCrae, 2007, p.6). In principle, there should always be more supervision with activity orders than supervision with residence orders. There is a need to relinquish control, to trust the community more, and to return to the original vision of the CYPF Act. Recently, the Child, Youth and Family Service has guaranteed funding for a four-year period for seven community programmes in order to better deliver the supervision with activity order.

Improving transition from the formal youth justice system back into the family and community

Transition services available to young people who have been under the care of the Child, Youth and Family Service, to assist in their placement back within the community and with their family, need to be greatly enhanced. Young people need a great deal of help to reintegrate back into a normal community in a successful way, and without falling back into old habits. Usually the young person and their family will

need considerable assistance, such as is offered by the multi-systemic therapy approach.

A better response to violent youth offending

The number of Police apprehensions for youth offending is relatively stable. However, apprehensions for serious violence offences are increasing, although, curiously, mainly since 2005. This is not a trend restricted to youth offenders; it is replicated in all other age groups in the community. In fact, the biggest percentage increase in apprehension rates for violent offending in recent years is amongst 51–99 year olds (Chong, 2007). While some of the increase is doubtless due to a more focused community concern with violence, with more specific policing and a greater willingness to report violence, the figures are still hard to argue with.

For young people, the increases are at both the less serious end of violent offending (common assault), and at the most serious end (including assaults with a weapon). It is a perplexing question: why do we appear to be becoming a more violent community, and what are the best interventions for our violent youth offenders? Most youth violence is committed under the influence of alcohol, and is random, spontaneous, gratuitous street violence, usually committed by small groups of young men. There is apparently an increasing occurrence of female youth violence, usually planned and targeted, the victims being other young females or older males. The research from studies such as the Christchurch University Longitudinal Study seems overwhelming – that ‘all roads lead back to conduct disorder’ (Fergusson, 2005). In this respect, only the best evidence-based interventions will succeed.

The care and protection/youth justice interface – and the problematic issue of improving our response to ‘child offenders’

The vision of the 1989 CYPF Act was to confine the Youth Court’s focus to holding young offenders to account and addressing only those of their needs which caused their offending (sections (4)(f)(i) and (ii), CYPF Act 1989). It is frequently the case that young offenders have underlying care and protection needs that require long-term intervention. Those young people should be referred (or returned) to the Family Court (section 280, CYPF Act 1989). In that forum their long-term care and protection needs can be more appropriately addressed. These care and protection issues do not belong in the Youth Court, which must avoid ‘welfare-ising’ its response and continue to restrict its focus to the underlying needs which caused the offending.

A related issue is the quality of our response to child offenders – those aged 10–13 years old. These children cannot be charged with any offence in a criminal court except murder or manslaughter. They can be arrested by the Police and, if necessary, delivered into Child, Youth and Family Service custody. If the number, nature or magnitude of their offending raises serious concern as to their care and protection, a family group conference can be convened. If necessary the Family Court can declare that the child offender is in need of care and protection, with all the ensuing statutory consequences. This response reflects the philosophical idea that a child’s offending

is caused by a lack of parental care and protection. We have not done this work as well as we could have in New Zealand. It is insufficiently resourced and lacks specialist practitioners. Too many of the serious youth offenders entering the Youth Court have long-term, unresolved child offending issues. While the philosophy may be considered sound, there is a real challenge for us all to improve our practice in this very difficult area.

Wider challenges

Māori offending

To be involved in the Youth Court is to daily confront the tragically disproportionate involvement of young Māori within the system. Māori comprise approximately 17% of the Youth Court age range, yet account for nearly 50% of total apprehensions (Chong, 2007). Alarming, Māori figure even more disproportionately in custodial remands, where the figure approaches 60%. Indeed, in areas of relatively higher Māori population it has been observed that the appearance of Māori in the Youth Court approaches 92% in Kaikohe and 86% in Rotorua (Ministry of Justice, 2002, p.24). Regrettably, this issue is all too easily avoided. In my view, it is the single most important issue facing our youth justice system.

Of course, the problem is much greater than just a youth justice issue. Māori are ‘negatively’ over-represented in most socio-economic measurements. Those involved in the youth justice system, including Māori, are constantly reflecting upon better ways to deal with our Māori young offenders. The recent initiative at Poho Rawiri marae in Gisborne to monitor the family group conference plans of Māori offenders on the marae, for instance, is one such response.

Early intervention

The Jesuit priest Saint Ignatius of Loyola famously said, ‘Give me the boy until he is seven and I will give you the man’. The longer the Youth Court operates, the clearer it is that the battle to prevent a young person’s serious offending is really won or lost in those pivotal first years of early childhood.

There is a pressing need for a comprehensive intergovernmental early intervention policy that focuses on family support and skills development programmes, identifies gaps in services, provides consistency of funding and programme objectives, and provides provision and support of culturally-responsive services for Māori and Pacific families.

Keeping young people in education

Research has found a very strong link between a lack of engagement in education and youth offending (McLaren, 2000, p.31). This is also abundantly clear in the Youth Court. The key challenge for managers and practitioners is how to support young people in sustaining an attachment to education, or helping them re-establish that attachment once it has broken (Stephenson et al., 2007). Serious offenders before the Youth Court have this in common: they are not meaningfully engaged in any form of education programme and are effectively lost to the system. The size of this group can only be estimated, but from the perspective of the Youth Court, it ranges from 1,000 to 3,000 young people.

In New Zealand there are some 1,800 alternative education places in numerous organisations for those young people for whom mainstream education has become inappropriate. While this system often works very well, broadly speaking there are issues with training, capability and resourcing of teachers, and funding sufficient to enable alternative education to rise beyond the 'bottom of the heap'.

The use of 'evidence-based' interventions and programmes

The youth justice system (both the overall process set out by the CYPF Act and the specific intervention programmes delivered), and indeed the adult criminal justice system, would benefit from a principled review in terms of alignment with models and programmes that are demonstrated to be effective.

The initiation and development of new programmes for young offenders and young people at risk should adopt a 'prevention science framework', whereby a problem is defined, risk and protective factors are identified, and effective programmes are identified from metadata and then thoroughly piloted and evaluated before full-scale implementation. It is crucial that a more systematic, evidence-based way of developing and funding youth justice programmes is established.

When effective programmes are identified, introduced as pilots, and shown to be effective after research, then they should be rolled out across New Zealand. An example of a successful pilot that will not be extended is the supported bail programme (see Court in the Act, 2009, pp.2-3).

Research in recent years has shown that more long-term, holistic, family-based interventions are likely to be much more successful, such as multi-systemic family therapy (MST), functional family therapy (FFT) and therapeutic foster care (TFC) (Lambie, 2006, pp.175, 183). MST is an intensive family- and community-based treatment that addresses the multiple determinants of serious antisocial behaviour in young offenders. The multi-systemic approach views individuals as being nested within a complex network of interconnected systems that encompass individual, family and extra-familial (peer, school, neighbourhood) factors. FFT is an outcome-driven prevention/intervention programme for youth who have demonstrated the entire range of maladaptive, acting-out behaviours and related syndromes, and are at high risk of reoffending (Blueprints). (See Appendix for two graphs illustrating the effect on recidivism and the economic impact of various treatment programmes for young offenders, including MST and FFT.)

The creation of a nationwide mental health service for young people

There is a significant overlap between risk factors for offending and for poor mental health amongst young people, so it is unsurprising that the Youth Court sees many young people with mental health problems. While New Zealand statistics are unavailable, research in the United Kingdom has revealed

that amongst young people who offend, 31% have mental health problems, 18% have had problems with depression, 10% suffer from anxiety, 9% report a history of self-harm in the preceding month, 9% suffer from post-traumatic stress disorder, 7% have problems with hyperactivity, and 5% report psychotic-like symptoms (Blyth et al., 2007, p.54). Youth forensic services are patchy and access to youth-specific treatment programmes is even more difficult.

It is easy to see the huge potential in mentoring from a compatible older person who can encourage a young person to make constructive choices and support them to deal with life's problems.

Development of a nationwide mentoring scheme

Mentoring programmes have been shown to produce promising results in terms of reducing reoffending and producing better life outcomes (McLaren, 2000, p.70). Mentoring involves linking a young person with a suitable older person who has volunteered their time and been trained in how to interact with their younger buddy.

It is easy to see the huge potential in mentoring from a compatible older person who can encourage a young person to make constructive choices and support them to deal with life's problems. The government has highlighted mentoring programmes in the Children, Young Persons, and Their Families (Youth Courts Jurisdiction and Orders) Amendment Bill currently before Parliament. If this is to succeed, priority must be given to carefully selecting and screening mentors, matching young people with mentors, and training mentors in desirable behaviours and attitudes to model (McLaren, 2000, p.72). This is exemplified by several organisations already active in New Zealand, such as the 'Big Brother/Big Sister' programme.⁵

Alcohol and drugs

The use and abuse of drugs and alcohol is a major issue for most young people appearing in the Youth Court (Becroft, 2009, p.5). It is unsurprising that international research shows that young people who use illicit drugs are more likely to commit offences (McAllister and Makkai, 2003). It is estimated that 80% of young people appearing before the Youth Court have alcohol or drug dependency or abuse issues that are connected with their offending (Walker, 2007).

Dealing with a young person's drug and alcohol issues is complex, because they usually present with a range of needs, including mental health issues, criminality, family conflict and disengagement with school (Schroder, 2008).

The Youth Court takes drug and alcohol use very seriously. One initiative is the Christchurch Youth Drug Court – a specialist court based on principles of therapeutic

jurisprudence and designed to enhance collaborative multi-agency work with young offenders (see Court in the Act, 2008, p.5). In general, however, the Youth Court's desire to produce accountability and restoration for each young person will only succeed if youth-specific drug and alcohol services are made more widely available (Becroft, 2009).

Conclusion

The innovative approach of the Children, Young Persons, and Their Families Act 1989 is now 20 years old. It has surely proven itself in terms of increased diversionary and community approaches, reduced institutionalisation, reduced imprisonment, reduced recidivism and better life outcomes for young people. It has been studied and adapted by many international jurisdictions.

There are, however, ongoing challenges to improve the system, to keep it focused on the original vision, and to better respond to New Zealand's most violent young people. We can do better for adolescents with alcohol and drug abuse issues or with mental health problems. We can do better to address disproportionate rates of offending amongst Māori young

people. We can also do better at keeping all young people engaged in education.

As we strive to address these and other issues, we must keep in mind the original vision of the CYPF Act: first, that minimising involvement in the formal criminal justice system has been proven to produce better outcomes; and secondly, that in most cases, families and communities are best placed to hold their young people accountable and to make the enduring changes in a young person's life that will secure better life-course outcomes.

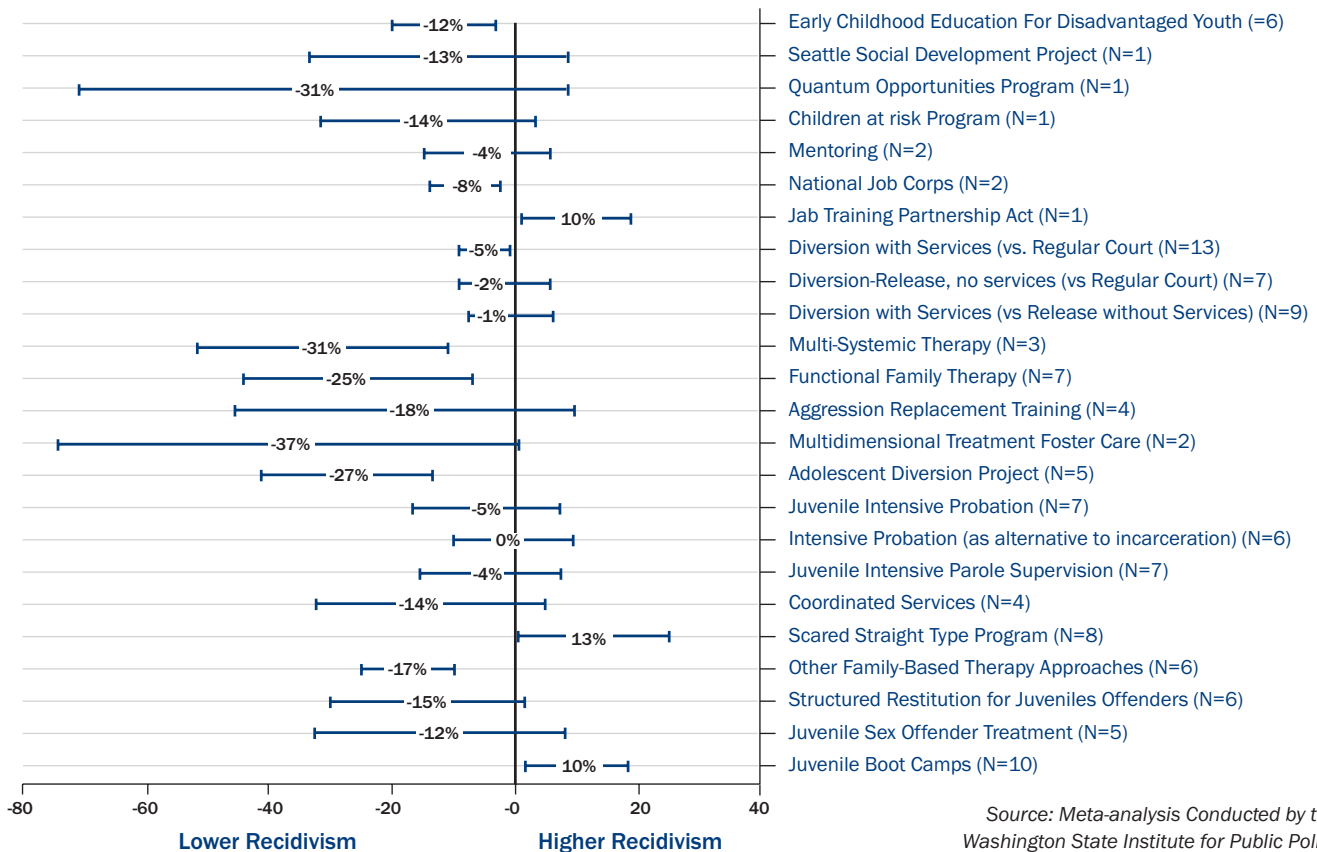
- 1 This article has been prepared in collaboration by Judge Andrew Becroft and Linda McIver, research counsel to the Principal Youth Court Judge.
- 2 The Youth Court cannot sentence young people to imprisonment but can convict and transfer them to the District Court, where they may receive a sentence of imprisonment. For certain offences, the Youth Court may conduct a preliminary hearing and then transfer the matter to a superior court for hearing and sentence. This is to be differentiated from the Youth Court supervision with residence order in section 283(n) of the Children, Young Persons, and Their Families Act 1989.
- 3 S283 (m) of the CYPF Act. A supervision with activity order means that the young person is put under the supervision of the Child Youth and Family Service, or some other person or organisation, and they are obliged to carry out a specified programme of activity.
- 4 S283(n) of the CYPF Act. A supervision with residence order means that the young person is placed in the custody of the Child Youth and Family Service in a residence for up to three months.
- 5 For more on youth mentoring programmes see <http://www.justice.govt.nz/youth-justice/e-flash/e-flash-26.html>.

Appendix

The Estimated Effect on Criminal Recidivism for Different Types of Programs for Youth and Juvenile Offenders

The number in each bar is the "effect size" for each program, which approximates a percentage change in recidivism rates. The length of each bar are 95% confidence intervals.

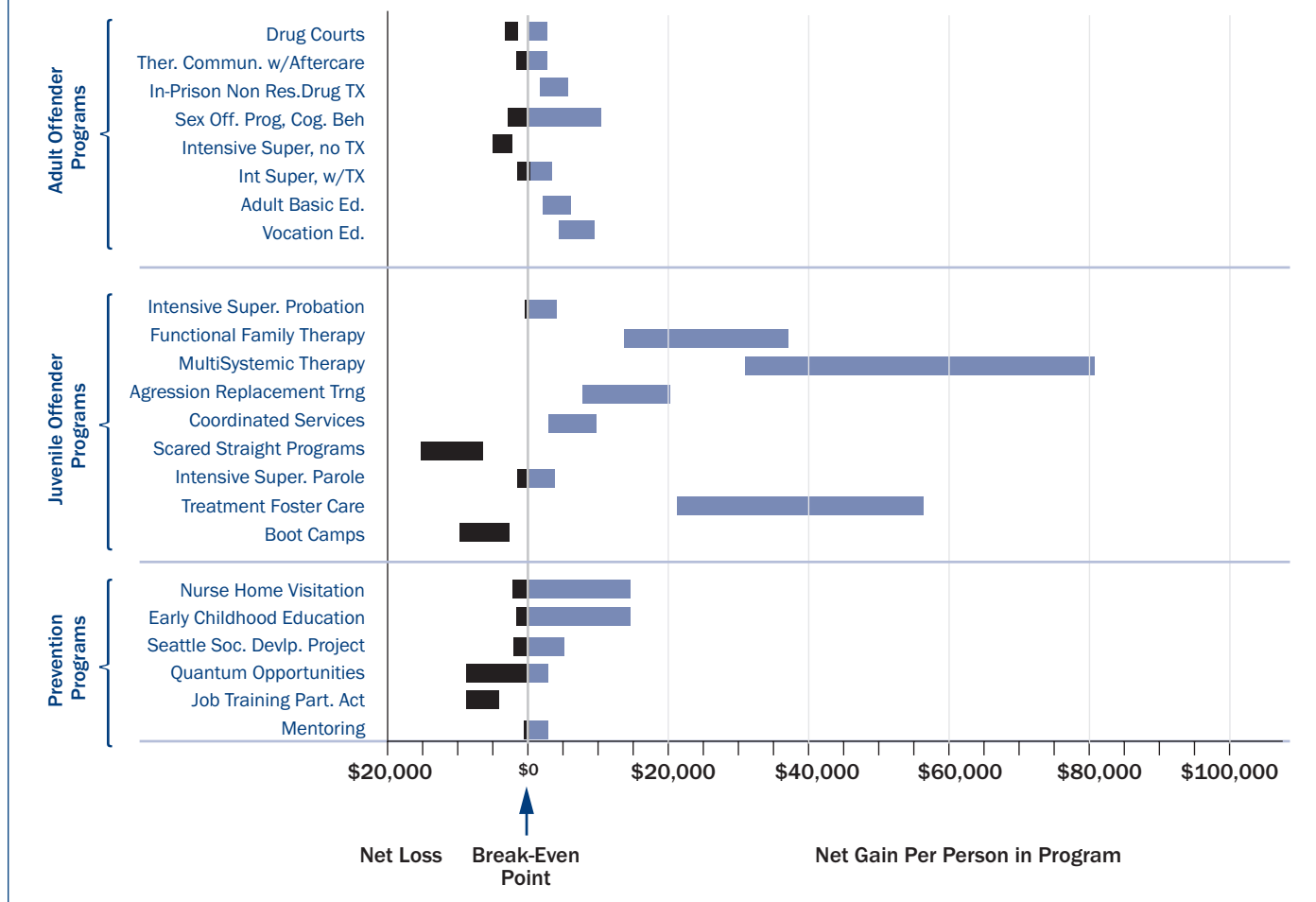
Type of Program, and the Number (N) of Studies in the Summary



Source: Meta-analysis Conducted by the Washington State Institute for Public Policy

Source: Trupin, E. Strategies for developing diversion and transition programs for youth with co-occurring disorders in Washington State. A presentation to the GAINS TAPA Center Net/Teleconference, 11 October 2005

Economic Estimates From National Research For Adult & Juvenile Justice and Prevention Programs



Source: Trupin, E. Strategies for developing diversion and transition programs for youth with co-occurring disorders in Washington State. A presentation to the GAINS TAPA Center Net/Teleconference, 11 October 2005

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Addressing the Causes of Offending: What is the Evidence?

edited by Gabrielle Maxwell

The National-led government, elected in November 2008 in New Zealand, is committed to addressing the causes of offending and enhancing public safety. It has announced a range of policies to achieve these objectives. But many of the government's proposals have been tried elsewhere in the world and have not always been successful.

Addressing the Causes of Offending: What is the Evidence? provides an overview of the available evidence on the causes of offending and the effectiveness of responses to it. The book draws on the views and experience of researchers and practitioners within New Zealand, including those who have been actively involved in working with offenders,

their victims and their families. It is hoped that this book will enable this knowledge and experience to inform public debate and policy making during such turbulent times. It is important to ensure that effective laws, policies and practices are not abandoned. Equally, any changes that are made need to be based on sound evidence on what reduces offending and re-offending, comply with international conventions and standards, and improve the safety of the community.

Addressing the Causes of Offending What is the Evidence?

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Cindy Kiro

Children, Parenting and Education: Addressing the Causes of Offending

Introduction

Young people and adults who exhibit serious and persistent offending are usually found to have patterns of behaviour dating back to their early years. Findings from longitudinal studies and developments in neuroscience provide robust evidence of factors contributing to negative outcomes. The key to prevention lies in the early years and parents having a good understanding of their role in shaping their children's behaviour. This paper outlines the importance of early intervention and the role of parent education in ensuring that children do not develop negative patterns of behaviour that place them at risk of later offending.

Cindy Kiro has been the New Zealand Children's Commissioner since 2003. She has a PhD in social policy and has worked mainly in the area of public health and advocacy for children

Characteristics of children and young people who offend

Longitudinal research in this country confirms findings from studies undertaken in Canada, Australia, the United Kingdom and the United States that identify a small but distinct group of children who are in serious difficulty by adolescence and who commit a disproportionate percentage of criminal offences.¹ During childhood these children may attract the label 'severe conduct disorder'. John Werry (2005, p.24) provides the following description:

From kohanga or kindy on he has defied adults, lied, stolen, maybe set fires, hit other children, is cruel to animals, verbally abuses all who frustrate him, bullies, intimidates peers, siblings, and as we heard recently teachers and other adults as well.

Red flags for such children have been identified as a history of serious antisocial acts, regular use of substances, hyperactivity and impulsivity, a history of aggression, and being male (McLaren, 2007).

Such behaviour does not arise in isolation. These children share histories of exposure to adversity. Research demonstrates, however, that the relationship between adversity and outcome is complex and that negative outcomes are the result of exposure to multiple risk factors, which include:

- socioeconomic adversity;
- parental change and conflict;
- lack of parental supervision;
- lack of warmth and affection within the family;
- parental characteristics, including criminal/antisocial behaviour, substance abuse, young mother, sole parent and unemployment;
- harsh discipline and abuse;
- individual characteristics such as poor vocabulary and communication, lower than average IQ, poor literacy

- skills, and a high level of novelty- and thrill-seeking;
 - peer rejection;
 - deviant peers;
 - community norms and levels of crime.
- (Fergusson and Horwood, 2003; Leventhal, 2003; McLaren, 2007; Wasserman et al., 2003; Williams et al., 2004)

It is important to note that these risk factors cover multiple domains, including individual, family, school and community. Garbarino (1995) refers to these as 'children's social maps' which provide cultural blueprints of what is normal, what is obvious and what is impossible. When children are labelled as offenders or having severe conduct disorder, they become the problem and the complex factors influencing their behaviour may be overlooked.

Research in three related domains has greatly enhanced our understanding of how risk and protective factors interact to shape outcomes for children: neuroscience, attachment, and resilience.

Lacking secure attachment and trust in adults, these children have no incentive to comply with requests or instructions and may resent and resist any attempts by adults to control them.

Neuroscience

Only the brain stem is fully developed at birth. During the first three years of life the brain develops rapidly, establishing neural pathways which allow the more complex structures of the brain to come into being (Shonkoff and Phillips, 2000; Perry, 1997; Schore, 2001; Thompson, 2001). This brain development is sequential and use-dependent. Different areas of the central nervous system are in the process of organisation at different times and disruptions of experience-dependent neurochemical signals during these periods may lead to major abnormalities or deficits in neurodevelopment. The role of the environment is crucial, and the primary caregiver(s) have been identified as the major provider of the environmental cues necessary to this development (Fonagy, 2003; Perry and Pollard, 1998; Schore, 2001; Siegel, 2001; Thompson, 2001). The early years are critical and the foundations for life are built during this time. Failure to intervene when things go wrong represents a lost opportunity to build these foundations.

Attachment

The quality of the attachment relationship has been linked to different aspects of brain development:

- attaining complexity through the differentiation of specific components and integration into a functioning whole (Siegel, 2001);
- emotional self-regulation (Schore, 2001);
- reflective capacity (Fonagy, 2003).

Attachment relationships provide the context for the development of internal working models that shape the young child's perception of self, others and the world around them. These models incorporate the capacity for self-regulation, the ability to identify and reflect on internal states of self and others, mental representations of self and others, and strategies for managing relationship experiences based on those mental representations. Depending on the attachment experience, these individual capacities vary, and the degree to which they are integrated within the individual also varies (Atwool, 2008).

Bruce Perry (1997) has clearly documented the impact of trauma on the developing brain. During trauma the brain adapts to a state of fear-related activation, leading to adaptations in emotional, behavioural and cognitive functioning to ensure survival. Persistent trauma results in hypervigilance, anxiety, elevated heart rate, elevated levels of stress-related hormones and impulsivity.

Disorganised attachment

Four patterns of attachment have been identified: secure, avoidant, ambivalent (Ainsworth, 1979) and disorganised (Main, Kaplan and Cassidy, 1985). Secure attachment provides the optimal environment for development; avoidant and ambivalent patterns provide the infant and young child with a way of managing sub-optimal environments; while disorganised attachment develops in the context of neglect and/or abuse.

These internal working models of attachment continue to influence us throughout life and there is evidence of inter-generational transmission (Fraiberg, Adelson and Shapiro, 1980; Main and Goldwyn, 1984; Ricks, 1985). A link between unresolved attachment issues in parents and the abuse of children has also been established (Call, 1984; Fraiberg, Adelson and Shapiro, 1980; Main and Goldwyn, 1984; Schmidt and Eldridge, 1986). Research has identified a strong association between disorganised attachment and behavioural difficulties in childhood and later life (Allen, Hauser and Bormen-Spurrell, 1996; Carlson, 1998; Lyons-Ruth, 1996; Rosenstein and Horowitz, 1996; van Ijzendoorn, 1997).

Children with disorganised attachment are unlikely to trust adults. Their failure to internalise any of the rules that govern daily existence means that their behaviour is determined by reaction to external cues. Lacking secure attachment and trust in adults, these children have no incentive to comply with requests or instructions and may resent and resist any attempts by adults to control them. Their behaviour may fluctuate, and, as Perry (1997) notes, they may be labelled ADHD: suffering from attention deficit hyperactivity disorder. Short attention span, high levels of activity and limited social skills present major obstacles to learning. Perry argues that when children have experienced abuse in the early years, these behaviours result from hyper-arousal and this must be lowered before the children are accessible to intervention. Decreased arousal levels are unlikely to occur until the child has developed a sense of security.

By adolescence, those with disorganised attachment are frequently in serious difficulty. Significantly increased rates of psychopathology and violent crime have been found in longitudinal studies of infants classified as disorganised in infancy (Carlson, 1998; Rosenstein and Horowitz, 1996; van Ijzendoorn, 1997).

Link with resilience

Longitudinal research has demonstrated that children 'at risk' do not all fare badly (Werner and Smith, 1982), and similar findings have resulted from research exploring biological, developmental and environmental risk factors (see Garmezy, 1993; Garmezy, Masten and Tellegren, 1984; Haggerty et al., 1994; Rutter, 1981). Resilient children were found to have an easy temperament, high self-esteem, an internal locus of control and a sense of autonomy. They had a supportive family environment and a supportive person or agency outside the family (Brown and Rhodes, 1991; Compas, 1987; Garmezy, 1994). More recently, an international research project across ten communities in seven different countries has identified the importance of cultural connection (Ungar, 2003, 2005). The most resilient children and young people have access to all four components, but any one can make a difference. It is clear that resilience is not an isolated individual characteristic and it is difficult to see how any of these protective factors could be acquired outside the context of secure and consistent attachment.

Children with a history of secure attachment are clearly at an advantage when presented with challenges. They have positive expectations of themselves and others, access to supportive adults, and connections that extend beyond the family, creating a sense of belonging in the community. Such characteristics are likely to enhance resilience. Children with avoidant and ambivalent attachment patterns may lack self-confidence, have low self-esteem and may have some difficulties negotiating relationships. They do, however, have coping strategies with which to respond to challenges. Although they may not be as resilient as securely attached children, they will be more resilient than those with a history of disorganised attachment, who are the most vulnerable.

Attachment patterns become entrenched when the internal working models formed in the early years are reinforced by children's experiences in the world beyond home. Children with insecure and disorganised patterns are likely to encounter rejection and censure from peers, teachers and other adults they encounter in the community. Negative outcomes are not inevitable and there is good evidence that change is possible. During childhood, however, change must be facilitated through the experience of relationships that provide different experiences to those that gave rise to insecure and disorganised attachment patterns. Early and effective intervention is the key.

Early intervention is an investment

Early intervention to give children the very best start in life is cost-effective in terms of economic investment and has the added advantage of creating a safer and inclusive society. There are good arguments to support a focus on early intervention:

The World Bank hosted an international conference at the turn of the century titled 'Investing in our children's future'. The conference participants reviewed the state of knowledge on the benefits and effectiveness of early interventions and summarised the economic gains. Their report offers a thorough analysis of the literature substantiating the importance of early child development to the social and economic development of nations.

Pedro Carneiro and James Heckman (2003), Nobel Peace Prize-winning economists, have demonstrated the benefits also of early intervention.

Rob Grunewald and Art Rolnick, an economic analyst and the senior vice-president of the Federal Reserve Bank of Minneapolis, argue that the evidence is clear that investment in early childhood development for at-risk children pays a high

It is important that parents are aware of the significance of the early years and the benefits available to children from responsive, consistent and stable care arrangements.

public return (Grunewald and Rolnick, 2005). For example, a 2004 follow-up study on the Perry Preschool Program 40 years after its inception calculates the total benefit-cost ratio at \$17 for every dollar invested.

Implications for parenting and parent education

Children begin their lives entirely dependent on adults for survival. The behaviour of those who care for them, however, contributes to far more than their physical survival. The quality of children's relationships with those who care for them provides the framework for the exponential development and learning that occurs in the early years. Given the overwhelming evidence supporting early intervention, it makes sense to consider the role that parent education may be able to play.

It is important that parents are aware of the significance of the early years and the benefits available to children from responsive, consistent and stable care arrangements. In particular, information about the impact on brain development and the foundational nature of early experience has significant implications for parental decision making about childcare and employment. Given that parenting is not generally considered productive in the same way that employment is, such information may also be validating for parents, encouraging them to place priority on making

intensive investment in their children's development. Parent education of this type is likely to be most beneficial if readily available to all parents (Allen and Smith, 2008; Early Years Commission, 2008; Tremblay et al., 2008). Universal support services such as Plunket and Parents Centres make a significant contribution, but currently these are most likely to be accessed by motivated parents and such services need to be supplemented by outreach to marginalised families.

Parents also need access to education about the different challenges that come as their children grow, especially when children's behaviour is cause for concern (Tremblay et al., 2008). When children behave in challenging ways their behaviour becomes the focus of attention. All too often the emphasis is on management and control, with relatively less attention given to the causes of such behaviour. Children's behaviour is a form of communication. When that behaviour is of concern adults sometimes forget to look beyond the presentation and inquire about what is being communicated. Such information can be made more accessible through provision of family support centres or service hubs (Early Years Commission, 2008).

More focused programmes are needed for those families in greatest difficulty. Many of the children at risk for negative outcomes fall into the gaps that exist between education, health and welfare. Access to specialist services depends on how their behaviour is labelled and there may be different

pathways depending on the perception of parents, teachers and professionals that they encounter. Service provision varies with location and children outside main centres face additional barriers. All of the research points to the importance of early intervention and yet too often this opportunity is overlooked (Fonagy et al., 1997; Perry, 1997; Wasserman et al., 2003; Williams et al., 2004). Provision of home visiting services such as Family Start have much to offer, but more intensive services with the capacity to provide in-home support and education are also needed (Allen and Smith, 2008; Early Years Commission, 2008).

Conclusion

Parent education is not, however, the magic bullet that can solve all problems. What is needed is an integrated approach to improving the social and economic circumstances of children and families, a close working relationship between criminal and social policy and early intervention in the lives of children as an investment in their future (Asquith, 1996). Failure to provide this increases the risk that the criminal justice system ends up punishing those who are themselves the victims of social and economic circumstances.

1 For New Zealand studies see Fergusson, Horwood and Lynskey, 1994; Moffitt et al., 2002; for Canadian research, Tremblay, Boulerice and Harden et al., 1996; Australian research, Bor et al., 2007; UK research, Bowen, Heron and Steer, 2008; US research, Lipsey and Derzon, 1998; Loeber et al., 1995.

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Kim Workman

Back to Churchill – An Old Vision for Prisoner Reintegration

We cannot impose these serious penalties upon individuals unless we make a great effort and a new effort to rehabilitate men who have been in prison and secure their having a chance to resume their places in the ranks of honourable industry. The present system is not satisfactory.

Extract from Winston Churchill's speech to the House of Commons,
29 July 1910 (Churchill, 1910)

During his brief reign as Liberal home secretary in 1910, Winston Churchill embarked upon an ambitious reform of the English prison system. His first principle of prison reform was 'to prevent as many people as possible getting there at all'. He believed that there should be a just proportion between crime and punishment, and that even convicted criminals had rights against the state. Underlying Churchill's prison reforms was a real understanding of the nature of imprisonment from the perspective of the prisoner, which drew from his having been a prisoner during the Boer War.

His progressive thinking extended to the issues of prisoner reintegration, and his speech of 1910 contains three principles that could form an important part of prisoner reintegration policy today. They are:

- 1 That the state must invest in supporting ex-prisoners in order that they make a useful contribution to society.
- 2 That the focus must be on a system of support and accountability rather than compliance and control – prisoner reintegration is a transition from formal state control to informal community support.
- 3 That diverse community organisations and volunteers

should be supported to take up the work of prisoner reintegration.

It is remarkable that in the 99 years since then there has been no political or public support for a comprehensive prisoner reintegration strategy in New Zealand. Around 9,000 prisoners are released into the New Zealand community every year, two-thirds of whom will reoffend within two years. State funding of prisoner reintegration is negligible, and the Department of Corrections recently deferred the development of a comprehensive reintegration strategy until 2010–11.

Equally as remarkable is the lack of a coherent theory to inform prisoner reintegration. Joan Petersilia's recent book *When Prisoners Come Home* (Petersilia, 2003) articulates a clear and refreshing vision for the reform of the US system of ex-offender release and re-entry (for a similar British effort

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see Farrall, 2000). Nonetheless, these works of reintegration theory remain aberrant exceptions in a research field that is dominated by descriptive and atheoretical evaluative research. That is, we often ask ‘what works’ but too rarely ask ‘how’ or ‘why?’ (Palmer, 1994).

The ‘stick and carrot’ model – the odd couple

Until around 1995 there had developed in New Zealand a ‘mixed model’ culture within the Community Probation service of the management of ex-prisoners. The prevailing assumption was that Community Probation should assert control over ex-prisoners, and also provide opportunities for treatment. The provision of support to prisoners would make the task more interesting, and, in those days, politically acceptable. The model had some inherent difficulties. In summary:

- The result, in other than the most experienced hands, was ‘muddle’ (Dickey and Smith, 1998).
- The history of crime control suggests that when both tools (i.e. the therapeutic and the punitive) are available, the latter will almost always win out or at least undermine the former. More often than not, interventions premised on a combination control–deficit model end up ‘almost all stick and no carrot’.
- Theoretically, control strategies encourage instrumental compliance during the supervisory period, while the treatment strategies are designed to help participants internalise new moral values. That is, the therapy or the job training is what is really going to work, but without heavy coercion ex-prisoners will not show up for the treatment. This hypothesis has some empirical support (MacKenzie and Brame, 2001). Persons coerced into drug treatment programmes fare equally as well as those who enter voluntarily (Farabee, Prendergast and Anglin, 1998).
- However, while consistent coercion produces minimal levels of criminal behaviour, it also produces very low levels of pro-social behaviour (Colvin, Cullen and Vander Ven, 2002, p.28). Punishment only trains a person what not to do. If one punishes behaviour, what is left to replace it? – in the case of high-risk offenders, simply other antisocial skills. This is why punishment scholars state that the most effective way to produce behavioural change is not to suppress ‘bad’ behaviour but to shape ‘good’ behaviour.
- The operant conditioning implied in the carrot and stick metaphor confuses blind conformity with responsible behaviour. Clark writes: ‘Compliance makes a poor final goal ... Obedience is not a lofty goal. We can teach animals to obey’ (Clark, 2000, p.42).
- According to Taxman et al. (2002, p.8), offenders’ past experiences with law enforcement, supervision agencies and treatment providers ‘left them dubious about the real

intentions of these agencies and staff. Any further efforts to find fault, increase revocations, or speed a return to the justice system will only undermine the goals of reintegration.’

The model has one other major deficit. It focuses almost exclusively on the ex-prisoner as an individual. If reintegration is to be a meaningful concept, it implies more than physically re-entering society. It should also include some sort of ‘relational reintegration’ back into the moral community.

Winston Churchill understood well the dilemma of combining the stick and the carrot. In his day the police were responsible for providing post-release support. In his famous speech, and with his tongue firmly in his cheek, he had this to say:

I have a great admiration for the way in which the police conduct the business of police supervision of prisoners who have been released on licence. It is not a bit true to say they harry a man and hunt him down. At the same time, it is a great impediment to a man to have to go and report himself repeatedly to the police, and to have the police coming repeatedly inquiring after him, in obtaining his position in honest industry again.

It wasn’t until 1999 that the department sought to conduct research which identified the key needs of prisoners on release, and investigated how other jurisdictions dealt with released offenders

Corrections and prisoner reintegration – risk, needs and responsivity

Until around 1995 the role of New Zealand Community Probation Service in prisoner reintegration combined the functions of compliance and support. While the Prisoners’ Aid and Rehabilitation Society (PARS) was funded by the Department of Corrections to provide services to prisoners, the emphasis was on the provision of welfare services to prisoners and their families: assistance with family visiting, provision of clothes and TV sets to prisoners, and limited assistance with housing, employment, relational issues and financial matters. The PARS ‘halfway houses’ were very much places where semi-formal supervision was applied. It wasn’t until 1999 that the department sought to conduct research which identified the key needs of prisoners on release, and investigated how other jurisdictions dealt with released offenders (de Joux, 1999)

The late 1990s saw responsibility for prisoner reintegration shift from the Community Probation Service toward the Public Prisons Service, as an extension of the developing Integrated

Offender Management System (IOMS). The prisoner in the community was at that time, and still is, regarded as the passive recipient of departmental support and services.

In May 2004 the Minister of Corrections, Paul Swain, held a ministerial forum on offender reintegration, issuing a challenge for New Zealand to be a ‘world leader in reintegration’. The framework he presented at that forum was based on the following key ideas:

No one wants the separation of prison and parole more urgently than do prisoners. ...

Many would prefer to serve their full sentence in prison rather than be faced with high levels of supervision.

- Reintegration is the ‘cornerstone’ of the department’s approach to integrated offender management.
- The principles of *risk*, *need* and *responsivity* will tell the department how to work with offenders, based on their risk of re-offending, their level of need, and responsivity factors:

Risk: by being able to identify those who are most at risk of further offending, and provide services to mitigate against that risk, the department can have a significant impact.

Need: services should be targeted at specific needs, and in dealing with reintegrative needs the department may have to target a multiple range of needs and how those needs relate to each other.

Responsivity: there is no point in attempting to either deliver a service to someone who doesn’t want it or delivering it inappropriately without taking into account their response. (Swain, 2004)

The ‘needs-based’ approach to reintegration was an extension of the department’s approach to in-prison rehabilitation. By 2008 the department had expanded prison-based reintegration services, with the intention of assisting prisoners to re-enter their communities and the labour market. Unfortunately, investment in additional in-prison reintegration staff was not matched by investment in community provision. A prisoner needs analysis ensured that some prisoners were released with a ‘reintegration plan’. For most prisoners, tangible reintegrative support stops at the prison gate.

The Community Probation Service – left holding the stick

The development of a prison-based reintegrative service left the Community Probation Service without a significant role in prisoner reintegration, other than with parolees. Over the last ten years they have shifted to a model of parole compliance and control. Barry Matthews, chief executive of

the Department of Corrections, made that clear in a recent public statement:

Culture change was the main factor in improving parole management, but took time, he said. ‘We have some staff that still believe the role of a probation officer is like a social worker and that sentence compliance should take a second step. We’ve been emphasising ... sentence compliance is the No 1 issue in terms of public safety.’ (Matthews, 2009)

Underlying the ‘risk management’ approach is the belief that released prisoners will respond best to the constant threat of sanctions. Turning that belief into policy has led to a range of sentence measures, including electronic monitoring, intensive supervision (i.e. additional home and office visits), random drug testing, home confinement, extensive behaviour restrictions, strict curfews and expanded lengths of supervision. The basic idea is that tough community controls can reduce recidivism by thwarting an offender’s

criminal instincts (Gordon, 1991; Cullen, 2002).

There is no evidence to support that. What evidence there is tells us that:

- Additional controls increase the probability that technical violations will be detected, leading to greater use of imprisonment and higher taxpayer costs. Petersilia and Turner’s nine-state random-assignment evaluation found no evidence that increased community surveillance deterred offenders from committing crimes (Petersilia and Turner, 1993).
- Prisons do not serve as an effective deterrent (Gendreau, Goggin and Cullen, 1999).
- Power-coercive strategies are the least likely to promote internalisation and long-term change (Chin and Benne, 1976). Kelman (1958) discusses three means of changing behaviour: change via compliance, change via identification, and change via internalisation. Power and coercion may achieve instrumental compliance, Kelman says, but is the least likely of the three methods to promote ‘normative re-education’ and long-term transformation once the ‘change agent’ has been removed (Bottoms, 2000).
- In MacKenzie and De Li’s rigorous study of intensive supervision probation they write:

The disappointing factor is the possibility that the offenders may be influenced only as long as they are being supervised. ...When probation is over, these offenders may return to their previous levels of criminal activity because the deterrent effect of arrest may wear off when they are no longer under supervision (MacKenzie and De Li, 2002, pp.37-8).
- Heavy-handed control tactics serve to undermine respect for the Probation Service (Tyler et. al, 1997). Parole conditions that include prohibitions against association with criminal associates or entering licensed premises, both of which are impossible to enforce, are often viewed

as evidence that the entire parole process is a joke. Persons returning from prison with few resources and little hope become defiant when they are faced with a pile of sanctions (Sherman, 1993; Blomberg and Lucken, 1994). Constant threats that are not backed up can lead to a form of psychological inoculation (Colvin, Cullen and Vander Ven, 2002).

- Ex-prisoners consider they have paid their debt to society: when they ‘get out’, they want to ‘be out’. Mobley and Terry (2002) write:
No one wants the separation of prison and parole more urgently than do prisoners. Any compromise or half-measure, any ‘hoops’ or hassles placed in their path, breeds resentment. Many would prefer to serve their full sentence in prison rather than be faced with high levels of supervision.
- The traditional public view is that imprisonment equates to punishment and control. Alternatives are therefore only suitable when neither punishment nor control are necessary. Parole cannot compete with prison when it comes to ensuring compliance (Camp and Camp, 1997; Bottoms, 2000, p.93; Colvin, Cullen and Vander Ven, p.23).

What next? Moving beyond risk and needs

Churchill must have known something. In his 1910 speech he proposed another way:

The proposal I make is that we should establish a new central agency of a semi official character, half official members representing the authorities and half the representatives of all these prisoners’ aid societies. That would combine official power with what I think essential: that there shall be an individual study of every case; that all convicts shall be distributed by the central agency between different prisoners’ aid societies of all the different denunciations, and all the different charitable societies; that the whole business of police supervision shall be absolutely suspended and the whole system of ticket of leave come to an end completely; and that except in the case of refractory persons, a convict, when he leaves prison, will have nothing more to do with the police. They need not see them nor hear of them again, but will be dealt with entirely through the agency of these societies, working under the central body, whose only object will be to do the best for the convict.

What would these societies do? How would they behave to towards ex-prisoners? The clue we have is contained within Churchill’s speech when he proclaimed belief in the possibility of redemption. He spoke of

an unflinching faith that there is a treasure if only you can find it, in the heart of every man – these are the symbols which in the treatment of crime and criminals mark and measure the stored-up strength of a nation, and are the sign and proof of the living virtue in it.

The Singaporean Prison Service has a prison poster which says: ‘We are trained to look for the spark, not just the flaw.’ Churchill would have supported that idea: the idea that all humans have gifts, skills or strengths that if acknowledged and nurtured can make a difference. Success comes not through treating an offender as someone to be corralled like a wild horse or understood through clinical analysis. It comes not from an image of an offender as a motor car, with defective parts, which ‘needs’ attention, but as a vibrant human being who, if treated with dignity and respect, has the potential to change.

‘released prisoners find themselves “in” but not “of” the larger society’ and ‘suffer from a presumption of moral contamination’

‘Restorative reintegration’ – a strengths-based approach to prisoner reintegration

Strengths-based or restorative approaches focus on the positive contribution the person can make rather than on their deficiencies. It is not a new idea in prisoner rehabilitation, but its re-emergence throughout the social service sector has resulted in increased research and understanding about how this approach could work with offenders.

Targeting strengths

Strengths need to be assessed and ‘targeted’ in the same way that risks and needs traditionally have been. To do so one simply asks: ‘How can this person make a useful and purposeful contribution to society?’ Jeremy Travis puts it this way: ‘Offenders are seen as assets to be managed rather than merely liabilities to be supervised’ (Travis, 2000, p.7).

The strengths narrative assumes that ex-prisoners are stigmatised persons, and that is what makes them likely to re-offend. As Johnson writes, ‘released prisoners find themselves “in” but not “of” the larger society’ and ‘suffer from a presumption of moral contamination’ (Johnson, 2002, p.319).

The strengths-based narrative combats stigmatisation by deploying a range of strategies. They include:

- Providing opportunities for ex-prisoners to make amends, demonstrate their value and potential and make positive contributions to their communities. The goal is to ‘devise ways of creating more helpers’ (Pearl and Riessman, 1965, p.88). These accomplishments lead to ‘a sense of hope, an orientation toward the future, and the willingness to take responsibility’.
- Providing public recognition, including rituals of certification which symbolically ‘de-stigmatise’ the stigmatised person and send a message to the community that the offender is worthy of further support and

investment (Bazemore, 1999). The offender is transformed from a taker into a giver.

- Devising situations in which ex-prisoners produce things the community wants, such as gardens, graffiti-free neighbourhoods, a less dangerous community, habitable housing for the homeless (Dickey and Smith, 1998, p.35).
- Active engagement in parenting provides a ‘stability zone’ for offenders which ‘softens the psychological impact of confinement’ and may help reduce recidivism and ‘transmit pro-social attitudes to a future generation’ (Toch, 1975; Lanier and Fisher, 1990, p.164). That may include programmes specifically designed for prisoners and ex-prisoners.

It is only in recent times that there has been official recognition that whānau continue to be a key cultural institution for Māori and are therefore a key (and potentially highly effective) site of intervention and/or development.

- Developing a role for ‘wounded healers’ or the ‘professional ex-’, defined as a person who desists from a ‘deviant career’ by ‘replacing it’ with an occupation as a para-professional, lay therapist or counsellor (Brown, 1991). Although it is impossible to measure the true extent of the ‘professional ex-’ phenomenon, Brown estimated that around three-quarters of the counsellors working in the more than 10,000 substance abuse treatment centres in the United States are former substance abusers themselves. Describing female ‘wounded healers’, Richie writes:

Most services that are successful in helping women reintegrate into the community have hired (or are otherwise influenced by) women who have been similarly situated. The extent to which women have a peer and/or mentoring relationship with someone whom they perceive is ‘like them’ is critical. (Richie, 2001, p.385)

- Encouraging mutual efforts at reconciliation, where offender and society work together to make amends – for hurtful crimes and hurtful punishments – and move forward (Johnson, 2002, p.328).

There is evidence that nurturing behaviour is inconsistent with a criminal lifestyle. Sampson and Laub found that one-time offenders who were employed and took responsibility for providing for their spouses and children were significantly more likely to desist from crime than those who made no

such bonds. It is a common reason for desistance by gang members (Sampson and Laub, 1993). Roy Dunn, leader of the Notorious chapter of the Mongrel Mob, put it this way in a speech to the Prison Fellowship Conference in May 2008:

At the end of the day, I have been thinking, what’s the meaning to life? There must be more to this, you know, there must be more to life. As a parent, a Rangatira, you have to look at all those angles, eh, and to me it was about – well, enough was enough. Keep going the way we are, we will live in the past and we will stay there. So, it was all about time to change. That was my vision. When I came out of jail, I was looking for people in the society to help direct and put me on that way, not for my journey but for our kids and our whānau. In the old days, it was about our patch, we couldn’t see nothing else. But now, time’s changed. It’s time to build their future; not let them go down the paths we’ve been.

The role of families and whānau

The strengths of youths, families and communities are the most commonly wasted resources in the justice system. It is only in recent times that there has been official recognition that whānau continue to be a key cultural institution for Māori and are therefore a key (and potentially highly effective) site of intervention and/or development. The recent emphasis on whānau in social policy acknowledges that changes in the well-being of individual Māori can be brought

about by focusing on the collective of whānau – something Māori have always known.

The extent to which the state responds positively or negatively to the concept of whānau or family has a significant potential impact on our capacity to promote community-based prisoner reintegration. One recent promising intervention is La Bodega de la Familia in New York City. Support is provided not to the individual under criminal justice supervision, but rather to the person’s family – the people who will be supporting the individual when he or she returns from prison. Initial evaluation research has been very promising (Sullivan et al., 2002). Travis writes: ‘We should recognize that a strong family can outlast any program and can work in ways that no one else can’ (Travis, 2003, p.4).

The impact of strengths-based reintegration

In 2003 Prison Fellowship, in partnership with the Department of Corrections, established a faith-based unit at Rimutaka Prison. Described as a Christ-focused, community-centred environment, the programme provides for each prisoner to be mentored by a community volunteer eight months before release and for up to two years following. It is based on the belief that reintegration starts on the first day of the sentence, and the programme includes the elements described above as restorative reintegration.

The unit has yet to be formally evaluated by the department. We know that one useful measure of the effectiveness

of a prison unit in rehabilitation is the level of prisoner misconduct. Gendreau and French have established that prisoners released from those units with a low level of prison incidents are more likely to achieve significant reductions in reoffending (French and Gendreau, 2006). As can be seen in Figure 1, covering the period 1 May 2007–30 April 2008, the faith unit (Unit Seven) fared well in comparison with the other residential 60-bed units at Rimutaka.

Reintegration beyond the prison walls - handing it back to the community

What would restorative reintegration look like beyond the prison walls? Maruna (2006) considers there are four elements:

Restorative reintegration is community-led

Whereas reintegration is typically characterised by an insular, professionals-driven focus on the needs and risks of offenders, restorative reintegration needs to draw on and support naturally occurring community processes through which informal support and controls traditionally take place (Farrall, 2004). Citizens, not professionals, would be the primary agents of reintegration. Circles of support and community-led mentoring are key elements of a community-led process (Petrunik, 2002). Efforts by groups such as Prison Fellowship, PARS, Pillars and other organisations to offer direct support and assistance to the families of offenders before and after incarceration is also central to restorative reintegration (Sullivan et al., 2002). It is these family members (and not the over-worked probation officer with an over-stretched caseload) who will be counted on to do the real work of aiding and befriending the ex-prisoner upon release (Bobbitt and Nelson, 2004).

Restorative reintegration is reparation-based

Peacemaking needs to begin almost immediately in any restorative framework (Marshall, 1999). The fact that so many victims are still angry, afraid or punitive toward their assailants five to ten years after the event and at the point of the prisoner’s release shows just how much more work needs to be done in this regard in terms of healing the pain of the criminal event, apologising and making amends for these acts.

Central to the restorative model is the notion of ‘making good’, or ‘earned redemption’ (Maruna, 2001; Brazemore and Erbe, 2004). Traditionally, this is won by actively making positive contributions to one’s community in a reparative fashion. This abstract ‘wider community’ is often the primary victim of many of the crimes in our justice system. In civic community service work, individuals are offered an opportunity to volunteer their talents on projects meant to meet community needs, build community capacity and repair the harm caused by crime. They take on leadership roles within these projects and often work side by side with volunteers from the wider community who are not involved in the criminal justice system. Again, the community would lead this process.

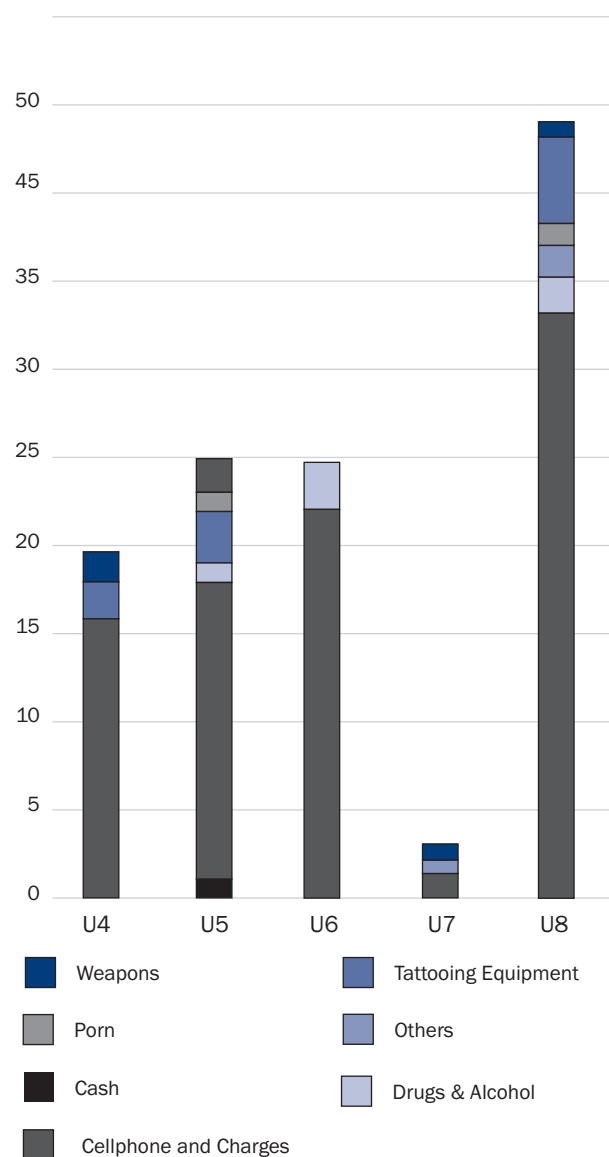
Restorative reintegration should be symbolically rich

New Zealanders make quite an impressive show or ritual of punishment – from the drama of the courtroom to descending into the cells, to prisoner uniforms, the barred windows and a preference for ‘boot camps’ and ‘three strikes’. As a society we have become masters of what are called status degradation ceremonies (Garfinkel, 1956). If we are going to ritualise the process of exile, we need to do the same for the return. A number of theorists have started to write about what ‘status elevation ceremonies’, or ‘reintegration rituals’, might look like (Braithwaite and Mugford, 1994; Maruna, 2001).

Restorative reintegration needs to eventually involve wiping the slate clean

Perhaps the strongest form of symbolic de-labelling an offender could receive from the state is the chance to officially wipe the slate clean and literally alter his or her past as recognition of these forms of restitution and social contribution. This sort of permission to legally move on from the stigma of

Figure 1



one's past is a key component of the amnesty process that has been central to peace and reconciliation processes worldwide. More use could be made of this important last step in the reintegration process for ordinary offenders.

The role of the community

Churchill realised that to shift responsibility for prisoner reintegration to the community there would need to be resources to accompany it:

The Chancellor of the Exchequer has been good enough to assign me £7,500 a year for the development and strengthening of the methods by which we are to enable prisoners, on release from penal servitude, to have a fair chance of taking their place in the ordinary life of the country.

The emerging view is that the state does not have a role in reintegrating ex-prisoners. Criminal justice professionals cannot reintegrate anyone into the community, regardless of their training. Ex-prisoners can reintegrate themselves and communities can reintegrate ex-offenders. The most the state can do is to facilitate and support the community in its efforts (McNeill, 2006). Reintegration happens in the community, by the community and for the community.

As the reach of criminal justice and social services expand, the impact is to weaken historically stronger community nets and inadvertently undercut the role and responsibility of citizens, neighbourhood institutions and community groups in socialisation and informal sanctioning (Braithwaite, 1994; McKnight, 1995). As Clear and Karp (1999, p.38) observe:

When agents of the state become the key problem solvers, they might be filling a void in community; but just as in interpersonal relationships, so in community functioning, once a function is being performed by one party it becomes unnecessary for another to take it on ... parents expect police or schools to control their children; neighbors expect police to prevent late night noise from people on their street; and citizens expect the courts to

resolve disputes ... informal control systems may atrophy like dormant muscles, and citizens may come to see the formal system as existing to mediate all conflicts.

From criminal justice to social development

The recent work of the Ministry of Social Development in strengthening families and communities suggests that if there is to be state support for ex-prisoners and their whānau/families, it would be most appropriately located within Family and Community Services, in the Ministry of Social Development. The excellent work it is doing in strengthening families and communities, and supporting community groups in such areas as family violence prevention, positive parenting and after-school activity, gives it an entrée into and relationship with community organisations. It has the capability to engage effectively with 'hard to reach' families, including the families and whānau of ex-prisoners. It is a service familiar with the strengths-based approach, and understands the importance of building community resilience and social cohesion. Most importantly, it understands that its role is not to deliver those services itself, but to build community capacity and capability in order for that to happen.

Agreement on how the state and the community should work together to support ex-prisoners and their whānau /families will not depend solely on the extent to which stakeholders can reach agreement. The future of effective prisoner reintegration lies in the government's willingness to move beyond the existing preference to control ex-prisoners, on one hand, and on the other to respond to their perceived individual needs. It lies not in an obsession with managerialism and the culture of control. Instead, it must be based on a vision for prisoner transformation that has at its heart concern for the social advancement of all New Zealanders.

That was Churchill's vision.

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Len Cook and Robert Hughes

Value for Money from Public Services under Continually Constrained Budgets: A Strategic Approach

Introduction

The New Zealand economy in the early months of 2009 faces challenges of historic magnitude.¹ The size of the public sector in the New Zealand economy makes it arguably the most important single player to manage the current situation. We can expect Keynesian policies designed to stimulate spending by consumers and businesses to be important. The poor economic outlook and policies to stimulate the economy mean that the government is faced with severe constraints on budgets and strong pressures to achieve high value for the money expended on public services.

While the current set of conditions is unique, the need to manage within constrained budgets and achieve high value for money is not a new problem for managers in the public sector. These were issues in the 1980s, and there are lessons that can be learned from that time. In this article we set out a strategic approach to achieving value for money from the delivery of public services under continually constrained budgets and the management of capital investments, including priority setting for new investment. We do not consider the parallel management issues associated with transfer payments. The article draws on the experiences of the authors in top-level

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managerial posts and strategic consultancy roles in the public sectors in New Zealand and the United Kingdom in dealing with issues of this kind.

Managing public sector departments from the early 1980s to the late 1990s

A brief overview of the institutional structures within which public sector managers operate in New Zealand introduces our discussion. Government departments are appropriated their annual funding by Parliament to deliver specified outcomes. Departmental performance is monitored by Parliament, and chief executives have responsibility to provide prescribed information for this purpose. Two government agencies are actively involved in the machinery of government: Treasury and the State Services Commission. The Department of the Prime Minister and Cabinet is also involved. Oversight is provided by the *controller and auditor-general*, an officer of Parliament.

The legislation for the financial and performance management of departments has changed substantially since the mid-1980s. The most important changes to financial management were the introduction of the Public Finance Act in 1989 and its 2004 amendment, which set out the public sector financial management regime. Information on the operation of the act is given in Cabinet circulars and by Treasury instructions, budget guidance and circulars.

Norman (2004) has tracked the changes and emerging trends in administrative doctrines in the New Zealand public sector since the 1980s. He has observed that the period from the mid-1980s to the end of the 1990s was characterised by improvements in accountability for departmental performance and the widespread adoption of managerialism. By 2003 the trends emerging in administrative doctrines were concerned with problems due to the fragmentation of service delivery, and with the need for the development of common standards, practices and infrastructure across the state sector.

Within these institutional arrangements and changes in administrative doctrines, it is our observations from the experience of managing conditions on the ground which forms the basis for the approach to value for money management that we set out in this article. This is a practical method, and in the following paragraphs we summarise the key observations that have informed our ideas. In particular we draw on conditions in one department, the Department of Statistics (later Statistics New Zealand), over the period from 1980 to the end of the 1990s. Our contacts with others in the New Zealand public sector during this time would lead us to believe that the conditions encountered in the Department of Statistics were representative of those in the New Zealand public sector at the time. The experience of the Department of Statistics is particularly relevant as

it faced severe funding problems from the early 1980s to the late 1990s.² Some of the comments we make relate to what was confronted in resolving those problems. This practitioner's view adds important insights into deficiencies in the information available to managers to make decisions, deficiencies only visible at a detailed level of analysis.

Over the whole period there were few public sector organisations which had recognised in their strategies the likely long-term nature of the downturn that was faced then.

During the 1980s to the mid-1990s almost all New Zealand public sector organisations faced ongoing expenditure restraint. Irrespective of the agenda which motivated the reform, the fact was that in the early 1980s the New Zealand public sector was in poor shape to answer questions on the value of their outputs. Indeed, for many in the public sector the idea that they were involved in the production of outputs for society was novel. The common view at the time was that people were employed to perform an activity. Departments did not have the information, let alone the skills, to assess and justify the value and impact of their outputs. It was our experience that for many outputs the key uses and their long-term value were not even known. The period of reform revealed the inadequacies in available information. By the turn of the new century departments were much better placed to answer questions about the value contributed by their outputs, and were also more aware of the great difficulty in assessing value for money for some. The Department of Statistics was only able to resolve its then funding problem when it built the necessary information base and undertook a detailed analysis for one of the first output price reviews in 1997: this showed that the funding approach it had operated under since the late 1980s was ill-founded.

Also, by this time there was a better understanding of the limitations of the narrow focus on output reporting and GAAP accounting. A report by the *controller and auditor-general* to Parliament (*Controller and Auditor-General*, 1999) sought to ameliorate these problems by focusing on outcomes, the exposition of intervention logic, impact evaluation, reporting against output and capability performance measures, and risk reporting.

Deficiencies in information to support expenditure prioritisation were exacerbated by the setting of the public sector discount rate at an unrealistically high level. Given the volume of public investment proposals or projects that could not meet this rate, analysing investments on the basis of future costs and benefits became secondary to less tangible political judgement in determining resource

allocation priorities. This may have encouraged investments with shorter-term paybacks and more immediate impacts, and discouraged infrastructure investments with longer-term benefits and more disparate contributions to wealth creation. This myopic view has also meant that value for money from government policies was a static concept, in the sense that outcomes were assumed to be maintained over time, with no, or little, consideration of long-term impacts.

Compounding the situation, serial short-term fiscal balancing was also triggered in the late 1980s. It included a series of seemingly innovative approaches which evolved during the 1980s from the sinking lid policies. Over the whole period there were few public sector organisations which had recognised in their strategies the likely long-term nature of the downturn that was faced then. This included the central agencies.

Cutting the most immediately accessible inputs can lead to a severe test of service effectiveness if resources are withdrawn to the point at which service quality is compromised, and then sufficient resources are put back to restore desired service levels.

Even where decisions involving direct cuts to service levels were made, reductions in the expenditure base of organisations were often made without clear intentions about the consequences. Reductions in the quality of services, poor management of the obsolescence of assets, and a general loss of innovative capacity were a significant consequence of reductions to departmental baselines. The result was to reduce the capability of the public sector to operate at higher levels when economic prosperity returned. In our experience the accumulated downgrading of some assets far exceeded what was saved in not managing their maintenance. This was most obvious with the building stock, and more pervasive with respect to technology-based processes. This was also the experience we encountered in the United Kingdom.

Maintaining public sector operations became the product of an accumulation of localised, partial solutions which generated a multiplication in components and versions of processes, diminishing the overall coherence of service delivery systems and locking in outdated cost structures. It was not unusual, when new investments were eventually necessary, that these required much more sophisticated competencies to manage, far exceeding the capability that had been necessary to manage in a more piecemeal way.

These investment initiatives also required much more explicit governance arrangements than may exist even now across the public sector. The INCIS failure is an example

of these deficiencies. The difficulties of the State Services Commission in its own leadership of particular whole-of-government information technology projects provide a very recent example, although related difficulties had already been experienced by the State Services Commission in the early 1980s with its then computer services division. The continued fragmentation of district health board (DHB) investment (even as the DHB-wide capital base has increased) is another example of inadequate sector-wide governance coupled with piecemeal and disparate investment in systems that manage information about resources, consumers and conditions. This fragmented approach is seriously limiting the potential to benefit from sector-wide investment, which would require integrated governance and a shared investment strategy. One consequence of this fragmentation is an excessive reliance on structural change to align resources with outputs as needs change, along with a much lower return on capital.

The budget problem in summary

Faced with the need to reduce departmental expenditure, an obvious place to start is to cut outputs no longer consistent with government policy. This is a particularly appropriate response when there is a change of administration, as now applies. Outputs that support low-priority policy areas can also be added to this category of candidates for cost cutting.

Experiences from the 1980s point to huge uncertainties about the full benefits and interdependencies associated with many public sector services, whether the benefits are internal to the public sector or delivered directly to businesses and individuals. Managing change given this uncertainty requires a variety of governance arrangements, some of which need to function at a whole-of-government level. Most public sector organisations do not have good information on the uses of their services and have difficulty in identifying services which can be cut. This is why the preferred strategy is often to let the quality of the service deteriorate and see what happens. This approach in our view does not address the key issue of sourcing information on which to make informed decisions about the most appropriate mix of outputs for the available budget.

Rather than making sufficient direct cuts in outputs to bring funding requirements within the available budget, public sector managers usually trade off inputs in order to maintain operating levels. Short term measures of this kind include:

- cutting costs, particularly corporate and easily-terminated costs such as maintenance, travel, consultants and fixed-term contractors;
- stopping or delaying investment decisions;
- hidden rationing by withdrawing services, usually to those stakeholders with the weakest voice to protest (rather than lowest net benefit);

- reducing the scale of monitoring activity and benchmarking activity; and
- scaling back preparation for low-frequency risks, even though these events may have very high impact.

Why the budget-line cutting approach has a high risk of decreasing value for money

Cutting the most immediately accessible inputs can lead to a severe test of service effectiveness if resources are withdrawn to the point at which service quality is compromised, and then sufficient resources are put back to restore desired service levels. This approach is frequently associated with continual organisational restructuring in order to align resources to outputs. Through the overwhelming dominance of the focus on outputs (and outcomes), the public sector has assumed away the fundamental and visible tension faced by traditional commercial organisations between having a production- or a market-based focus in the accountabilities of managers. This diminishes the significance of leadership in the management of input markets and business processes.

One problem with this response to constrained budgets is that it gives little recognition to the disproportionately negative impact reductions in some inputs can have on the quality and quantity of outputs. Short-term saving can have a negative impact on long-term outcomes because of factors such as:

- damage from disrepair of infrastructure;
- lost opportunity costs from no or poor integration of processes;
- irreversible asset disinvestment;
- very long investment cycles, which result in knowledge deterioration (for example, naval ship purchasing);
- loss of momentum and negative impact on organisational culture;
- inability to participate in multi-way partnerships;
- loss of business process knowledge from continued restructuring and poorer links between policy and operational processes;
- a transfer of production costs to the users of services, as they substitute for input elements that could have been provided at lower cost by the service providers.

The financial reporting regime in place in New Zealand does not readily alert managers to these negative impacts (*Controller and Auditor-General, 1999*). This is, firstly, because conventional accounting reports on tangible and cash assets and not on organisational capability and changes in capability over time. Consequently, under-funding output costs for short-term fiscal reasons ‘mines’ real but unvalued organisational capabilities in a way that is invisible to Parliament, and indeed to departmental managers. This was one of the causes of the funding problems the Department of Statistics faced over the whole period from the early 1980s to the late 1990s.

A real consequence of the erosion of organisational capabilities in this way is that where strategic projects are undertaken, these initiatives frequently fail to deliver the promised net benefits. In addition, at an organisational level in the small New Zealand public service there are problems caused by fragmented responsibility in delivering services to achieve difficult social outcomes. This is because of the difficulties in coordinating services from several agencies.

The important observation here is that in a climate in which management is focused on cutting inputs based on how easy they are to avoid, innovation becomes piecemeal and focused on making do by renovating legacy systems. Without objective benchmarking, organisations often become unaware of how far they have slipped. A culture of process-specific renovation through work group-centric innovation comes at a cost of a diminished capacity to adapt processes to future technology environments, and hence create opportunities from integration that generate cost saving and improved outcomes. The multiplicity of approaches across the public sector in introducing web-based services in the late 1990s exemplified this.

Because of their comparatively small size, New Zealand organisations need to fight harder to fully exploit the capabilities and potential of highly integrated services and infrastructures...

In New Zealand, the split between policy and operations in many sectors is likely to exacerbate this, as operational centres with low investment resources freeze the core elements of high-volume processes, and policy expertise has a lessened capacity to identify and understand the diversity of operational pressure and opportunities the organisations face. The resulting lack of sector-wide governance means it is rare for there to be sufficient authority in any part of a government sector to lead integration. This is undoubtedly reflected in the poverty of thinking about national infrastructures in New Zealand generally.

Because of their comparatively small size, New Zealand organisations need to fight harder to fully exploit the capabilities and potential of highly integrated services and infrastructures, not only because of the cost savings and international linkages but also because of their impact on the scope of activities that can be undertaken for any given resource base. The public sector has no recognised processes to lead such a fight.

The important observation about the tendency to cut outputs and inputs based on how easy they are to discontinue, in the absence of information on likely consequences, is that this will not be effective in reducing an organisation’s ongoing

funding requirements and will not improve value for money.

We will go on to show that there is a third approach, which is to change the use made of the investment in future shifts in systems, processes and procedures. This option, in our experience, can profoundly reduce funding requirements and lead to improvements in quality and quantity of services. We argue that this option should be used to increase the flexibility in business process management in order to avoid the continuing costs of restructuring that potentially arise, simply because resources and outputs are more likely to need to be regularly realigned in times of continually declining national resources.

... [the] public sector leadership has much more to learn about contemporary commercial organisation, particularly in information-rich activities.

Key considerations influencing the choice of actions to bring about future shifts

The current public sector system places responsibility on departmental or agency chief executives alone for many decisions that have strategic implications for the sector as a whole. Across the public sector, and in specific sectors such as health care, there are insufficient means of bringing the best sector-wide capability to bear on what are essentially whole-of-sector decisions. There are many fields in which the quality of information, insight and challenge that are needed to underpin our continuing international competitiveness are readily available across the public sector or are accessible to it. While many of the experiences of the 1980s have considerable relevance, and need to be drawn on, the increased interdependence among agencies and the reliance on integrated technology systems and processes (public and private) make it much more difficult today to apply a piecemeal approach to managing obsolescence without disproportionately affecting the integrity of services, resulting in the need for high-cost remedial action. Such interdependence is most visible in energy distribution and transmission, but equally common in information- and network-based processes that now underpin most public services.

Reviewing the quality and quantity of outputs is a necessary step. Clarity on the outputs to be delivered is essential when reviewing how to use investment to bring about a significant improvement in value for money. Part of this clarity comes from understanding the uses of the output, and part from understanding the impact of:

- setting and influencing public expectations for service;
 - foreseeable trends, such as demographic changes;
- increasing dependence on technology to deliver services; and

- increasing future investment requirements in systems, processes and procedures.

An effective mechanism for sourcing information on these types of issues is through systematic processes which engage domain experts and key stakeholders. Modelling and simulation of alternative conditions are a practical way of leveraging available information in order to develop an understanding of the trade-offs involved and the critical success factors.³

Turning now to the efficiency of output delivery, public sector organisations should take a sector-wide view of the service delivery process. From this perspective, first, there are alternative systems, processes and procedures available for the delivery of most outputs. There is no single optimal solution. Second, for any given set of systems, processes and procedures, massive improvements in the quality of outcomes come about from integration of the high-impact elements of the value chain. While there are cost savings from integration, the main benefit is from better integration with the recipients of the service. Pharmac is an example where effective integration has led to substantial cost savings, through leadership in singly managing the collective face of the New Zealand health service in global pharmaceutical markets. In our view, the greater contribution of increased integration to the improvement of the health system will be seen in the quality and quantity of health services which can be delivered to the community. The establishment of Pharmac is a clear recognition of the economic power of integration, but it also demonstrates the intensity and clarity of focus gained from integrating elements in otherwise fragmented systems. The Tongan medical centre is an example of localised integration of health services provision; while the highly effective cross-DHB collaboration we have in the management of serious burns shows how well a nationally cohesive service can operate despite the autonomy of the 21 DHBs.

Probably the relevant business model to inform thinking about the integration of services is the networked organisation which seeks to manage and coordinate critical elements of the service delivery value chain. In commercial networked organisations, the strategic emphasis on input systems, processes and procedures is as strong as that on the consistency of outputs, regardless of their context. Over the last three decades the focal point of performance assessment in the public sector has shifted from inputs to outputs and then to outcomes, and at each stage there has been a strident denial of any need for future interest in input management. This shows an extraordinary lack of understanding of the nature of commercial networked organisations, and suggests that public sector leadership has much more to learn about contemporary commercial organisation, particularly in information-rich activities. A comparison with networked organisations also highlights why the inadequacy of existing structures is an inevitable consequence of not seriously

considering and identifying the most critical inputs, where sector-wide leadership could shift long-run output costs across the sector.

Having said this, to realise the full benefit of integration, and the resultant value-for-money improvements, can require high domain knowledge and capital investment. It is not easy to realise these pay-offs: they are expensive, risky and might take a long time to show a result. The determinant of what resources are required is the nature of the market. The nature of the market is crucial in determining the boundary of and activities which constitute a value chain, and, therefore, the capital and the nature of the risks involved. For example, the more dynamic the market, the simpler the core resources of public sector organisations can be expected to be, as capital and risk can be allocated to parties best able to manage them.

This is not simply a matter of substituting resources, or even privatisation. The important conclusion is that to improve value for money, it is necessary to integrate and transform *the entire sector-wide service delivery value chain*. Take the New Zealand health service as an example. For a country with a population of 4 million people it is highly fragmented, with 21 DHBs. Pharmac has demonstrated that integration can deliver substantial net benefit. The form of the integration should capitalise on the nature of the market at different points in the health delivery value chain. An integrated health system depends on both public and private sector organisations, and this mix could be expected to change over time. However, we would add that making structural change now without strengthening DHB-wide governance, and requiring commonality on the organisation and management of information critical to system management, will result in future structural changes as resources and needs will again get out of balance.

A strategic approach to delivering value for money within continually constrained budgets

To summarise, we advocate the following strategic decision-making approach to delivering value for money from public sector processes within continually constrained budgets:

- Where the delivery processes in the value chain are simple and highly integrated:
 - If information exists on the impact of the decision, *explicitly cut resources* in areas that are low priority or inconsistent with current government policy, or where the negative consequences of withdrawing the service are low.
 - If, as is frequently the case in public sector organisations, there is poor understanding of the use made of services, *build processes to engage with stakeholders*. It is likely that these processes can be funded from existing resources; however, a change in culture is frequently required to enable these processes to operate effectively. It would

be reasonable to expect that, with commitment, sufficient information could be obtained to review the net benefit provided by the output. The strategy under these conditions is to be conservative and cautious where negative consequences are high.

- Where the delivery processes in the value chain are complex or fragmented, then be most innovative about getting the benefits of integration by transforming the entire sector-wide service delivery value chain. The payback for this can be expected to come in the form of improved value for money and a reduced need for capital expenditure. Importantly, to successfully deliver these benefits requires high domain knowledge, high capital investment, and shifts in performance due to the introduction of new systems, processes and procedures.

The most effective method of reducing costs to provide best value for money is to transform the entire sector-wide service delivery value chain.

Secondly, *ensure that strong governance processes exist alongside the management of infrastructure developments*. Even the most rigid specification testing is no substitute for the continued periodic validation of the initial conditions and key assumptions on which business cases were built. The opportunity for public sector-wide leverage needs to be continually scrutinised from all investments. The New Zealand government has yet to build the incentives for public sector organisations to do this, and there are lessons here from the United Kingdom.

Formulating strategies which deliver value for money from public service processes

Complex and fragmented service delivery value chains exist in a large number of public services, especially health, education, defence and justice. These are areas in which substantial improvements are required. Changing baselines has a very high impact, which could well strongly affect capability for six-to-ten years. As such, the persistence of budget constraints has to be built in. These are also areas where the medium- and long-term fiscal pressures are extraordinarily high, and public pressure is intense.

Improving value for money from the delivery of public services under continually constrained budgets necessitates a combination of:

- policy outcomes to be achieved;
- sector-wide focus on the management of input markets and system investments: delivery systems that do not span the whole service delivery value chain are unlikely to be

- capital efficient and cost effective;
- budget parameters, alternatives and appetite for risk; these are formulated from insightful analysis, modelling and simulation of alternative conditions in order to understand the trade-offs involved and to isolate the critical success factors;
- uses of outputs with evidence grounded in stakeholder engagement, and processes for engaging domain experts;
- attitudes to service quality improvement and productivity;
- supporting governance structures and performance monitoring frameworks to deliver benefits and outcomes.

It is important to note that in this strategic approach the concept of value for money has a time dimension: that is to say, desired public sector outcomes are pursued and maintained over time. Differences in value between policy alternatives must be considered in a framework that takes into account the time dimension in assessing the impact of outcomes.

The fundamental constraint on the adoption of this strategic approach is the absence of an effective mechanism to bring about significant value-for-money improvements in sector-wide systems. Lonti and Gregory (2007) found that over the period 1992–2002 output classes and performance indicators from the five departments they studied had shifted in focus so that by the end of the period they ‘had virtually nothing to say about the cost-effectiveness of policy programs’.

Our comment that to apply the strategic approach requires improvements in sector-wide processes could be interpreted as suggesting a move towards more centralisation and standardisation, along the lines of a return to a more centralised bureaucracy as discussed by Norman and Gregory (2003). Instead, what we have in mind is that a systems-wide approach should be taken, consisting of a network of organisations (including private sector and not-for-profit organisations) managed and facilitated by the public sector to deliver the government’s intentions for public services.

Greater centralisation and standardisation will not address some of the intractable failures in service delivery which now characterise the New Zealand public service. To use Norman’s (2004) narrative of waves, the new wave should focus on redesigning the entire service delivery value chain. Adopting such an approach would see some public

activities centralised and standardised. This new wave should be another stage in the quest for improved value for money. The innovation required would be no less than that of the reforms of the 1980s. Rethinking the public sector as a network would appear to fit the recent trends identified by Norman. It would also be consistent with the accountability regime institutionalised by the Public Finance Act.

Conclusions

Experience from the management of public sector organisations during the mid-1980s and 1990s, a time characterised by constrained budgets, has shown that input-focused, budget-line cost cutting is an ineffective method of reducing expenditure and reduces value for money for long periods.

Public sector managers can find it difficult to justify cuts in outputs, and in our view a key reason for this is a lack of information on the use of outputs. This type of information is not required to be produced for parliamentary appropriation and monitoring purposes.

The most effective method of reducing costs to provide best value for money is to transform the entire sector-wide service delivery value chain. The public management institutional structure in New Zealand provides no incentive for this. Governance structures currently in use in sectors with a policy/operations split may effectively promote fragmentation and piecemeal solutions.

To realise benefits from transforming the service delivery value chain requires information on the uses of the outputs, the boundary of and activities which constitute the service delivery value chain, the nature of input and output markets, and the quality of the insights on how these markets might evolve. It is these factors that are crucial in determining the approach to how to deliver value for money from public services under continually constrained budgets.

In these challenging economic times, driving hard to achieve best value for money from public services is an imperative that warrants the risks and investment involved.

1 A summarised version of this article was published in *Public Sector* earlier this year – see Cook and Hughes (2009). The authors would like to thank Robert Gregory, Jonathan Boston, James Olson and Megan Bray for providing comments on early drafts of this paper.
 2 We note that Newberry (2002) uses the funding problems faced by the Department of Statistics as one of her examples.
 3 Having identified these critical factors, it become possible to design monitoring mechanisms to test whether government initiatives have the expected impact on outcomes.

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Mike Reid

The Auckland Debate: Is Big City Governance Always This Difficult?

Governing fast-growing metropolitan areas is always difficult, and the history of Auckland governance is no exception. This is so for no other reason than the fact that they keep growing: as population increases the alignment of urban and jurisdictional boundaries breaks down, creating problems of coordination and fragmenting decision making. In addition, the increasingly complex pattern of councils results in tax exporting and what economists describe as spillovers, where peri-urban councils benefit from the expenditure of their larger neighbours while areas further out question the local benefits of centrally-based facilities. Consider, for example, the debate over the Auckland Regional Amenities Funding Act 2008.

Past reform to increase coordination of regional activities while retaining representation of the interests of local ratepayers has often had the appearance of closing the barn door after the horse has bolted.¹ Will it be any different this time?

The struggle for regional government in Auckland

The 1966 *Encyclopaedia of New Zealand* had some quite interesting things to say about the future of local government. In a brief article it noted the disjunction between rapidly growing urban areas, like Auckland, and their fragmented

local government systems, resulting in problems of planning, coordination and the execution of regional works and services.

The writers of this particular article spoke with optimism about the recent passage of a local bill to establish a regional local authority in the Auckland urban area and suggested that this might signal the future direction of local government reform, namely a regional council exercising 'powers and functions of a regional nature, including the functions performed by special-purpose authorities, while the territorial authorities remain in existence to perform purely local functions' (Crompton and Williamson, 1966). Graham Bush's excellent history of the Auckland local authorities, prepared for the 2009 Royal Commission on Auckland Governance, notes that the passage of this bill was not smooth and that while the new authority was given nine distinct regional functions, this was less than what the originators of the bill, such as mayor Dove-Myer Robinson,

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...the royal commission came up with a governance model that was relatively unique: a unitary authority focused on regional and strategic matters, with six subsidiary councils responsible for local service delivery.

were looking for. Nevertheless, it was a radical measure and a vast improvement on what went before. There were 31 territorial authorities within the new Auckland region, a number that did not change significantly until the reforms of 1988–89.

A range of models exists for governing large metropolitan areas. The formation of the Auckland Regional Authority represented a ‘two-tier’ approach. In this model, local councils tend to be responsible for truly local services, such as parks, libraries, neighbourhood improvements and local streets, while matters that cross local boundaries, such as the network infrastructures and planning, are undertaken by some form of regional authority, which might be directly elected or might have its membership appointed by the local councils.

The reforms of the fourth Labour government in 1989, which strengthened the regional authority and rationalised the 31 local councils – replacing them with eight – probably gave Auckland its best chance to get its governance structure in line with the demands of a fast-growing city. The new model, however, had a very short life span. In his column in the *New Zealand Herald* of 15 April 2009 Brian Rudman sought to identify those responsible for disabling Auckland’s nascent regional governance model and creating the complex, fragmented governing arrangement that is Auckland today. As Rudman notes:

It’s forgotten now, but if we’d stuck with the model the Local Government Commission proposed in 1989 we mightn’t be going through the current upheavals. ... National’s Local Government Minister Warren Cooper feared a strong Auckland, and emasculated the proposed strong regional council.

So it is probably appropriate that the current National government has the job of putting right the problems that have resulted from the actions of one of its party’s ministers 16 years ago. The Local Government Amendment Act 1992 limited the role of regional councils to environmental management and regulation, with few exceptions, and continued a policy that tended to treat all regions much the same, whether they were large and sparsely settled like the West Coast of the South Island or a large urban conglomeration.²

The background to the royal commission

The suggestion that the governance of Auckland represented a ‘problem’ that warranted some form of national intervention (rather than simply a change of personnel) became a driving narrative through the early part of this decade. Against a background of infrastructure crises – such as power blackouts and the fragility of supply, congestion and the failure to complete the national and local highway system, chronic

under-investment in sewage and storm water infrastructure in the older parts of the city, and the apparent ever-increasing cost of dealing with these problems – many interested parties were calling for change. During this period there were a number of ‘game-breaking’ events, such as the first regional council rates revolt, which resulted in a regional council reluctant to move beyond a fairly narrow conception of its role.³ However, the turning point was probably the failure of Auckland authorities to respond to the government’s offer to fund a waterfront stadium. While the stadium debate ended up as something of a debacle, for both parties the recognition that Auckland would not advance without the ability to speak with a unified voice gained traction.

The Royal Commission on Auckland Governance was established by the Labour government in 2007. Its task was to examine Auckland’s governance structure and report back after the 2008 general election. The three commissioners were Peter Salmond, a retired High Court judge; Dame Margaret Bazley, former chief executive of the Ministry of Social Policy; and David Shand, who brought an extensive public finance background and had previously chaired the Local Government Rates Inquiry.

The report

The commissioners reported to the governor-general nearly a week earlier than their extended deadline of 31 March. Their recommendations appear to have been a tightly guarded secret and both the prime minister and the minister of local government publicly denied any advance knowledge. Despite widespread speculation about the content of the report, the royal commission came up with a governance model that was relatively unique: a unitary authority focused on regional and strategic matters, with six subsidiary councils responsible for local service delivery. Key recommendations were:

- the creation of a unitary authority, to be called the Auckland Council, to assume all local government responsibilities for the Auckland region and include Rodney District Council, North Shore City Council, Waitakere City Council, Auckland City Council, Manukau City Council, Papakura District Council, Franklin District Council and Auckland Regional Council;
- the Auckland Council should operate and have representation at two levels: the elected Auckland Council and six local councils;
- the staff from the eight abolished councils should be transferred to the Auckland Council, at least initially;
- the Auckland Council should include a vision for the region in its spatial plan and the mayor of Auckland’s annual ‘State of the region’ address should describe progress towards the attainment of the vision;

- the Auckland Council should adopt a comprehensive regional economic development plan and ... a high-level, regional cross-sectoral board, comprising representatives of central government, local councils, business, education and not-for-profit organisations;
- a Social Issues Board should be established as the main governance body for social issues, with central government membership. This board should develop a social well-being strategy and an implementation/funding plan;
- the Social Issues Board should be supported by a social issues advisory group of officials, co-funded by central and local government;
- the government should give consideration to aligning geographic boundaries of local government and central government agencies responsible for the delivery of social well-being services;
- the Auckland Council should comprise 23 councillors, including 10 councillors elected at large, 10 elected from wards, two councillors elected at large by voters on the Māori elected roll and one councillor appointed by the Mana Whenua Forum; and
- the government should enter into a partnership agreement with the Auckland Council and appoint a senior Cabinet minister as minister for Auckland; in addition it should appoint a Cabinet committee for Auckland comprising ministers with portfolios of significance to Auckland. The Cabinet committee should be supported by an officials' committee.

The royal commission's task was to design a governance structure that would make Auckland an internationally competitive city. In doing this it has offered an entirely new model of local government, one that shifts the locus of decision making from our traditional top-down centralised model to more of a partnership approach. If adopted by the government it would represent a significant change in the manner in which public policy decisions about localities are made. As the commission notes: '[we have] concluded that a fundamental rebalancing of the relationship is required. First, [the report] proposes a new, stronger relationship between central and Auckland government' (Royal Commission on Auckland Governance, 2009, p.46).

Throughout their recommendations one of the dominant themes is the need for a more integrated approach across the four well-being areas: social, economic, environmental and cultural.

A critical part of the commission's plan for Auckland is the establishment of six local councils. These councils, which would have no ability to employ staff or set rates and charges, are intended to focus on local engagement and the delivery of 'quality' local services. These are services which are

important locally but have limited or no regional significance, such as local roads: local regulatory responsibilities, including dogs, gaming and liquor; building consents; recreation centres; crime prevention; local art galleries; and delegated responsibilities which may include libraries, swimming pools and housing. In fact, this list includes the majority of activities that territorial councils currently undertake.

By defining the local councils' operational role the commission has sought to ensure that the Auckland Council will be able to focus on the strategic challenges facing the region as a whole, without the distractions that councils currently face (think policy on dog control). The Auckland Council's proposed roles are: regional and district planning; infrastructure planning and investment (public transport, roads, water and waste water); economic and social development; and environmental protection. It is important to note that some of these functions, such as the water and waste water functions, are to be carried out by council-controlled organisations. Placing them at arms' length is meant to enable them to focus solely on their key objective and further free the council to focus on its strategic planning and engagement roles; however, it also removes some of the key 'shaping' levers from direct political control and potentially creates another form of fragmented governance.

The thinking behind the commission's recommendations

The commission itself identified a number of problems with the existing governance of Auckland:

- Public transport is poor.
- Roads are congested.
- Planning applications are slow and expensive.
- Rates are high.
- Councils fail to agree on issues important to the region.
- Councils do not listen to the people.
- The city and waterfront are run down and unattractive.

Underpinning these practical problems, the commission identified two systemic issues: that regional governance is weak and fragmented, and community engagement is poor. A sceptic might suggest that other than the fragmented and weak regional leadership, the issues identified have little relevance to the question of whether Auckland is a single city or not – solutions are unlikely to be found in structural change alone. In fact, all the international evidence suggests that one large city will be less attentive to citizen concerns, have fewer incentives to provide responsive and speedy services, and will be more expensive to run (McKinley, 2006). At least with multiple cities citizens have the opportunity to compare service standards.⁴

The commission's plan for Auckland represents a very different model of local government to what New Zealand

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has become accustomed to. In thinking about the role of the local councils, the commission is indebted to Michael Lyons' major report on local government (Lyons, 2007) and his depiction of 'place shaping' as the primary local government role. Examples of place shaping include:

- building and shaping local identity;
- representing the community;
- regulating harmful and disruptive behaviours;
- maintaining the cohesiveness of the community and ensuring smaller voices are heard;
- understanding the local needs and preferences and making sure that the right services are provided to local people;
- working with other bodies in response to complex challenges such as natural disasters;
- promoting acceptance of diversity and encouraging celebration of that diversity.

Lyons' work presages a wider debate that tends to focus more on local governance as a process than on local government as a set of institutions. Councils as arbiters of local governance are more concerned with steering the multiplicity of local organisations towards common, citizen-identified goals. With this democratic mandate councils have a crucial role in bringing together the various sectors which contribute to the achievement of city-wide outcomes. Robin Hambleton, who wrote an influential background paper for the commission (Hambleton, 2009), described this in terms of civic leadership. Civic leadership brings together political, managerial and community leaders. As exemplars, Hambleton pointed to the example of local government leaders like the present mayor of Chicago, who is widely credited with changing the fortunes of that city through strong and facilitative leadership.

As noted earlier, the commission's model aims for more integration across all levels of government. The Social Issues Board, for example, would be responsible for overseeing the expenditure of government funding in Auckland city. In other words, it would challenge the current top-down approach to the allocation of government resources by providing a mechanism for local voices to influence prioritisation of central government activity as well as local government input. In this it resembles recent legislation in the United Kingdom, the Sustainable Communities Act 2007, which requires the secretary of state to prepare 'local spending reports' that detail what certain departments spend in council areas. In addition, councils and their communities are able to submit (via the Local Government Association) proposals that would improve the sustainability of their community. The British government described this as 'the principle that local people know best what needs to be done to promote sustainability in an area' (Communities and Local Government, 2009, p.4)

The government's response

The report was released to the public within days and early commentary tended to focus on the electoral structure of the Auckland Council (only the very rich would be able to stand) and the loss of local representation with the removal of the community boards. North Shore city councillor Ken McKay captured many of the sentiments when he stated that 'the Auckland Council would be too big and too easily controlled by a small group with hidden agendas' (*North Shore Times*, 14 April 2009). Within days grass roots organisations were organising to oppose what they saw as a loss of local representation, a concern the government appeared to be very responsive to – it is probably no coincidence that before the week was out the minister of local government was photographed mixing with local residents in Devonport and meeting with the chair of the local community board.

The government's response was rapid. Within two weeks, under the title *Making Auckland Greater: greater communities; greater connections; greater value* (New Zealand Government, 2009), it provided the new blueprint of Auckland governance. Noting the importance of having the new governance structure in place in time for the 2010 elections and the Rugby World Cup the following year, haste seemed the order of the day. Further consultation, other than the select committee process, was not an option, and debate continues about the degree to which the government has acted in accordance with the royal commission or has substantially departed. Key differences include:

- removal of the commission's recommendation for three Māori seats and a reduction in the number of members elected on an at large basis: only eight members are to be elected from at large, plus the mayor;
- instead of the six local councils, between 20 and 30 local boards; while the functions of these boards have yet to be defined, the actual number and boundaries will be left to the Local Government Commission to determine;
- rejection of the call for a four-year term;
- rejection of the proposed Social Issues Board, minister for Auckland and Cabinet committee on Auckland; and
- adoption of a much faster transition process.

Much of the detail will not be known until the legislation has been drafted. The first decision will be forming the establishment board, and legislation putting this into effect is expected under urgency in May.

Implications

Given that the government's proposals represent the biggest change to Auckland's governance since the removal of the provinces in the mid-1870s, it is not surprising that it has become controversial. While the royal commission took 18 months to develop its proposal, the government essentially

took a week and has presented a model which is extremely underdone.⁵ Questions about the feasibility of the new structure are unlikely to die down until more detail emerges in a draft bill later this year.

Much of the local dissent is fueled by the perception that the plan represents a major diminution of citizens' democratic rights. Critics point to changes in representation ratios. For example, Tony Holman, a North Shore city councillor, notes that the proposed representation ratio will be 1:63,636, compared to Dunedin, for example, which has a representation ratio of 1:8,750 (*New Zealand Herald*, 6 April 2009, p.11). Representation ratios are important as they signify the degree to which an elected member or politician is able to adequately represent and take note of the concerns and issues of citizens. Citizens look to their local or ward councillor to address issues with council performance and act as their voice around the council table. Likewise, an effective councillor will hold regular meetings in their ward to keep up to date with local issues. As ratios increase, physical limits restrict individual councillors' ability to meet community expectations and decrease their ability to understand and monitor what management does. There is also some international evidence that as representation ratios increase voter turnout decreases (Drage, 2008).

The government's answer to these criticisms is to point to the planned 20–30 local boards and to assure critics that they will have greater decision-making power than existing community boards (although less than the existing councils). Getting the design right will not be easy. The local boards are expected to provide 'representation at a grassroots level and [ensure] that individuals have a voice' (New Zealand Government, 2009, p.14). The government suggests that these boards will advocate, develop local operational policies such as on dog control and liquor licensing, and will have the ability to petition the Auckland Council for extra services which might be paid for by some form of local targeted rate. It is unfortunate that the government has not been more specific about the likely functions of these boards, as more information could have gone a long way towards answering the fears of the critics. As it is, suggesting that graffiti control and dog policy could be examples of local decision making will have the opposite effect. Both services are operated by staff under delegation and it is unlikely that the government envisages Auckland having up to 30 different dog control policies.⁶

To get an idea of what the local boards might do and whether they will ensure that residents continue to have a say on local matters, it might be useful to look at the way community boards currently operate elsewhere. Approximately 45 councils have community boards, and while

the Local Government Amendment Act 2002 establishes a minimalist role, many councils have provided them with additional delegated powers. Arguably the most relevant model is Christchurch city, which has six urban community boards covering the whole of the urban area. A brief scan of their monthly order papers shows that the boards are actively involved in making decisions about local roads, on issues like traffic calming and the location of pedestrian crossings. In fact, they generally manage or have an input into most neighbourhood issues, including community centres, local parks and community development. Each board is provided with an annual budget, 90% of which is for 'internal purchasing' – often used to bring forward planned investment by a council department. While Christchurch has developed an effective governance model with six (now eight following the absorption of Banks Peninsula) community boards, it will be a much more complex challenge attempting to coordinate up to 30 boards, which might be the outcome in Auckland. This detail won't emerge until well into the legislative drafting stage.

So far little has been said publicly about the decision to set up arms'-length organisations to manage some of the city's major activities, a decision which on first reading appears to negate the goal to provide for a more integrated approach. For example, there is to be a stand-alone regional economic development agency, a stand-alone regional transport authority and a stand-alone water and waste water agency. These might be sensible ideas, but generally we leave decisions of this sort up to councils themselves to determine, and if these strategic decisions are being managed by stand-alone agencies this calls into question the need to also change other governance arrangements. Parliament is not well placed to make these decisions and by putting them into statute flexibility is lost and it is almost inevitable that the question of how these organisations operate and work together will be back before Parliament at some point in the future. Our experience with local government legislation suggests that less prescription is better than more.

Conclusion

Until the detail of the government's new plan emerges it will find itself on the defensive, as it cannot provide the detail critics are looking for. Wisely, it has already begun to back off from any suggestion that the new council will cost Auckland ratepayers less. International research suggests that these consolidations seldom achieve the savings reformers expect, and of course the royal commission had considered the government's plan and judged it impractical. The commission's primary concern with the idea of 20–30 local boards was that they 'would be too small to have the

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capacity to deliver the necessary services' (Royal Commission on Auckland Governance, 2009, p.319). However, reading between the lines, they were mostly concerned that the Auckland Council might be distracted by the minutiae of operational policy and thus fail to focus on the strategic issues facing the city.

Change itself is not costless.⁷ The cost of the reorganisation has been suggested as at least \$113 million, the majority of which will be funded by the ratepayers, and nothing has so far been said about the loss of managerial and political capital. While other councils in New Zealand are already doing their best to entice Auckland staff to experience the pleasures of, for example, the Southern Alps, what about political capital? Auckland has a very competent and experienced cadre of politicians. Over two, three or more terms these are people who have not only learned how Auckland as a city works but have also learnt their political trade inside local authorities. They know how to develop policy, manage management and engage with citizens. While the royal commission's model continued to offer them a future, it is unlikely that the government's new proposal will be as attractive. Their loss will be Auckland's loss and maybe New Zealand's. It is likely that the local boards will be seen as a demotion to a low-level figurehead role; however, this will ultimately depend on the boards' level of decision making and the degree to which they are adequately supported and advised by staff.

The short answer to the question posed at the start of this article is 'yes': solving the governance problems of large cities has always been difficult and this is unlikely to change. Ultimately it involves a trade-off between our values of democracy and efficiency, between smaller organisations that are responsive to their citizen ratepayers and large organisations that can think and act strategically. The new Auckland governance model will work in some respects. It

may not be cheaper and it is unlikely to be as responsive, but it will have the capacity to speak with one voice and this appears to be the government's overriding objective, one that is seen to be of national significance. The challenge facing the legislators is to find the balance between giving the proposed local boards sufficient decision-making powers to satisfy local cities and attract talented politicians while allowing the Auckland Council to focus on the issues that count. However, I can't help feeling that they might have missed an opportunity to have achieved something a bit better. The royal commission's plan for Auckland may not have been the right plan, but at least it was a coherent and logical one. It probably deserved a more thorough investigation than it received.

- 1 The Royal Commission on Auckland Governance has attempted to solve this by pushing the city's boundaries well into the rural hinterlands of Rodney and Franklin. If Auckland city managed to use up this proposed envelop I suspect we would all have concern to worry.
- 2 For example, Auckland Regional Council and the Greater Wellington Regional Council were allowed to run regional parks, and Greater Wellington remained the region's bulk water provider.
- 3 For example, the Auckland Regional Amenities Funding Act 2008 required the territorial councils to fund 12 different regional organisations, such as surf life saving and the regional orchestra. The logic suggests that the regional council should have this responsibility, as it can rate regionally. Its reluctance forced Parliament to impose a levy on all territorial councils and provided legislators with further evidence of governance failure.
- 4 While the average rate varies considerably between the Auckland councils, most Aucklanders face average rates bills little different from residents in most other cities and districts. An equally convincing argument can be mounted that Auckland rates have been too low to enable councils to properly maintain their infrastructure and invest in growth, leading to the current infrastructural deficit.
- 5 The government has argued (Wayne Mapp, *New Zealand Herald*, 7 April 2009, p.2) that the royal commission undertook an extensive consultation process. Therefore, it is under no obligation to consult further or hold a referendum (the norm when local governance arrangements are changed). However, Rod Oram writing in the *Sunday Star Times* on 12 April 2009 argues that the government's approach has changed the commission's proposals to such a degree that it is essentially a different model.
- 6 In what is probably an unwelcome contribution, the former minister of local government Michael Bassett, who was responsible for the establishment of community boards in 1989, informed the *Sunday Star Times* that they were 'a waste of time' and tended to create work for themselves (*Sunday Star Times*, 12 April 2009, p.4).
- 7 See Owen McShane (*National Business Review*, 17 April 2009) for a discussion on the disruption costs.

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Closing Windows and Opening Flood Gates: Recent Climate Change Science and Implications for Climate Policy

Introduction

The Fourth Assessment Report (AR4) by the Intergovernmental Panel on Climate Change (IPCC), released in four volumes during 2007, provides a commanding summary of global knowledge about climate change¹. It covers the scientific basis of climate change, its potential impacts, and response options through adaptation, mitigation and their links with sustainable development (IPCC, 2007a, b, c, d).

The AR4 added significant momentum to international negotiations, and the United Nations climate change conference in Copenhagen in December 2009 is tasked with hammering out a new global agreement based on AR4 conclusions (UNFCCC, 2007). The IPCC was also awarded the Nobel Peace Prize in 2007, jointly with Al Gore, for its efforts in building up and disseminating knowledge related to climate change and possible responses. In bestowing this award the Nobel Committee recognised that climate change is rapidly moving from an environmental issue to one of economic and international security.

While the AR4 is widely regarded as the most authoritative and comprehensive assessment of climate change science and relevant response options, it is nonetheless a snapshot in time, since it is based on peer-reviewed literature published up to about the end of 2006. This article aims to provide an update on two particular areas of research where significant

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developments have occurred, and on their policy implications. These two areas are, on one hand, recent information on the risk of an accelerated rise in sea level from the loss of polar ice, and on the other hand, increasing evidence that the window of opportunity to stabilise greenhouse gas concentrations at low levels is closing rapidly. Both areas have important implications for global and national policies to address climate change, including the interaction of climate policies with government responses to the global economic crisis.

The growing commitment to future climate change and its impacts

A fundamental message from the recent IPCC assessment is that current emissions of long-lived greenhouse gases, particularly CO₂, are creating a legacy that will last for millennia. About 20% of all CO₂ emitted into the atmosphere today will remain there for more than 1,000 years (IPCC, 2007d). The warming effect of those emissions on the climate is essentially irreversible over many human generations, unless we actively remove CO₂ from the atmosphere. Techniques for doing so exist in principle, but their environmental and economic feasibility and sustainability at sufficiently large scales are at best speculative at present (IPCC, 2007c; also, for example, Broecker, 2007; Boyd, 2008; Marland and Obersteiner, 2008; Read, 2008).

In addition, some components of the climate system, in particular the world's oceans and polar ice sheets, take a long time to respond to the heating effect of greenhouse gases. This inertia means that even if greenhouse gas concentrations could be held constant at today's levels, the atmosphere would continue to warm for more than a century by about another 0.6°C, and sea level would continue to rise for a thousand years or more (IPCC, 2007d).

Unfortunately, holding greenhouse gas concentrations constant at today's levels is an entirely hypothetical scenario, as it would require an immediate, large and sustained drop in global emissions of CO₂ and other long-lived greenhouse gases. More gradual emissions reductions inevitably lead to further increases in greenhouse gas concentrations and associated climate change. Even the most ambitious scenario for emissions reductions assessed by the IPCC, where global CO₂ emissions peak by about 2015 and decline to almost zero by 2100, would still lead to temperature increases of about 2°C above pre-industrial levels, or about another 1.5°C above average 1980–1999 temperatures. For such an amount of warming, sea level would rise inexorably for many centuries by 0.4–1.2m from thermal expansion alone, with additional contributions from melting of glaciers and ice caps and possibly several metres due to loss of parts of the

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polar ice sheets. Greater delays in emissions reductions imply even higher greenhouse gas concentrations and consequently greater temperature increases and long-term sea level rise (IPCC, 2007a).

Apart from climate change itself, recent studies show that some of its impacts are also likely to be irreversible. For example, 20–30% of all species assessed so far are projected to be at an increased risk of extinction once global average temperatures rise by 2–3°C above pre-industrial levels. For temperature increases above 4°C, ecosystem models project extinctions around the globe of 40–70% of species assessed. Some key ecosystems are at high risk even within the next few decades, for example coral reefs and the sea ice biome (IPCC, 2007c, a; Eisenman and Wettlaufer, 2009; Silverman et al., 2009).

Some other key impacts would be effectively irreversible at least over many human generations. For example, warming of only another 1°C is expected to increase

water stress for hundreds of millions of people, mainly in subtropical regions due to a combination of reduced rainfall, rising temperatures and the shrinkage of glaciers in the Andes, Himalayas and European alps. For temperatures above 3°C, the number of additional people affected by water stress is projected to be above one billion. Many of those impacts are projected to emerge at very low levels of warming; indeed, regional warming observed over the past three decades has already affected many natural systems on all continents and most oceans (IPCC, 2007c).

Solomon et al. (2009) confirmed that sea level rise and rainfall reductions in many already dry parts of the world would be essentially irreversible over at least the next 1,000 years even if CO₂ emissions are stopped entirely after the year 2100. The magnitude of those persistent changes crucially depends on CO₂ emissions (and/or efforts to reduce those emissions) during the 21st century.

In light of this information, it is by now a distinct understatement to say that climate change requires a 'precautionary response', since this phrase implies much greater uncertainty about the negative consequences of climate change than there is. The nature of science lies in efforts to understand and reduce uncertainties. The image that therefore often emerges in the public arena is one where scientists discuss, and sometimes argue about, recent research and its implications. Since the remainder of this article aims to contribute to this debate, it seems necessary to state up front that even just those climate change projections that we already have very high confidence in (e.g. impacts on water security and some key ecosystems, and long-term sea level rise from thermal expansion alone) require urgent, global

and sustained emissions reductions to keep those impacts within (barely) manageable limits. The more recent scientific findings discussed below only add to the urgency of such measures.

Opening floodgates: recent studies relating to sea level rise

Rising sea levels present a significant risk to infrastructure around the world. The thermal inertia of oceans and the polar ice sheets implies that sea level would rise inexorably for many centuries in a warmer world as the ocean water warms up and expands, and land-based ice continues to melt. For this reason, projections of sea level rise in the long term (i.e. many centuries into the future) are generally much higher than increases projected by the year 2100. Indeed, the last time the Earth was a few degrees warmer than at present for an extended period (about 125,000 years ago), sea levels were 4 to 6m higher, mainly from the loss of polar ice (IPCC, 2007d).

Given the unavoidability of rising sea levels in a warming world, the critical question is only partly *how much* sea level will rise; it is also *how quickly* any given rise might be realised: how much may occur within the next 100 years (the lifetime of an individual house) or over the next millennium (the lifetime of large coastal cities). The rate of change is critical since it will influence the ability to respond without major social and economic upheavals in highly developed coastal regions.

Based on current models and for the highest emissions scenario, the AR4 found that sea levels would rise by up to about 59cm by the end of the 21st century.² However, the AR4 warned that sea level rise could exceed this rate because these projections do not include uncertainties due to feedbacks between the climate system and the global carbon cycle, nor the possible further acceleration of the flow of glaciers that drain the polar ice sheets. Such acceleration has been observed during the past decade where glaciers lost their buttressing ice shelves, but is not incorporated into current models because the understanding of the relevant processes is too limited. The AR4 noted that if the enhanced ice flow from Greenland and Antarctic glaciers were to increase linearly with temperature, this would add another 10 to 20cm to sea level by the end of the 21st century, but greater increases could not be ruled out if the enhanced loss of polar ice accelerates non-linearly with rising temperatures (IPCC, 2007d).

Numerous studies published since the AR4 have attempted to understand and quantify this potential additional contribution of polar ice sheets to sea level rise. These recent studies point to a potentially significant additional contribution from dynamic ice sheet discharge, which could increase total sea

level rise by 2100 to between about 70 and 160cm, although even 2m cannot be ruled out entirely.

These studies used a range of techniques, including the empirical correlation between temperature and sea level observed during the 20th century (Rahmstorf, 2007; Horton et al., 2008); efforts to quantify potential rates of ice loss from polar glaciers based on observed mechanisms (see, for example, Das et al., 2008; Holland et al., 2008; Joughin et al., 2008; Pfeffer et al., 2008; Rignot et al., 2008; Stearns et al., 2008; Nick et al., 2009); and observed rates of sea level rise the last time the Earth entered a warm interglacial period (Rohling et al., 2008; Blanchon et al., 2009).

There is as yet insufficient convergence or technical consistency amongst those studies to assign probabilities to any of the recent higher projections, let alone provide a 'best estimate' – a wide range of possible answers remains. It is worth noting, though, that none of the recent studies suggests sea level rise at the lower end of the range given in the AR4. The most robust information that can be drawn from the recent studies is that at present, the quantitative range presented in the AR4 should probably be regarded as a lower bound, and no specific figure represents a reliable upper bound for sea level rise by the year 2100 (Alley et al., 2008).

Implications of sea level rise uncertainties for policy responses

The relevance of these recent studies for coastal planning depends to some extent on the nature and lifetime of relevant coastal infrastructure. The lack of a robust upper bound of sea level rise forces us to evaluate infrastructure developments for their ability to adapt to sea level rise *if and when* any particular level may be realised. In other words, adaptation to sea level rise may need to be adjusted as necessary over time rather than designed to cope with a specific maximum sea level rise by a specific date. This 'adaptive management' approach has been employed in planning for the Thames (UK) estuary and is beginning to be incorporated in government guidance on climate change in the UK (DEFRA, 2006; Ramsbottom and Reeder, 2008).

In New Zealand, technical guidance on sea level rise for local authorities recognises the uncertainties in sea level rise and suggests the need to evaluate a range of scenarios and to consider the potential for adaptation to sea level rise in excess of any default assumption (Ministry for the Environment, 2008, Table 2.2 and Figure 2.8). However, local-scale decision-making processes might struggle to follow such an adaptive management approach unless they are provided with additional central government guidance regarding the fundamental principles and priorities that need to be applied (see, for example,

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Environment Waikato, 2008a; LGNZ, 2008).

Adaptation requirements will also depend on the level of risk that communities are prepared to accept. For example, building infrastructure that can be adapted to a sea level rise of 0.5m but not to 1m or more is not necessarily 'wrong' (since sea level *may* rise no more than 0.5m over the next century), but it clearly is a risky proposition in light of the recent scientific evidence. Whether such risks are worth taking, and who should bear the related costs and benefits, cannot be answered by science but requires a societal debate and political decisions that are informed by science.

In the context of urban settlements, specific time horizons for planning and consent processes carry their own problems. While individual buildings and infrastructure have a limited (albeit long) lifetime, settlements *per se* usually exist for many centuries. They will have to deal with an inexorable further rise in sea levels beyond 2100 in a warmer world. At some stage, retreating rather than protecting them from the rising sea will almost certainly become the only option. However, a regulatory framework with adequate technical and financial support that would allow the widespread and consistent practical implementation of 'managed retreat' remains to be developed. In the absence of such a national framework, the combination of 'existing use rights' and inevitable local conflicts between public and private benefits and costs of protecting either infrastructure or the natural character of the coast create significant challenges (see, for example, Environment Waikato, 2008a, b). These challenges can only intensify over time as sea level continues to rise.

Sea level rise presents a challenge not only for adaptation policies but also for global climate agreements concerned with emissions reductions. Even though it may be technically feasible to adapt to sea level rise of several metres for some countries over the next few centuries, this is very unlikely to be implemented effectively given the scale of the challenge, and it would come at enormous social and environmental costs. Developing countries in particular would have neither the financial, economic or technical resources nor governance systems to deal with changes of this magnitude (IPCC, 2007c, chapters 17 and 19). This means that the risks associated with sea level rise on the scale of several metres can in practical terms only be reduced significantly by limiting the emissions of greenhouse gases and resulting long-term climate change itself.

The AR4 already noted that one of the reasons for increased concern about climate change is exactly the fact that we *do not* have a good understanding of how much sea

... risks associated with sea level rise on the scale of several metres can in practical terms only be reduced significantly by limiting the emissions of greenhouse gases and resulting long-term climate change itself

level rise could accelerate over the 21st century. The most recent research on sea level rise confirms this perspective and places climate policy decisions squarely in a risk-management framework: the need to reduce emissions is driven not only by those impacts that we can foresee already with a reasonable degree of certainty; it is made even more urgent by the need to avoid potential impacts that may have a lower probability (or where we have lower levels of confidence in projections) but that would have catastrophic effects on human well-being and ecosystems on a global scale if realised (Stern, 2006, IPCC, 2007a; Weitzman, 2009).

Closing windows: pathways to climate stabilisation

Even though recent scientific developments suggest that stabilisation targets even lower than those evaluated by the IPCC may be desirable, recent greenhouse gas emissions trends suggest that the window of opportunity to stabilise greenhouse gas concentrations at low levels and costs is closing fast.

The AR4 evaluated a large number of integrated assessments of the global macroeconomic cost of reducing greenhouse gas emissions and stabilising CO₂-equivalent concentrations. The lowest stabilisation level evaluated in the AR4 was for concentrations of 440 to 490ppm CO₂-equivalent. Limiting the increase in concentrations to such a level would require global emissions of CO₂ to peak by about 2015, decline to about 50–85% below 1990 levels by the year 2050, and fall further to almost zero emissions in 2100 (IPCC, 2007b). As discussed above, this level would still result in long-term warming of about 2°C relative to pre-industrial temperatures and some significant associated impacts, especially in the most vulnerable regions.

The AR4 also provided information on the near-term emissions targets that developed and developing countries would have to achieve by 2020 if they want to remain consistent with this stringent mitigation pathway. A large variety of metrics was used to compare mitigation targets for various country groups, taking their different financial and technological capacities, historical responsibilities for climate change, and general state of development into account. Based on these metrics, the AR4 found that developed countries listed in Annex I of the UNFCCC (United Nations Framework Convention on Climate Change) would need to reduce their collective emissions by 25–40% below 1990 levels by 2020, while developing countries would need to reduce their collective emissions to substantially below business-as-usual (i.e. below emissions in the absence of any mitigation measures) by the same date (IPCC, 2007b, Table 13.7).

Recent analyses have confirmed the robustness of this

analysis in principle, and also clarified that the ‘substantial’ reduction from business-as-usual for developing countries would need to amount to about 10–30% by 2020 (den Elzen and Höhne, 2008). Given the vastly different development stages amongst developing countries, this implies even stronger emissions limitations for the most advanced developing countries and more relaxed (or no) limitations on least developed countries.

A suite of recent studies pointed out that the ability to follow such a global mitigation path is rapidly disappearing, because emissions from developing countries have accelerated over recent years while concurrently many developed countries failed to halt the growth in their emissions. The reasons for these trends include the increased global investment in coal-fired power generation, the aspiration of middle classes in many developing countries to reach living standards of the developed world, and failure in many countries to implement a clear price on carbon emissions and/or policies that could overcome market failures and social or information barriers (IPCC, 2007b; Anderson and Bows, 2008; den Elzen and Höhne, 2008; Lankao et al., 2008; Meinshausen and Hare, 2008; Sheehan, 2008; van Vuuren and Riahi, 2008).

The potential rate of future emissions reductions is constrained fundamentally by the lifetime of capital infrastructure, which has a turnover rate of about 1–3% per annum. The global diffusion of low-carbon technology is therefore expected to take many decades even if investment in such technologies is made financially attractive or the cost of such technologies falls below that of current carbon-intensive options (IPCC, 2007b, chapter 11). This applies particularly to developed economies that are unlikely to undergo major growth in new power generation but rather gradually transform their existing generation. Decarbonising the economies of developed countries at rates in excess of 1–3% per year over extended periods will therefore only be possible if existing infrastructure is retired prematurely in favour of new low-carbon technologies, or by retro-fitting existing installations (e.g. with carbon capture and storage technology). Either of those options usually results in significantly higher costs. Nonetheless, delays of only a few more years in achieving real emissions reductions will make sustained decarbonisation rates in excess of 3% per year necessary if low concentration targets are to be attained. Such delays will therefore saddle future generations with escalating mitigation costs and/or increasing impacts from climate change and increasing risk of catastrophic events.

Implications of recent emissions and economic trends for climate policy

Even though the required scale of emissions reductions relative to business-as-usual may appear significant, macroeconomic

modelling indicates that if a price on carbon were implemented globally now, stringent emissions reductions would reduce growth in global GDP by less than 0.12 percentage points per year on average until 2050 (IPCC, 2007b). However, costs for specific countries, sectors and over more limited time periods could deviate significantly from this long-term global average. Concerns about the uneven or unfair distribution of costs amongst different parts of society therefore continue to make it difficult to implement effective policies that would achieve a globally optimal outcome at lowest cost.

The current global economic crisis is likely to put a short-term dent in the otherwise relentless growth of global emissions.³ However, if policy packages to stimulate ailing economies focus on traditional and hence carbon-intensive infrastructure projects, the longer-term effect of economic recovery is likely to see rapid further growth in global emissions once national economies recover, and the additional carbon-intensive infrastructure would be locked into place for many more decades.

Earlier analysis suggested that the window of opportunity to stabilise greenhouse gas concentrations at low levels is closing fast; if economic recovery over the next few years is fuelled by investments in carbon-intensive infrastructure, such investments would slam this window firmly shut for the rest of this century.

Fortunately, a recent analysis (Edenhofer and Stern, 2009) gives some hope. The stimulus packages of the G20 nations have devoted significant fractions of their new and redirected funds to green investments. Of the roughly US\$2,160 billion in economic stimulus packages unveiled so far, the tentative analysis by Edenhofer and Stern suggests that about US\$400 billion are directed at areas that reduce greenhouse gas emissions, for example through investments in energy efficiency in buildings, renewables and associated upgrades to networks, transport systems, and water and waste management. These investments are expected to capitalise on reduced labour costs and provide training and employment opportunities, while at the same time reducing direct immediate and longer-term costs due to reduced greenhouse gas emissions and energy demand combined with increased energy security.

Edenhofer and Stern (2009, pp.6 and 12) argue that:

providing a stimulus to the economy and protecting the climate do not stand in opposition to each other. ... Ensuring that national recovery programmes are ‘green’ makes sense not only because climate change poses a far more serious threat to the global economy in the long term than do temporary economic downturns. It makes sense because otherwise, once the world economy

The [economic] stimulus packages of the G20 nations have devoted significant fractions of their new and redirected funds to green investments.

recovers, sharply increasing energy prices are likely at some stage to trigger subsequent slowdowns. Without the transition towards a low-carbon global energy system, the next economic crisis is pre-programmed. 'Green' recovery programmes are not only an option for sound and effective crisis relief; they are a precondition.

The investment derivatives that supported the housing bubble were driven by hypothetical 'business-as-usual' returns, but this expectation was itself based on a decade of unusual growth in the housing sector that has now been brought to an abrupt halt. Non-transparent investment vehicles hid the escalating risk from investors. The key challenge for public policy now is to establish a more sustainable platform for economic recovery, and to ensure that the hunt for short-term economic returns does not saddle the next generation with escalating risks arising from climate change and 'toxic assets' in the form of carbon-intensive industries. Making the structural adjustments in national economies required for significant and sustained greenhouse gas emissions reductions was never going to be easy. Nonetheless, the current economic crisis could prove to be a blessing in disguise if governments use the opportunity to guide the transition into a carbon-constrained world, and avoid the creation of yet another bubble that will again be pierced when yesterday's 'business-as-usual' expectations begin to clash with fundamental external constraints.

New Zealand in the international context

This article would appear incomplete without at least a brief look at how New Zealand's domestic approaches compare with these broad international trends and recent insights. It is noteworthy that most of the fiscal stimulus in New Zealand consists of tax cuts. Almost all other OECD countries seem to inject a much higher fraction of their stimulus in response to the economic crisis through direct government investments. This includes significant 'green' packages that aim to deliver both employment and transformation of energy demand and supply systems (Ban, 2009; Edenhofer and Stern, 2009; Kissel, 2009). Where additional direct investments are planned in New Zealand, there is as yet little evidence that the government is concerned with the potential lock-in effect of investment in traditional infrastructure projects such as roading or thermal power generation, which commit New

Opportunities for direct government investment abound that could deliver benefits in employment and in developing expertise, and that could at the same time contribute to the transformation of our energy and transport supply and demand patterns.

Zealand to further increases in greenhouse gas emissions as the economy recovers. At the same time, New Zealand is beginning to mount a case internationally that its projected growth in greenhouse gas emissions should be seen as a reason to also give it lighter future targets (see NZ, 2009). If this gamble fails, the hoped-for economic payback from tax-cut driven spending priorities and carbon-intensive infrastructure investments could quickly turn into a liability.

Opportunities for direct government investment abound that could deliver benefits in employment and in developing expertise, and that could at the same time contribute to the transformation of our energy and transport supply and demand patterns. Relevant energy policies include training, employment and regulatory and financial support for small-scale renewables such as solar hot water heating and enhanced housing insulation; feed-in tariffs for renewables such as solar photo-voltaics; and regulatory support for net metering. Investments in public and private transport infrastructure both can deliver short-term

employment opportunities, but they create vastly different social, environmental and economic legacies through their associated carbon footprints, energy demands, social access to mobility and health co-benefits or trade-offs.

These potential benefits of 'green' stimulus measures suggest a clear need for government agencies to analyse options for aligning economic recovery measures (tax cuts and direct government investments) with New Zealand's strategic energy and transport goals. At the same time, it is clear that any private sector capital investments that may be stimulated by tax cuts can only contribute to long-term climate goals if there is sufficient certainty about a price on carbon in the New Zealand economy. Urgent clarification and implementation of the New Zealand Emissions Trading System can thus be regarded as a precondition, rather than a barrier, for sustainable future economic growth.

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- 1 This article benefited from constructive comments from Jonathan Boston, Martin Manning, Judy Lawrence, Andrew Johnson and Blair Dickie. Naturally, all responsibility for emphasis, subjective judgements and any remaining errors rests entirely with the author. It also draws on discussions during the Copenhagen climate change congress in March 2009, which I attended with the aid of a joint travel grant from the Victoria University School of Government, Institute of Policy Studies and Climate Change Research Institute.
 - 2 Whereas over many centuries, the AR4 found that sea level rise can be expected to exceed one metre even for the lowest emissions scenario that involves stringent greenhouse gas emissions reductions.
 - 3 Between 1970 and 2004, overall CO₂-equivalent emissions increased by about 70% and CO₂ by about 80%. Under various business-as-usual scenarios, global CO₂-equivalent emissions are projected to grow by another 25 to 90% until 2030 relative to the year 2000 (IPCC 2007b).

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Innovative Political Management: Multi-party Governance in New Zealand

The general election on 8 November 2008 – the fifth under New Zealand’s mixed member proportional (MMP) voting system – marked the first substantial change of government since 1999.² The clear victory for the centre-right was unsurprising, especially given the results of opinion polls during the preceding 12-18 months. Rather more unexpected, however, were the composition and structure of the new government.

Of the various ‘surprises’, three deserve note. First, National negotiated formal governance arrangements with three minor parties – ACT, United Future and the Māori Party – and subsequently (in early April 2009) a ‘memorandum of understanding’ with a fourth – the Greens. Yet one agreement – with ACT – would have sufficed. As it stands, the new government enjoys the support of 69 MPs on matters of confidence and supply, giving it a majority of 16.

Second, the agreements with ACT, United Future and the Māori Party were modelled on the previous government’s highly unusual multi-party governance arrangements (White, 2005). Yet Labour’s innovative arrangements were severely criticised by National at the time, with Don Brash, the party’s then leader, calling them ‘disturbing’, ‘odd’, ‘unstable’ and ‘concerning from a constitutional point of view’ (Brash, 2006).

Third, National negotiated broadly similar – and, in structural terms, symmetrical – relationships with three of the four parties with which it now has a formal, signed accord. Yet this symmetry was not essential politically, and Labour’s previous deals with minor parties (in 1999, 2002 and 2005) were all asymmetrical.

How are these ‘surprises’ to be explained? This brief article attempts to provide some answers. But first a few comments on the outcome of the 2008 general election.

The 2008 general election

The results of the five MMP elections to date are outlined in Table 1. As highlighted by these data (and as widely expected prior to the introduction of proportional representation), no single party has thus far secured an overall parliamentary majority under MMP. National, however, performed remarkably well in 2008, securing 44.9% of the party vote – the best result for a major party since 1990, and significantly

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Table 1: The state of the parties after the general elections from 1993 to 2008

PARTY	1993	1996	1999	2002	2005	2008
ACT	–	8	9	9	2	5
National	50	44	39	27	48	58
United (1996, 1999)	–	1	1	8	3	1
United Future (2002, 2005, 2008)						
New Zealand First	2	17	5	13	7	–
Labour	45	37	49	52	50	43
Alliance	2	13	10	–	–	–
Progressive Coalition/Progressives	–	–	–	2	1	1
Greens	–	–	7	9	6	9
Māori Party	–	–	–	–	4	5
Centre-right majority, including New Zealand First (1996)	1	20				
Centre-left majority (1999, 2002)			12	6		
Centre-left majority (2005)*					1	
Centre-right majority, including ACT and United Future						6
Total number of seats	99	120	120	120	121**	122***

Notes:

* It is assumed that the centre-left parties in 2005 comprise Labour, the Progressives, the Greens and the Māori Party.

** The Māori Party won four electorate seats in 2005, one more than its entitlement based on its party vote, thereby causing an ‘overhang’. As a result, the total number of MPs increased to 121.

*** The Māori Party won five electorate seats in 2008, two more than its entitlement based on its party vote, thereby causing an ‘overhang’. As a result, the total number of MPs increased to 122.

better than Labour’s strong showing in 2002 (41.3%). With 58 seats in the 122-seat Parliament, National is only four votes short of an overall majority.

More significantly, the 2008 general election produced a solid parliamentary majority for the centre-right. Collectively, the two centre-right parties (National and ACT) secured 63 seats – thus giving them an overall majority of four, and a much healthier majority of 10 over the combined 53 votes of the three centre-left parties (Labour, the Greens and the Progressives). If the single seat of the relatively centrist United Future is also added to that of National and ACT, the overall centre-right majority rises to six. While comfortable, this is only half that of the centre-left majority following the previous change of government in 1999. Given the tendency for governments to lose electoral support, maintaining an overall centre-right majority at the next election, expected in 2011, could be challenging – but is by no means impossible.

Crucially, the 2008 election placed National in the pivotal position amongst the Parliament’s seven parties. On the dominant socio-economic issue dimension (see Box 1), ACT is firmly entrenched on its right, with the other five parties located in varying positions to its left. In effect, this means that ACT is a so-called ‘captive’ party (i.e. it has no realistic political option other than to support National, and its bargaining position is weakened accordingly). Much the

same configuration occurred between 1999 and 2005 (albeit in reverse). During this period, Labour occupied the position of the median voter, with two ‘captive’ parties to its left – the Alliance (subsequently the Progressives) and the Greens. By contrast, the situation during 2005–08 was much more complicated, with neither of the major parties occupying the median voter position. Instead, one (or more) of three minor parties – New Zealand First, United Future and the Māori Party – jostled for the pivotal role depending on the nature of the policy issue under debate, with the Greens and the Progressives remaining, as previously, essentially captive to Labour.

The parliamentary arithmetic following the 2008 election was such that National could readily have formed a stable government *solely* with ACT – involving ACT either as a full coalition partner or as a party providing support on confidence and supply. In the event, neither option was seriously pursued. Instead, National chose to broaden its parliamentary base by drawing both the Māori Party and United Future firmly into the fold, and subsequently negotiated a much looser working relationship with the Greens via a ‘memorandum of understanding’ under which the two parties have agreed to ‘work together to develop policy and legislation in areas of common interest’ (see below).

The move to embrace the Māori Party and United

Box 1: The relative power of parties and the ‘dimensionality’ of the New Zealand party system

In a multi-party Parliament where no single party enjoys an overall majority, the bargaining power of each party depends primarily on its position along the key ideological or issue dimension (or dimensions) rather than on its actual size, heritage, experience or leadership. In a party system where there is a single dominant issue dimension (e.g. the socio-economic dimension), the most powerful or ‘pivotal’ party is typically the one located at the median point on that particular dimension. This is because the party representing the ‘median voter’ is a necessary component of all the politically feasible (or ‘connected’) minimum winning coalitions (Nagel, 1999a). In other words, it is very difficult (although not necessarily out of the question) to form a cohesive and durable government without including this particular party in the governing arrangements. It thus holds a veto (or very close to a veto) over which party, or combination of parties, can govern.

In New Zealand, the dominant issue dimension, and hence the main focus for inter-party debate and coalition building, still remains the long-standing left–right (or socio-economic) continuum (Brechtel and Kaiser, 1999). Accordingly, the party which occupies the median position on this dimension is in a strategically significant bargaining position. At the same time, several other issue dimensions are currently politically salient, thus giving New Zealand a multidimensional rather than unidimensional party system (see Nagel, 1999b). These include the materialist/post-materialist dimension (where the Greens have occupied a particular part of the policy space), the religious dimension (which has sparked various Christian-based political initiatives), and the ethno-cultural dimension (where the formation of the Māori Party – in response to the controversy

over the Labour-led government’s Foreshore and Seabed Act in 2004 – has had a significant impact on New Zealand’s political landscape). Indeed, the relative success of the Māori party (rendered possible largely as a result of there being a separate Māori roll and related parliamentary seats) highlights the capacity of an ethnic-based party to secure electoral support on policy issues far removed from those that have traditionally galvanised political action.

Multi-dimensionality in the party system can add significant complications to governing arrangements for at least two reasons. First, under proportional representation it generally results in a larger number of parties securing parliamentary seats. This not merely increases the potential governing options, but also exacerbates the transaction costs associated with forming and managing coalitions (whether of a legislative or executive nature). Second, it can lead to a situation where parties that are closely connected along one important issue dimension are strenuously opposed on another, thereby undermining collaboration. In New Zealand, such tensions were evident in mid-2002 (when serious strains between Labour and the Greens over the issue of genetic engineering contributed to the subsequent exclusion of the Greens from direct participation in the government) and again in 2005 (when the divisions between Labour and the Māori Party resulted in Labour seeking parliamentary support primarily from New Zealand First and United Future). The evolving multidimensional character of New Zealand politics has undoubtedly contributed to the unusual inter-party governance arrangements that have emerged, especially since 2005. But it is by no means the only policy driver.

Future was of some surprise, partly because it generated an ‘oversized’ parliamentary majority on votes of confidence and supply (i.e. neither the Māori Party nor United Future were essential for a ‘minimum winning coalition’), and partly because of a number of sharp policy differences between National and the Māori Party. How, then, is the inclusion of the two ‘surplus’ parties to be explained?

The political logic of an ‘oversized’ majority

In multi-party systems it is, in fact, relatively common for a major party to build a governing coalition across the middle of the political spectrum, thereby expanding its potential majority beyond the minimum required to win parliamentary votes of confidence and retain office. There are typically both short-term and longer-term reasons for adopting such a strategy.

The *short-term logic* runs as follows: building across the centre renders the major party less reliant upon a ‘captive’ party (assuming there is one), thereby increasing the policy options available to the government. In the case of National,

there was plainly a desire to ensure that the new government could, on occasions, pursue policy objectives and legislative initiatives that ACT was unlikely to endorse (e.g. the implementation, albeit with modifications, of Labour’s recently enacted emissions trading scheme). Having the opportunity to secure support, on certain legislative issues, from the Māori Party (with five MPs) increases National’s options and gives it greater flexibility on controversial matters. Had the parliamentary arithmetic been different (e.g. had the combined votes of National and the Māori party fallen short of a parliamentary majority), the incentive structure would likewise have been different.

Forging a formal alliance with the Māori Party had another important shorter-term logic: it provided National – which has much weaker historical links to Māori than Labour – with the chance to build a more cross-cultural and multi-racial approach to governance. Given the ever-present risk of ethnic tensions and in the midst of turbulent economic circumstances, a close working relationship with the Māori Party was likely to strengthen National’s capacity

to manage complex and controversial policy issues connected to race (e.g. constitutional issues, socio-economic disparities, criminal justice, etc.) and enhance the wider project of nation-building.

There is also a *longer-term logic* for building broader parliamentary alliances under proportional representation. Put simply, it is in the political interests of a major party to establish good working relationships with a party (or parties) that is likely to survive the next general election and whose support might then be needed in order to retain power. Both the Māori Party and the Greens certainly fit into this category; United Future much less so, because the party's electoral prospects at the next general election (due before the end of 2011) are not good. Nevertheless, Peter Dunne (United Future's leader and sole MP) is widely regarded as an experienced parliamentarian, a competent minister and a 'safe' pair of hands – qualities of high value for a new government relatively lacking in MPs with substantial ministerial experience. Also, having Dunne 'inside the tent' rather than as part of the opposition had other political advantages.

For National, therefore, winning the support of the Māori Party offered a number of potentially significant advantages – increasing its short-term legislative options, broadening its electoral appeal and legitimacy within certain communities, enhancing its capacity to manage complex ethnic and social cleavages, and making it more difficult for Labour to refashion its inter-party alliances and craft a potential post-2011 governing coalition. Moreover, the costs and risks appeared to be relatively low. As the negotiations immediately following the election highlighted, National had no need to make major policy concessions in order to secure the Māori Party's support (or indeed that of United Future). Admittedly, the Māori Party's backing required abandoning a pledge to abolish the separate Māori seats, but National's commitment on this matter had never been non-negotiable; and an agreement to review the controversial Foreshore and Seabed Act 2004, but such a 'review', while involving political risks, is being conducted within certain agreed parameters.

For the Māori Party there were both advantages and disadvantages in aligning with National. On the positive side of the ledger, there was the opportunity for the two co-leaders (Pita Sharples and Tariana Turia) to hold ministerial posts and thereby directly influence policy making in specific areas of concern to the party. Similarly, the party stood to gain its long desired review of the foreshore and seabed legislation, additional electoral resources and various other concessions. Against this, there was an electoral risk: having hitherto drawn most of its votes from the centre-left of the political spectrum, the Māori Party stood to lose support by aligning with National. Whether this electoral cost proves to be high or low remains to be seen.

National's recent 'memorandum of understanding' with

the Greens is of a different order from the immediate post-election deals with ACT, United Future and the Māori Party, since it does not entail the direct participation of the Greens within the government; nor does it involve policy concessions by either side. The memorandum of understanding is also different from the various 'cooperation agreements' that Labour negotiated with the Greens (see below). This is because it imposes fewer obligations on the respective parties, is more limited in its scope (e.g. in terms of the range of policy and procedural issues addressed), and has no implications for the way the Greens vote on matters of confidence and supply. Instead, the memorandum of understanding merely establishes a 'framework' for building a 'working relationship'

The first 'surprise' outcome of the 2008 general election – namely, National's decision to draw not one, but three, minor parties into the governing process – is thus readily explicable given certain political considerations and imperatives.

between the two parties. In accordance with this framework, National has agreed to give the Greens access to ministers, officials and Cabinet papers from time to time in return for a relatively modest pledge by the Greens 'to consider facilitating government legislation via procedural support on a case by case basis'. Under the memorandum, the parties have agreed to work together on three specific issues, at least in the first instance: home insulation, energy efficiency and the regulation of natural health products. Overall, National's move to engage with the Greens more formally on certain policy issues is consistent with its longer-term political strategy, namely to build good working relationships with minor parties on whom it might, at some future date, depend for support.

The development of novel multi-party governance arrangements

The first 'surprise' outcome of the 2008 general election – namely, National's decision to draw not one, but three, minor parties into the governing process – is thus readily explicable given certain political considerations and imperatives. But what of the other two 'surprises'? Why did National replicate the inter-party arrangements of the previous Labour government, arrangements that it had once vehemently criticised? And why did it negotiate essentially symmetrical deals with ACT, United Future and the Māori Party, and thus eschew other possible governance arrangements, such as a formal coalition (perhaps with ACT)? In order to answer these questions, it is necessary to consider two matters: first,

the different kinds of inter-party deals that have been crafted since the adoption of proportional representation; and second, the political rationale for the more unusual of these arrangements.

Since 1996, seven distinct kinds of agreement between a major governing party and various minor parties (e.g. coalition partners, support parties or cooperating parties) can be identified (see Table 2). Broadly speaking, these reflect different levels of ‘tightness’ in the relationships between the respective parties – from closely coupled and relatively binding relationships at one end of the spectrum, to much looser and more flexible associations at the other (see Boston and Ladley, 2006). The first and fourth of these arrangements are common in other multi-party systems, while the second, sixth and seventh occur from time to time. By contrast, the third and fifth arrangements are thus far unique to New Zealand. Both options were the product of

... it was agreed that the two ministers concerned (Winston Peters and Peter Dunne) would only be fully bound by the convention of collective responsibility in the areas relevant to their specific portfolio responsibilities.

the very complicated bargaining environment following the 2005 election and the need for Labour to satisfy a variety of conflicting imperatives in order to remain in office (see Boston, 2007).

The development of the ‘enhanced cooperation’ deal with the Greens reflected Labour’s desire to retain the support and goodwill of this minor ‘captive’ party in a context where the Greens’ direct participation in the government had been vetoed by the two centrist parties – New Zealand First and United Future – whose backing Labour needed in order to secure a parliamentary majority. Strictly speaking, Labour could have governed without the Greens. But with a majority of only one vote in the 121-seat Parliament, Labour concluded that it needed an ‘oversized coalition’ to give it flexibility and security for the duration of the parliamentary term. Moreover, it recognised that it would need the Greens’ six votes in order to advance specific legislative initiatives where the support of another minor party (or parties) was unlikely to be forthcoming. Accordingly, it negotiated a highly unusual arrangement under which two Green MPs became government spokespersons for specific areas of public policy (e.g. energy conservation and efficiency). The MPs in question were given access to ministerial advisers and greater access to official papers and the Cabinet policy

process than had hitherto been the case under the ‘ordinary cooperation’ protocols that had applied since 1999. Against this, the two Green MPs had no formal responsibility for the portfolios in which they had a spokesperson role, and thus no direct accountability to Parliament.

More significant in constitutional terms was the negotiation of the ‘enhanced’ confidence and supply agreements with New Zealand First and United Future (see Boston and Bullock, 2008). This development reflected Labour’s desire to secure a deal with New Zealand First in a context where the latter party had committed prior to the election to remaining outside the new government (and thus free of the ‘baubles of office’). The outcome of the negotiations was a compromise under which New Zealand First (and also United Future) secured a senior ministerial portfolio (albeit outside the Cabinet) while Labour secured a guarantee of 61 votes on confidence and supply (thereby giving it an overall parliamentary majority).

Elsewhere in the democratic world such an arrangement would probably have been classified as a ‘coalition’ deal rather than as a ‘confidence and supply’ agreement (whether ‘enhanced’ or otherwise). This is because in most jurisdictions the defining characteristic of a ‘coalition’ is the participation of two or more parties within the executive through the holding of ministerial offices (see Strøm, Müller and Bergman, 2008, p.6). The question of whether these offices are part of the Cabinet does not normally arise because in most jurisdictions all portfolios

automatically carry full Cabinet status, with junior ministers typically having only associate or deputy roles. Note, too, that prior to this juncture all ‘confidence and supply’ agreements in New Zealand had been with ‘support’ parties, and in the international arena support parties are distinguished from coalition partners on the sole criterion that none of their MPs are ‘part of the government’ (i.e. they do not hold ministerial office).

What emerged following the 2005 general election, therefore, was a rather curious situation in which two minor parties became involved directly ‘in’ the government but were not fully ‘of’ the government; that is to say, they were part of the ‘executive government’ but not part of ‘the Cabinet’, and hence not full coalition partners with Labour (unlike the Progressive MP, Jim Anderton).

Reflecting this hybrid or ‘half-way house’ arrangement, Labour’s ‘enhanced’ confidence and supply agreements with New Zealand First and United Future made provision for a much looser application of the convention of collective ministerial responsibility, particularly in relation to the principle of Cabinet unanimity. In accordance with this principle, all ministers (whether members of the Cabinet or not) are required to support each and every Cabinet decision, regardless of their personal views and preferences.

Table 2: Types of multi-party governance in New Zealand (1996–2009)

Form of governance arrangement	Brief description of the arrangement	Examples
1 Coalition – high unity/ limited dissent	An agreement between two or more parties to form a government in which each party is represented within the Cabinet and where there is no explicit provision for the parties to disagree publicly on important issues.	National-NZF coalition (1996–98)
2 Coalition – provision for ‘agree to disagree’	An agreement between two or more parties to form a government in which each party is represented within the Cabinet but with provision for the parties to ‘agree to disagree’ from time to time on important issues.	Labour–Alliance coalition (1999–02); Labour–Progressives coalition (2002–05); Labour Progressives (2005–08)
3 Enhanced confidence and supply	An agreement by two or more parties to form a government in which the minor party secures ministerial representation, but outside the Cabinet, and in which the minor party minister(s) is only obliged to abide by the convention of collective responsibility in the portfolio areas for which he/she is directly responsible.	Labour–NZF (2005–08); Labour–United Future (2005–08); National–ACT (2008–); National–Māori party (2008–); National–United Future (2008–)
4 Ordinary confidence and supply	An agreement by a minor party (or parties) to support a major party in Parliament on matters of confidence and supply in return for certain policy and procedural concessions.	Labour with the Greens (1999–2002); Labour with United Future (2002–05)
5 Enhanced cooperation	An agreement by a minor party (or parties) to work cooperatively with a major party on a range of policy and procedural matters (including a pledge not to oppose the government on matters of confidence and supply), in exchange for certain rights and resources, including the opportunity to speak for the government on specific issues.	Labour with the Greens (2005–08)
6 Ordinary cooperation	An agreement by a minor party (or parties) to work cooperatively with a major party on a range of policy and procedural matters (including a pledge not to oppose the government on matters of confidence and supply), in exchange for certain concessions.	Labour with the Greens (2002–05)
7 Memorandum of understanding	An agreement by a minor (opposition) party to work with the government to develop policy and legislation in areas of common interest.	National with the Greens (2009–)

Those wishing to disassociate themselves from a particular decision are expected to resign, since it is neither fair nor reasonable that they should be permitted to enjoy the benefits and influence of ministerial office without also accepting the consequent obligations. In its strict application, therefore, the unanimity principle precludes individual ministers (or groups of ministers) from publicly dissenting from government decisions – unless the Cabinet formally agrees to permit disagreement.

In practice, of course, the unanimity principle has rarely been applied with absolute rigour. Moreover, in the context of multi-party governments it is not uncommon for the various parties to ‘agree to disagree’ from time to time. In New Zealand, specific provisions for such disagreements were incorporated into the coalition deals between Labour and the Alliance (later the Progressives) on three occasions. The hybrid arrangements with New Zealand First and United Future, however, went considerably further. In effect, it was agreed that the two ministers concerned (Winston Peters and Peter Dunne) would only be fully bound by the convention of

collective responsibility in the areas relevant to their specific portfolio responsibilities. As stated subsequently in a Cabinet Office circular (06/04):

Mr Peters’ and Mr Dunne’s participation in the government is expressly limited to certain specified or agreed areas. When Mr Peters and Mr Dunne speak about the issues within their portfolios, they speak for the government and as part of the government. When they speak about matters outside their portfolios, however, they may speak as political party leaders and MPs rather than as Ministers, and do not necessarily represent the government position.

In short, under this ‘enhanced’ confidence and supply arrangement the leaders of New Zealand First and United Future were able to participate fully in the process of government while only being bound to support the government, whether in Parliament or more generally, in their respective portfolio areas.

When these ‘hybrid’ arrangements were negotiated in the wake of the 2005 general election they were criticised on various grounds, not least their political expediency and their

departure from traditional notions of collective responsibility. As the then leader of the National party, Don Brash (2006, p.9), put it:

Essentially New Zealand now has two Ministers exercising powers of government without being collectively responsible for the operation of the government. They are no longer responsible to Parliament for the overall activities of the government they represent. These ministers are free to enjoy the trappings of office, while at the same time being free to disassociate themselves from the activities of the whole of the government from which they derive their status.

... a novel solution to the highly unusual political circumstances following the 2005 election has now become an accepted, and indeed favoured, approach in New Zealand for fashioning multi-party governance under proportional representation.

Given such concerns, it might have been expected that a National-led government would eschew arrangements of this kind. Instead, it firmly embraced them. Why? There appear to be at least three reasons.

First, the approach instituted by Labour in 2005 was not generally seen as unconstitutional and did not provoke trenchant or widespread criticism from constitutional experts and media commentators (see Palmer, 2006; White, 2005). Admittedly, there was disquiet in some quarters about the propriety of permitting certain ministers to speak regularly and openly against the government. But the concerns here were ethical and political, rather than constitutional. Overall, the new arrangements were seen as marking another pragmatic step in an ongoing evolutionary process, with the unanimity principle being modified yet again to reflect the political imperatives generated by proportional representation. Had there been no prior 'agree to disagree' provisions in coalition agreements, it is possible that Labour's deals with New Zealand First and United Future in 2005 would have generated more vigorous and sustained criticism. But, in the event, the earlier experiments with a looser application of the unanimity principle had highlighted the malleability of the doctrine of collective responsibility (at least within certain limits) and demonstrated a willingness of the political community to accommodate new approaches to governance.

Second, the 'enhanced' confidence and supply arrangements actually worked in practice during the 2005–08 parliamentary term – or at least tolerably well. Both New

Zealand First and United Future welcomed the opportunity to participate in the government (and thus contribute to decision making on key issues) while having the freedom to criticise Labour's policies from time to time. Equally, however, the leadership of both parties recognised that there were limits to the frequency with which they could openly attack Labour, as well as political constraints on the manner and vehemence of their opposition. After all, their decision to support the government on matters of confidence and supply would be the subject of severe criticism from National and the media if they were constantly challenging Labour's policy positions. In political terms, therefore, the new arrangements had in-built check and balances – or automatic stabilisers. From Labour's perspective, too, the arrangements with New Zealand First and United Future proved to be politically and administratively manageable. Admittedly, the fact that these two parties were outside the formal 'coalition' created greater uncertainty with respect to the management of Parliament and the government's legislative programme. Nevertheless, Labour not merely survived a full three-year parliamentary term, but also succeeded in enacting a relatively ambitious set of reforms.

Third, and related to this, the experience of the 2005–08 parliamentary term demonstrated that the 'enhanced' confidence and supply arrangements offer a workable solution to one of the key challenges of multi-party governance – namely the so-called *unity-distinctiveness dilemma* (see Boston and Bullock, 2008). This dilemma arises from the effort to balance two conflicting political imperatives: on the one hand, the desire for a high degree of inter-party cooperation and a unified public stance on major policy issues in the interests of effective, durable and responsible government; and on the other hand, the desire to facilitate a degree of inter-party differentiation in the interests of protecting the distinct identity (and hence political viability) of the minor party (or parties) directly involved in the government. But if the 'enhanced' confidence and supply arrangements during 2005–08 provided a politically convenient and workable compromise, they did not, in the end, prevent the parties involved (i.e. Labour, New Zealand First and United Future) suffering significant electoral losses in 2008 (see Table 1). Indeed, of the four minor parties that negotiated some kind of governance arrangement with Labour during these years, only the Greens increased their share of the party vote.

Notwithstanding this outcome, the 'enhanced' confidence and supply arrangements were regarded by the key participants as relatively successful, and certainly preferable to the main alternatives – namely a formal coalition of some kind or 'ordinary' confidence and supply arrangements. The leader of United Future, Peter Dunne, was particularly keen on the 'enhanced' approach, and was instrumental in

persuading National's leader (John Key) and deputy leader (Bill English) of its merits. Hence, when National came to negotiate with potential allies in November 2008, it soon became apparent that Labour's innovative arrangements (albeit with some minor adjustments) were the favoured approach of the principal players. It also became evident that negotiating broadly similar arrangements with ACT, United Future and the Māori Party offered a way of treating each party on equal terms, thereby avoiding the potential inter-party conflicts that might arise from a governing construct based on asymmetrical relationships.

Accordingly, a novel solution to the highly unusual political circumstances following the 2005 election has now become an accepted, and indeed favoured, approach in New Zealand for fashioning multi-party governance under proportional representation. And thus far the 'enhanced' confidence and supply arrangements negotiated by National appear to be working as successfully as they did for Labour. This does not mean, of course, that such governance arrangements are destined to become the norm. Much will no doubt depend on the evolving character of New Zealand's party system (including the likelihood that the number of parliamentary parties will decline from the current seven to around five³), the particular political constraints and imperatives generated

by future elections, and the possibility of further changes to the electoral system.

In the meantime, perhaps the real puzzle in all this is why similar governance arrangements have not been adopted in other multi-party systems, particularly those with a much longer tradition of proportional representation than New Zealand. After all, if such arrangements provide a relatively effective and workable solution (under certain conditions) to the unity-distinctiveness dilemma, why have they not found expression elsewhere? One possibility is that New Zealand's flexible constitutional arrangements and distinctive political culture, including a tradition of pragmatism, have enabled it to experiment in ways that other multi-party democracies would find more difficult. Another reason may reside in New Zealand's particular form of multi-dimensionality (see Box 1). Whatever the reason, it will be interesting to observe over the coming years whether New Zealand's novel governance arrangements are replicated elsewhere or whether they remain unique to this particular democracy.

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- 1 Various people provided useful comments on an earlier version of this paper. I would particularly like to thank David Bullock and Colin James for their constructive criticisms and helpful advice.
 - 2 Even so, it did not entail the complete replacement of the parties represented within the executive because the leader of United Future, Peter Dunne, retained his ministerial position.
 - 3 For instance, it is unlikely that either United Future or the Progressives will survive the next election.

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Dawn Lorimer is Director of the Victoria International Applied Finance Programme in the School of Economics and Finance, Victoria University of Wellington. She has extensive experience in financial markets, having managed the swaps and capital markets desk for Barclays Bank in Sydney, and worked with Challenge Bank

in Perth, specialising in financial risk management and corporate planning, including structured tax deals. She has consulted for a number of major Australasian corporates, including the Sydney Electricity Corporation in debt management and Boral Australia as a specialist member of their Treasury review operation.

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Jean-Pierre De Raad is the Chief Executive of the NZ Institute of Economic Research (NZIER). He has provided economic advice on a wide range of public policy issues, ranging from an evaluation of a health service contracting method to estimating the relationship between electricity firms' costs and the quality of their services. Jean-Pierre is also closely involved in the NZIER benchmarking of the quality of policy advice. From October 2003 to October 2004, he was the national policy manager at ACC.

Derek Gill is a senior public servant on secondment to the Institute of Policy Studies. He is leading the public management stream of the Emerging Issues Project (EIP) underway between the IPS and the Public Service. Derek has also prepared research papers on the changing organisational structure of the New Zealand state sector and the challenges of governing at arms-length through Crown entities. Derek's focus is on public administration and management based on his work at MSD (CYF), the State Services Commission and the Treasury.

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Brenda Pilott is one of two national secretaries of the Public Service Association. Prior to joining the PSA in 2004, she was a public servant for 11 years, working mainly in social policy, including five years as General Manager Policy at the Department of Child, Youth and Family Services. She has also worked in the voluntary sector and local government in New Zealand and the UK. Brenda is a member of the management board of the Institute of Public Administration and the Victoria University of Wellington Council.

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