

The crossover list

Introduction

This is a very brief explanation of the crossover list, and the accompanying flowchart which illustrates its process¹. If anyone is interested in knowing more I am very happy to provide details.

Background

73% of young people² in the NZ Youth Justice system are also known to CYF for care and protection concerns. 9 out of 10 such “crossover” kids are likely to progress to adult offending.³

The personal history and current circumstances of such young people will be very relevant in the Y Ct which is required to ensure that a young person’s needs are acknowledged and underlying causes of their offending addressed.

Despite that, many crossover kids pass through the Y Ct without their C & P status being known or taken into account. Often that means decisions and plans made affecting them will be inadequate and possibly at odds with what is happening for them in the F Ct.

The crossover list process aims to ensure that, for all such young people, appropriate information regarding them is obtained from the F Ct to help inform decisions and plans made in the Y Ct and, that there is co-ordination of what is happening for them in both courts.

The process in brief⁴

A young person with C & P status in the F Ct can be identified when they enter the Y Ct via the Y Ct/F Ct Information-Sharing Protocol or via the CYF Y Ct officer.

¹ There are variations on the theme summarised here, & in the flowchart, but it applies in a majority of cases.

² References to “young people” also apply to most children who can be brought before the Y CT; the crossover lists include time for child offenders, whether before the F Ct under s14(1)(e) or the Y CT under s272.

³ Figures taken from NZ and Australian research – available on request.

⁴ To be read together with the accompanying flowchart

A request for the permitted information is then made to the F Ct. The views of authors of professional reports (about release of such reports to parties in Y Ct proceedings) are obtained to help inform any restrictions on release that might apply.

The C & P information is very relevant to issues the Y Ct must consider such as bail, ordering forensic assessments⁵ and making FGC directions/recommendations⁶.

The Registrar will schedule the young person's next Ct appearance to be in the crossover list. The FGC will happen in the meantime.

When the case comes before the Judge in the crossover list, both the Y Ct and F Ct issues can be addressed;

Recommendations made at the FGC regarding the Y Ct matters are considered. Knowledge of the position in the F Ct is often relevant to deciding if the recommendations are appropriate. Once the Y Ct plan is approved the remand will be to either the Rangatahi, Pacifika, mainstream or IMG Ct or else a social work report and plan are ordered so that disposition orders can be made.

If the s261 approach was adopted by the FGC, there will be C & P recommendations and plans to consider. If the agreement was for the F Ct C & P plan to be reviewed, the social worker files the review papers at the F Ct. Otherwise the plan may be due (often overdue) for review; in either case the date set by the F Ct for the hearing of the review will be in a crossover list. Alternatively the F Ct plan may have been recently reviewed and require no change at all, but at least the Ct has the opportunity to see that what is happening for the young person in both Cts is consistent.

When the C & P plan is approved, the next review date is set to coincide with the conclusion of the Y Ct plan or orders. In that way, there is the opportunity to ensure that any ongoing, underlying, therapeutic needs are adequately addressed in the C & P plan, instead of the Y Ct remaining involved to monitor such things happen after accountability and victim related issues have been addressed.

⁵ There may have been such reports done previously for the F Ct; if not, the C & P history of neglect, abuse trauma etc will help inform the assessment carried out for the Y Ct.

⁶ Eg; to recommend the FGC adopt the approach in s261 and consider both YJ and C & P issues