

THE CONDITIONAL BAIL PROGRAM: EARLY INTERVENTION WITHOUT NET WIDENING

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Introduction

The paper Robin and myself present provides a brief outline of nine years of operation of the Conditional Bail Program in Queensland and an account of the subsequent issues and outcomes. The paper draws on a comparison between an evaluation conducted in 1999 and a follow up review of the 2002 – 03 year to highlight key outcomes and changing issues and trends in providing the Conditional Bail Program. Anecdotal evidence from field staff that has been consistent across the state and over significant periods of time is also used to help explain particular trends. The Conditional Bail Program is assessed as a highly effective program in diverting young people from remands in custody however this is not specifically quantified.

In acknowledgment that programs like this can only succeed through the effective work practices of field staff Robin will present a case to highlight these issues. Robin's creative practice with young people in the justice system makes him well placed to do this.

Program Description

The Conditional Bail Program was established in December 1994 in response to growing numbers of young people remanded in custody coinciding with the implementation of the *Juvenile Justice Act* in 1992. It targets young people (aged 10-16 years) who the courts consider to be an unacceptable risk of complying with bail and who are facing remand in custody. It is delivered through 33 departmental offices across the state.

The program is recurrently funded \$650,000 per annum. It aims to reduce the likelihood of young people offending while on bail by engaging them in constructive social, educational and vocational activities. It provides for up to 32 hours of youth worker supervision and support and up to \$100 per week in program costs. In certain circumstances it may provide for up to 50 hours per week of youth worker time and up to \$200 dollars per week in program costs.

After hours youth worker support may be provided where a young person is assessed as at risk of non-compliance with bail at critical times such as evenings or week-ends. Program costs include support for the young person and their family. Community based agencies can be contracted to provide conditional bail programs on a fee for service basis. A one month voluntary extension on the program is available in circumstances where the young person comes off bail in unforeseen circumstances such as when their charges are dropped or they decide to plead guilty and their case is dealt with quickly. This increased capacity to respond followed a budget increase of \$200,000, which took effect in March 2001.

Eligibility criteria for the target group are included in the referral form. See Attachment 1

Role of the Department in Bail

While the Department is mandated under the *Juvenile Justice Act 1992* to provide sentence order programs such as probation or community service, it is under no such legal obligation to provide a Conditional Bail Program. The head of power for this program is the *Family and Community Services Act 1987*, which is primarily concerned with the administration of funding programs. A mandate to provide the program in each case arises out of the *Bail Act* when the court grants bail with participation in the program is written in as a condition of the young person's bail undertaking. The Department's role in bail hearings is limited to providing relevant information to assist the court to make more informed decisions. Court submissions do not recommend for or against bail though the information provided often does influence the outcome.

In most cases the process commences when the police prosecutor indicates that bail will be opposed and the child's legal representative requests the Department to prepare a Conditional Bail Program. Generally the Department provides the court with a program option when requested even when it is assessed that the young person would currently have difficulties in complying. This prevents the Department from influencing a bail application hearing by not offering a program.

The opportunity to prevent premature placement of young people on the program first arises in pre court discussions with the prosecution and defence. Information is provided about appropriate targeting and consideration of other alternatives such as bail with other conditions or assisting the young person in another way. In court the requested program is tended along with a verbal assessment of young person's suitability and likelihood of compliance.

On rare occasions the Department has informed the court of its unwillingness to provide a program. In a couple of cases bail on the young persons own undertaking was granted and in another the young person who had been charged with repeated serious offences was remanded in custody. In almost all cases young people are first referred to the program following an overnight or week-end stay in a watchhouse or youth detention centre when watchhouse bail is refused. At the bail hearing the court may stand the matter down for a few hours to allow time to assess the young person's willingness to comply and to gain their input into a program.

In these cases courts may be willing to accept a loosely constructed program on the basis that work undertaken will include regular supervision and lead to the provision of structured activities. Verbal submissions may simply be along the lines of "the Department will provide youth worker supervision and support of up to 32 hours per week to engage the young person in positive recreational activities and to explore their education, vocational training and employment options." Successful programs have been put together in this way.

In assessing cases of a similar disposition other courts however require a guarantee of specific weekly hours and a tightly prescribed timetable of program activities before granting conditional bail. These courts are unwilling to grant Conditional Bail on the basis of rushed assessments and quickly cobbled programs. The young people involved are most often remanded to a youth detention centre for a short period allowing time for a more detailed program to be put together with their meaningful input. While these programs may have greater potential for success the cost for first time offenders especially, is that they are not diverted from a significant custodial experience.

The need to comply with enforced routines for young people whose lives are often in crisis however puts them at high risk of breaching bail. Such young people often struggle to nominate activities of interest to them. While in custody the issue of their program activities may be clouded by a desire to be released. Agreement to participate is often all too easy to obtain. Working under these constraints successful participation often evolves out of a growing working relationship between the young person and their Youth Worker. Prompt engagement of the young person, ongoing assessment, case planning and case reviews with a high degree of input by the young person and their family and the flexibility to adjust the program without going back to court are elements which maximise chances of successful completion.

Courts are more likely to allow for the provision of a flexible program if they have confidence that acceptable minimum levels of supervision will be provided and made aware that should an activity become unavailable or prove unsuitable then the Department will undertake to replace it with another. Significant variations from what is specifically proposed in court, will necessitate a return to court to have the program reassessed and possibly varied.

Those who have been on the program for lengthy periods (perhaps awaiting a higher court appearance) and who have stabilised in their life circumstances may receive decreasing levels of supervision and support. It is regarded as good practice to encourage such young people to apply to the court to have participation in the program removed from their bail undertaking so as they can then take responsibility for bail themselves. Courts are more often reluctant to do this however.

Targeting Young People Who Would Otherwise be Remand in Custody

The program is not intended to replace a young person's normal entitlement to bail as the vast majority of young people facing court are granted bail on their own undertaking and comply successfully. Some legal representatives and Magistrates however have held the view that some young people on relatively minor charges should be placed on the program when bail may well have been granted. Their rationale is to provide early intervention services to address support needs utilising the resources of the program. This position denies young people who may be capable of taking responsibility for their bail the opportunity to do so.

In 2002 – 03 a monthly average of 62.3 young people were remanded in custody. In the same period a monthly average of 79 young people were on the program. It is likely then that the Conditional Bail Program does significantly reduce remand in custody numbers. As it is highly unlikely that remand in custody rates would more than double if the program was closed down it can also be inferred that a small percentage at least are being placed on the program whereas once they would have been placed on bail on their own undertaking.

It is not possible to quantify the extent to which courts are placing young people on the program as an effective alternative to remand in custody though in nearly all cases the referring departmental officer has assessed that remand in custody was a strong consideration. The issue is further clouded by remand in custody numbers trending slightly down in recent years and the length of time spent on remand in custody increasing. Young people may also be kept on the program for longer than what they would have been remanded in custody. Once on the program courts are reluctant to take young people off it. This too maintains higher program numbers to some extent.

Providing Appropriate Levels of Intervention

It should be emphasised that successful participation in the program implies a fairly high degree of responsibility on the young person to comply with their bail conditions. While serious or highly recidivist offenders are quite appropriately provided with increased levels of supervision and support the program is not intended to keep all such young people out of remand in custody simply by providing them with the maximum level of supervision.

Typically, 50 hours per week of youth worker time and up to \$200 per week in program costs are provided in a small number of cases to children aged 10 – 12 years or perhaps young people with a significant child protection history or an intellectual disability. They are often facing remand in custody having repeatedly breached bail in some cases for relatively minor charges. These young people are most likely to be those who fall between the gaps of other programs and also have a heightened need to avoid exposure to the custodial environment because of their vulnerability.

Choosing Appropriate Activities

Activities that become approved and funded do so within a framework of individual assessment and case planning as well as workplace health and safety considerations. Appropriate activities are those, which strengthen a young persons links to family and community and can be sustained by the young person themselves beyond the life of the program when youth worker support is no longer available. The challenge is to move beyond being a "remand baby-sitting service" to one where young people are participating in developmental activities.

Activities undertaken must not address offending but rather assist young people in practical ways to comply with bail, particularly not to be charged with further offences and to attend court as required. Young people charged with assault or with drug offences may be assisted to address any issues they have on the basis of immediate need and providing a better opportunity to comply with bail. Voluntary work should not carry any element of punishment or victim reparation.

The program does not provide accommodation. The issue of accommodation for young people on bail has always presented a complex set of challenges. In response the Department also provides a Bail Support Service, which although similar in targeting young people at risk of remand in custody, specifically addresses the accommodation issues.

Failure to Comply

Failure to fully participate in the program may result in a case review, assessing with the young person their non-compliance and developing strategies to address this. The Department has an obligation to report non-compliance with Conditional Bail to the Police Prosecutor or Department of Public Prosecutions (for higher court matters). It is their role to instigate any breach action. The Department maintains its efforts to engage the young person while this is happening.

It should also be mentioned that the Conditional Bail Program is one condition of bail along with a number of other possible conditions. There has been a significant increase in the number and type of other separate bail conditions imposed on young people in the last few years including overnight curfews, residency clauses and school attendance. In a small but significant number of cases young people have been required to undergo urine testing for illegal drug use and 24 hour curfews have been imposed. Staff across the state, particularly those in regional and rural centres report that police are monitoring and enforcing these more onerous bail conditions. This is a factor in increasing rates of breaching bail conditions for young people on the program.

It is not intended to include these conditions as part of the Conditional Bail Program nor is it the role of the Department to supervise them. However a program aim is to maximise a young person's opportunity to comply with their bail conditions. A court may often include a bail condition to 'reside at an address or as directed by the Department'. Where possible accommodation issues with young homeless people on bail are addressed through voluntary participation rather than court mandate. This avoids any potential conflicts with guardianship decisions.

Some Criticisms of Providing a Conditional Bail Program

- Concerns were initially expressed that this is not the core statutory business of the Department and that it provides an additional workload. The role of the Department had been very limited in bail matters and young people on bail in the community were subject to the presumption of innocence. Work carried out with them should not be within a justice framework.
- The potential is there for placing young people on the program when they should be placed on bail on their own undertaking. Resources may be wasted on providing services to young people who not only don't need it but could also be harmed by excessive intervention.
- The Conditional Bail Program could amount to "front end sentencing" whereby the young person is required to participate in an intense program and for those found guilty may then be required to serve a formal sentence.

Strategic Casework and Operational Advantages of Conditional Bail.

- Conditional Bail intervenes at a time of possible crisis for the young person and their family especially for young people facing remand in custody for the first time. This may be an opportunity for timely intervention.
- The program provides an opportunity to intervene in very practical ways to address issues of concern to the young person without directly challenging their alleged offending behaviour.
- Young people may be motivated to succeed on the program as a way of regaining some degree of control over their lives and possibly influencing what may happen to them if sentenced.
- Those who succeed on the program and are found guilty have demonstrated an ability to comply with non-custodial sentence orders. Success on community based orders is also enhanced because of the existing working relationship with departmental officers and possible reduced sentences.
- Young people who have their charges dropped or who are found not guilty are diverted from remand in custody. This has been most significant for a small number of young people on serious charges who would have most likely spent very lengthy remands in custody.
- From an operational perspective the contracting of part-time youth workers to carry out specific activities with the young person and an ability to draw on a dedicated centrally administered budget provides an increased ability to efficiently deliver services to the young person.
- Work undertaken and gains made on the program provide important information to assist in arriving at an appropriate sentence should the young person be found guilty. It is reasonable to argue that success on the program should be weighted of equal or greater value to the legal requirement of including time spent in custody (“remand credit”) as part of the sentence. This is because the young person has had to take a higher degree of responsibility for managing their behaviour than they would have on remand in custody.
- As the decision to place young people on the program is made by a Magistrate or Judge as an alternative to remand in custody it can be reasonably inferred that the numbers of young people held in custody on remand are significantly reduced.

While information on remand numbers and the relative costs of detaining young people compared with operating the Conditional Bail Program is available it is not possible here to evaluate the impact on remand in custody numbers or the cost effectiveness of providing the program.

Issues for Ongoing Management

- Some solicitors advise clients to stay in custody on remand rather than apply for bail with Conditional Bail on the basis that the accrual of ‘remand credit’, deducted off a young person’s sentence, will be a better outcome. This advice if provided routinely is clearly not in the best interests of all young people remanded in custody as very small percentage of young people who succeed on the program are given a custodial sentence.
- However in 2002- 03, 22 (19.6%) of all young people, who breached conditional bail and were remanded in custody did so in the first week of being placed on the program. In addition 44 young people who were breached and remanded in custody were later given bail again and placed back on the program on one or more occasions. This is an increasing trend which indicates a willingness by courts to place higher risk young people on the Conditional Bail Program. These young people may not have their best interests served by rapid or repeated failure on the program.

- The need to provide timely, consistent support especially in the early stages of the program is clearly critical to success. Although adequately funded the program provides a number of management challenges. These include being prioritised and delivered along with other core statutory services and providing an adequate pool of youth workers to ensure their availability and appropriate matching especially in terms of gender and cultural appropriateness.

Trends and Program Performance

Ongoing monitoring data has highlighted a number of significant operational issues and trends within the program.

Referrals Trends

- In the eight full years of operation since 1995 – 96 the program has experienced an average increase in referrals of 5.5% per annum. See Attachment 2
- A significant increase in referrals occurred from 1997/98 to 1998/99. An evaluation conducted in September 1999 found “a very significant shift in targeting” of the program to include young people who may have been likely to receive bail on their own undertaking in the latter 8 months of the evaluation period. (Dept of Families, 1999:13)
- The increase in referrals can also be linked to the 72% successful completion rate of the program at the time.
- Another significant increase occurred from 2000/01 to 20001/02. This increase can be linked to increasing confidence in the program held by courts and the budget increase, which took effect in March 2001.
- The four year period from 1998-99 to 2001-02 saw a 3% decrease in the number of finalised court appearances, a 20% decrease in the number of young people on supervised youth justice orders and a 30% decrease in average daily occupancy of youth detention centres which includes young people in custody on remand. (Lynch et al 2003:1) The contribution made by the Conditional Bail Program in reducing the remand in custody population while likely to be significant can only be quantified through a rigorous evaluation.

Target Group Profile

A survey of 293 young people who completed their Conditional Bail Program in 2002 – 03 revealed the following: -

- 24 (8.4%) were female. This is consistent with the rates of remand in custody for young women and this figure has not changed significantly over time.
- 8 young people were aged 11-12 years with a majority of 115 aged 16 years. See Attachment 3
- 141 (48%) identified as Indigenous young people. As Indigenous young people made up 56% of the remand in custody population in that period they are under represented on the program by some 8%.
- Just over one third were on the program for up to one month and half were on the program for one to six months. 15.4% or 46 young people stayed on the program for one year to 18 months. See Attachment 4
- Eight young people came off bail in unplanned circumstances and were supported for a further month under the program’s voluntary transition arrangements.
- The following risk factors were evident in the 293 young people who completed: -

- 161 (55%) were assessed as at risk of not complying with bail conditions because of their recidivist offending history
- 140 (48%) had previously breached bail or had failed to appear when on remand.
- 101 (34%) were in breach of a current community based order if proven guilty of their new charges or breach action was already pending.
- 193 (66%) were assessed as in need of structured supervision as this was not able to be provided within the young persons own support network
- 51 (17%) had more than one referral to the program in the twelve month period indicating a degree of prior failure on the program or ongoing involvement in the criminal justice system.
- 21 (7%) were placed on the program by a higher court Judge on application or appeal including two placed by the Supreme court after being charged with life offences.
- The majority of young people had three or more of these risk indicators and were also assessed as eligible on the extent and seriousness of their charges. In almost all cases the referring officer indicated that the court was seriously considering remand in custody if conditional bail was not provided.

The number of young people listed on the program each month was fairly constant fluctuating between 75 and 83. Some 50 - 70 young people were worked with intensively or regularly at any one time.

Program Activities

A survey of activities undertaken by 42 young people in receipt of casual youth worker support for the last fortnight in February 2003 is shown in Attachment 5.

A total of 198 individual contacts were made to carry out 286 separate activities.

- On twenty-two occasions the young person did not keep an appointment with their Youth Worker indicating a level of non-compliance with the program.
- 'One-off sport and recreational activity' was the most frequent activity (39 distinct activities).

This combined with the relatively low number of structured activities also indicates an understandable degree of difficulty in engaging this group in developmental activities.

Youth Workers report the high number of one off recreational activities as relationship building in a process towards linking young people into more sustainable or developmental activities. It was also a means of providing support through personal crises. In many cases this may be the only realistic objective of a young persons time spent on the program. Such young people have often not succeeded upon entry into structured programs even with intensive supports provided.

When engaging young people in their activities Youth Workers have an opportunity to assess their strengths and vulnerabilities in many different dynamic social situations. These opportunities are not as often available to the young persons Family Services Officer who is responsible for case planning and providing the courts with pre sentence reports. As such Youth Workers have an important role in providing assessment information and feedback on gains made by the young person on the program.

Outcomes

An internal evaluation was conducted for the period from program commencement in December 1994 to February 1999. Attachment 6 provides a summary of the outcomes for program participants.

It found for this four year period that:

- 671 referrals were made by the court with 560 completed at the end of the evaluation period. 111 were listed as still in progress at the cut off date.
- Of the 560 completions 403 (72%) were successfully completed and 157 (28%) resulted in a breach
- Of the 157 breaches 34 (21.6%) were for a breach of bail conditions and 123 (78.4%) were breached by being charged with further offences.
- Of the 403 successful completions 64 (15.8%) were released on self bail
- 304 (75.5%) received community based sentence orders as follows;-
 - 3 reprimand and 8 Good Behaviour Orders (2.7% total)
 - 102 (33.5%) Probation
 - 45 (11%) Community Service
 - 93 (23%) Probation and Community Service
 - 53 (13%) Immediate Release Order (Now known as a Conditional Release: it is an order made when a detention order is suspended)
- 35 (8.7%) received a custodial order

The monitoring of outcomes for the 2002 – 03 period (See Attachment 7) indicates that: -

- 426 referrals were made by the court with 293 completed at the end of the July 2003. 133 were listed as still in progress at the cut-off date.
- Of the 293 completions 174 (60.%) were successfully completed and 117 (40%) resulted in a breach
- Of the 117 breaches 74 (63.2 %) were for a breach of bail conditions and 43 (36.8%) were breached by being charged with further offences.
- A total of 69 young people were remanded in custody. Three young people were at large with a warrant issued for a breach of their conditions and two were allowed to continue on the program after breaching bail conditions.
- Of the 174 successful completions 9 (5%) had their charges withdrawn and 22 (11.4%) were released on self bail.
- 137 (77.6%) received community based sentence orders as follows;-
 - 1 reprimand and 1 Good Behaviour Order (1.4%) (non-supervised orders)
 - 52 (38 %) Probation
 - 19 (13.8%) Community Service
 - 43 (31%) Probation and Community Service
 - 21 (15.3%) Conditional Release Order (formerly Immediate Release Order: a suspended sentence)
- 6 (4.3%) received a Detention Order

Outcomes for Indigenous Young People. See Attachment 8

- 139 Indigenous young people had completed their program in the 2002 – 03 period.
- Of the 139 completions 80 (57.6%) successfully completed and 59 (42.4%) resulted in a breach. The non-Indigenous successful completion rate was 61.8%.
- Of the 59 breaches 37 (62.7%) were for a breach of bail conditions 22 (37.3%) were breached by being charged with further offences.
- Of the successful completions 4 (5%) had their charges withdrawn and 9 (11.25%) were released on self bail.
- 64 (80%) received community based sentence orders as follows:-
 - 1 (1.5%) Good Behaviour Order (non-supervised order)
 - 20 (32.8 %) Probation
 - 12 (18.75%) Community Service
 - 21 (31.25%) Probation and Community Service
 - 10 (1.5%) Conditional Release Order (formerly Immediate Release Order: a suspended sentence)
- 3 (4.6%) received a Detention Order

Findings

- The \$200,000 funding increase, which took effect in March 2001, provided more intensive and flexible supervision and support arrangements for participants. This resulted in a 29% increase in referrals between 2000 – 01 and 2001 – 02 which has been sustained in 2002 – 03. This is attributed to an increase in confidence in the program shown by the courts.
- The increase in referrals has brought with it a 12% decrease in the successful completion rate. This decline was accompanied by a significant shift in the reasons for breach. Whereas young people had a breach rate of 21.6% for breaching their bail conditions in the 1999 evaluation this rate had trebled to 63% in the 02 – 03 period with a corresponding decrease in the rate of breaches by reoffending. Attachments 9 and 10 highlight these changes.
- The increase in referrals and the trebling of breaches of bail conditions is consistent with feedback in the last two years from staff across the state that courts are increasingly prepared to place young people at greater risk of breaching bail on the program. They are doing so however with an increased capacity of the program to provide supervision and with the imposition of other more onerous bail conditions.
- While young Indigenous people have a slightly lower (4%) successful completion rate they have an almost identical successful outcomes to non-indigenous young people in terms of sentencing and exiting the program because of improved circumstances. See Attachments 11 and 12.
- Of more concern however is Indigenous young people's 48% representation on this program and their 56% representation in detention on remand.
- Ongoing initiatives to address this include the development of three Indigenous community based bail support services in high need areas in the north of the state and a culturally appropriate Youth Bail Accommodation and Support Service operating in the South-east of the

state centring in and around Brisbane. Ongoing efforts to engage Indigenous agencies on a fee for service basis to provide programs more attractive to the courts and to young Indigenous people themselves also need to be maintained.

- Planned initiatives include the location of statutory field staff in four remote communities. This will enable more local solutions to be developed utilising Conditional Bail resources to address the high numbers of young people in those communities being remanded in custody.
- The Outcomes in terms of sentence order types received and young people coming off the program because their charges were withdrawn or receiving self-bail are almost identical. This is the case between the two periods being compared and within the 2002 – 03 period for Indigenous and non-indigenous young people. See Attachments 13 and 14.
- A detailed evaluation is needed to determine any impact successful completion has on sentence outcomes however the low rates of detention orders given is perhaps an indicator that successful completion does lead to a lighter sentence.
- The following indicators have lead to increasing confidence in the program and an ‘informed perception’ that it is effective in reducing remands in custody:-
 - The 30% decrease in the average daily occupancy in youth detention centres for the four year period, 1998 – 99 to 2001 – 02, which occurred at a time of high usage of the program.
 - The average monthly remand in custody rate of 62.3 young people is exceeded by the monthly rate of young people on Conditional Bail which was 79 for 2002 –03.
 - The program accurately targeting young people who would otherwise be remanded in custody as evidenced by those completing in 2002 – 03. Almost all were assessed at high risk of not complying with their bail conditions and at high risk of remand in custody at the time of referral.

Conclusion

The initial 72% successful completion rate resulted in increased confidence in the program expressed by courts and within the Department. The sustained increase in referrals over eight years of operation also confirms this. Keeping the program focused on its intended target group and demonstrating to courts that high risk young people may be more successfully managed in the community on bail without the imposition of overly onerous conditions are key ongoing management issues. More caution needs to be exercised through detailed assessments and careful planning involving vulnerable young people themselves when offering intensive Conditional Bail Programs to them and to the courts.

While it can be said that the program is successful in proportion to the extent that it targets young people who would otherwise be remanded in custody and the extent to which they successfully complete there is no evaluation data available to quantify this. This paper provides a strong case to have the program fully evaluated.

The Conditional Bail Program is now an integral component of the Department of Families response to youth offending in Queensland. Its focus on intervention after a young person is charged and diversion from custody allows for the timely and effective intervention to occur.

Case Presentation

To this point the paper has been concerned with program frameworks, departmental roles, operational and management issues and outcomes. However it is well worth considering that reduced remands in custody and the gains made by young people on the program is very much determined by the work carried out in the field with young people rather than by finely tuning frameworks, policy and practice directives. These program components are obviously critical especially for statewide programs such as this one.

However the program is delivered within the context of a working relationship between the young person and their support networks. I have heard it said by field staff of course that “if you handed a faulty program to a good worker you would still get good outcomes.” The quality of work undertaken with young people may be implied or assumed and not often fully recognised for its central importance. It is with this in mind that I will now hand you over to my colleague Robin Rutledge to present a case highlighting a number of these issues.

“An Opportune Time to Intervene” - *Steve’s Story*

The following case illustrates the opportunities provided for community based intervention with a young person facing remanded in custody following his appearance in court on serious offences. His details have been changed to protect his identity however the casework details remain unchanged. The case unfolds from the point of arrest to the time of sentencing and highlights a number of key issues in working with young people on the Conditional Bail Program.

Steve was 13 years old and self identifies as Maori, he was arrested and charged late on a Friday evening with Assault Causing Bodily Harm, Going Armed to Cause Fear, 2 counts of Wilful Damage, and 2 counts of Stealing. At a brief appearance in Court on Saturday morning Police opposed bail on the basis of the seriousness of his charges, the risk he posed in the community at that time his, his recent proven offences and suggestions that he lived a transient lifestyle. He was remanded in custody to appear the following Tuesday. Steve’s legal representative then requested that a Conditional Bail Program be prepared for that time.

Due to the seriousness of the charges they could only be dealt with in the District Court following a committal in the lower court. It was therefore possible that he would be on a very lengthy remand.

Assessment

Prior to his bail hearing Steve and his family were consulted to gain some perspective as to what needed to happen in order for Steve to comply with bail if it were granted.

At the first meeting however Steve was clearly traumatised by his experience of custody. He said he became very anxious upon arrival at the detention centre and tried to remain “invisible” in detention. He had heard various stories about “lock-up” and was not about to test if any were true. Although willing to participate in a Conditional Bail Program he was for sometime unable to volunteer any information on relevant activities to include in a Conditional Bail Program proposal.

On further engaging Steve he said he was raised by his grandparents and had relocated to Australia to live with extended family following the death of his grandfather in 2001. The family had been living in the outer west of the city and indicated Steve and his older cousin had been “running amuck”. Not long after his arrest the family decided to relocate to a new area where they had better access to cultural networks. Steve had in fact experienced four changes of address since early 2002 and he was not attending school as a consequence.

Steve's previous offending history included seven finalised court appearances for property and public nuisance offences since May 2001, for which he has received reprimands, Good behaviour orders and a Community Service Order. His compliance with these had not been all that good. With family and community integration, school attendance and a need to engage in positive recreational activities the only emerging issues a Conditional Bail Program proposal was developed and presented to court. Steve's participation in the program became a condition of his bail.

Engagement / Implementation / Ongoing assessment

His Youth Worker was engaged to provide up to 30 hrs per week (Monday to Saturday) and his brief was to work intensively during the initial contact phase (ie the first 14 days immediately following Conditional Bail being granted). Initial resistance was experienced in keeping Steve focussed and on-track which was expected. This situation was perhaps minimised by introducing the Youth Worker to Steve immediately upon release after his bail hearing.

Within a fortnight of being on the program his case plan became more outcomes focussed and contained more detailed elements of personal development, family integration, educational/vocational development and recreation/leisure activities. Key to the program's success was the growing participation of Steve and his Family in partnership with the intervention team – his Family Services Officer (Statutory Caseworker) and Team Leader (Senior Caseworker), his Youth Worker, and the Resource Officer (Program Development Officer) who located and provided program activities and resources. A working alliance was developed over time with the family in implementing activities and monitoring progress.

Review points provided an opportunity to “celebrate” the achievement of milestones and to modify elements that continued to be problematic.

With support from his Youth Worker, Steve enrolled into an Indigenous alternative school, which by a process of elimination became the only viable option for him. This required intensive support from his Youth Worker but most important of all his family. The willingness of the school to be flexible and inclusive of him was also vital.

A significant part of the case plan was supporting Steve to reconnect with his culture. Interestingly, Steve seemed indifferent to this and following discussions with his family network it was agreed for Steve to be continually supported to find a grounding in the indigenous culture of the new country that they and he were now a part of. Although Steve was the only Maori in his class of 12 Murri young people he and his culture was accepted. With input from Steve's family the cultural base of the class has been broadened and cross-cultural learning has occurred.

Teachers continue to provide feedback indicating he is thriving there.

Another key component of the program was engaging Steve in a range of recreation/leisure activities that would be used as a platform to address key issues around trust, teamwork, communication and task completion. Again following discussions with Steve and his extended family it was discovered he had a personal interest in golf. Significantly his grandfather had introduced him to this. The family was engaged with this component of the plan to enable momentum to be continued on exiting the program.

Information emerged throughout the period of the Conditional Bail Program that suggested Steve had been profoundly affected by the death of his grandfather. His extended family was invited to support Steve with the grieving process.

Phasing Out Support

Steve participated in the Conditional Bail Program for 66 days. In that period, his Youth Worker reported that Steve was undergoing a series of personal transformations the most noticeable being from a quiet non-communicative young person who appeared sullen and withdrawn to a confident young man. His Family Services Officer had commented “ he simply won’t shut up now. He wants to...discuss all manner of things...he smiles...he laughs...he talks about his hopes and dreams and acknowledges that “trouble” had robbed him of having fun”.

Steve's extended family was extremely pro active and consistently supportive and have been the key to success. Their relationship has been strengthened as a result. The increase in family involvement allowed for reducing Youth Work contact and provided a transition for Steve into a more normalised life. He continues to attend the alternative learning program daily, is active with golf with his extended family.

Outcomes

His matters were heard in the District Court Steve pleaded guilty to all charges and was sentenced in the District Court. A complete summary of his participation on the Conditional Bail Program was provided to the court. He received 25hrs Community Service and 12 months Probation which, given his previous offending history and the seriousness of his charges could be viewed as a good outcome for him.

Footnote: Six months following sentencing Steve appeared once more before the Children’s Court on a charge of Trespass for which he received a cautioned from the bench.

Program Costs

In the 66 days spent on the program he received a total of 260 youth worker hours and \$168.48 in program costs which were provided on the basis of his families incapacity to pay. Taking into account his Youth Worker’s wages the total cost of Steve’s CBP is approximately \$5,900 or \$550 per week, a fraction of the monetary cost of detention

Summary

The goal of any youth justice intervention is to divert young people from further entry into the juvenile justice system while holding them accountable (in this case to compliance with bail). Intervention must encourage their reintegration into the community while promoting community safety. These goals underpin the principles of the *Juvenile Justice Act 1992*.

Central to this intervention is consideration of key eco-social factors -

- Steve was allowed and supported to make choices in the context of his personal and social circumstances.
- He was valued for his distinct unique identity.
- Although Conditional Bail supports young people to meet their bail obligations the totality of Steve’ life circumstances were addressed.
- Steve was inextricably linked to an extended family system that played a significant role in his program.
- Worked with Steve did not address his offending but reduced his opportunity to offend.

- Services to Steve were also effective and meaningful as they:
 - were culturally significant;
 - considered his characteristics and development level;
 - were implemented in the context of his significant available networks
 - respected and valued of his natural support networks through the phasing out of Youth Worker support.

There is a need to recognise that in most cases, clients on Conditional Bail are ultimately involuntary clients where an imbalance of power exists. Respect and sensitivity are fundamental in establishing trust with young people, families and other support networks.

Steve's story illustrates the notion that timely intervention provides opportunities for young people to demonstrate success and be diverted from a criminal justice system that is problem saturated. Key to its success is developing a casework frame in which all participants can participate in the solution story.

“.....The measure of a person is not where he/she stands in times of comfort and convenience but where he/she stands in times of chaos and controversy....”

Martin Luther King Jnr

Attachment 1 Referral



Conditional Bail Referral Form - Attachment 1

Referral Received From:

Given Name	
Surname	
Area Office	▼
Referral Date to SRO	

Details of Young Person:

Client Number	
Given Name(s)	
Surname	
DOB	
Gender	

Cultural Background **Is the young person of Aboriginal or Torres Strait Islander origin?**
 No Aboriginal Torres Strait Islander Both Unknown
and
Cultural Identity of the Client
Other (please specify)

Court Location	▼
Jurisdiction	▼
Date CBP ordered by Court	
Date Remanded to	

CHARGES: Enter at the bottom of the page...

Where was YP prior to placement on Conditional Bail Program

- Remanded in Youth Detention Centre
- Held in watchhouse (Watchhouse Bail refused)
- In community (Granted bail)

Reasons for Referral:

- Facing a charge for an indictable offence and is in pre-court custody.
- History of failure to appear or the breach of other conditions of bail.
- The young person is a recidivist offender.
- The young person has breached a community based order.
- Young person is at risk of being placed in custody pending the preparation of a pre-sent. report.
- Structured supervision is required as it is not available within the young person's own network.
- The young person requires intensive support which, will include BSS.

Referral Outcomes:

- Approved (Y/N)

Reason(s)

ABOR	Abortion
AAFC	Accessory after the fact - crimes
AAFM	Accessory after the fact - murder
AFFR	Affray
AASS	Aggravated assault
AASN	Aggravated assault of a sexual nature
AGCF	Armed going to cause fear
APUB	Armed in public
ARVC	Armed robbery with violence in company
ASAV	Armed stealing with actual violence
ASVC	Armed stealing with violence in company
ARSO	Arson
ASSA	Assault
AIUO	Assault - int. commit unnatural offence
ABHA	Assault bodily harm armed
ACOM	Assault in company
AABH	Assault occas. actual bodily harm
APOL	Assault police
APOS	Assault police (serious)
ABHC	Assault with bodily harm in company
AISX	Assault with intent to steal
AISV	Assault-intent to steal-actual violence
AGBH	Assault-occas.grievous bodily harm
AESC	Assisting to escape
XRAR	Attempt armed robbery
XARC	Attempt armed robbery in company
XARS	Attempt arson
XBED	Attempt break & enter dwelling
XBEO	Attempt break & enter other building
XCKN	Attempt carnal knowledge
XECU	Attempt escape custody
XEFA	Attempt evasion of fares
XFPR	Attempt false pretences
XINC	Attempt incest by male
XIAS	Attempt indecent assault
XMUR	Attempt murder
XRAP	Attempt rape
XROB	Attempt robbery
XRCO	Attempt robbery in company

XRAV	Attempt robbery with actual violence
XRAC	Attempt robbery with actual violence in company
XRPV	Attempt robbery with personal violence
XRPC	Attempt robbery with personal violence in comp
XRWO	Attempt robbery with wounding
XSFC	Attempt setting fire to crops
XSOD	Attempt sodomy
XSTE	Attempt steal
XSAV	Attempt steal with actual violence
XSAC	Attempt to steal with actual violence in comp
XUUM	Attempt unlicensed use of motor vehicle
XUCM	Attempt utter counterfeit money
BSNA	Bag snatching (stealing from the person)
UPRE	Be on unlicensed premises
BIEY	Being in enclosed yard
BLAC	Blackmail
BHOX	Bomb hoax
BEDU	Breach education general provisions act
BMAI	Breach main roads act
BBAI	Breach of bail act
BCSG	Breach of community service (general)
BDVA	Breach of domestic violence act
BFCA	Breach of fauna conservation act
BLQA	Breach of liquor act
BMSA	Breach of marine safety act
BNPW	Breach of national parks & wildlife act
BPRG	Breach of probation (general)
BSSA	Breach of social security act
BSOU	Breach of southbank parklands act
BTEL	Breach of telecommunication act
BTRA	Breach of traffic act
BTRX	Breach of traffic regula.
TRAN	Breach of transport act
BSUP	Breach supervision order
BEWD	Break & enter and wilful damage
BEVE	Break & enter of vehicle
BECD	Break & enter to commit crime -dwelling
BECO	Break & enter to commit crime-oth. bldg
BEID	Break & enter with intent - dwelling
BEII	Break & enter with intent to commit indictable offence

BEIO	Break & enter with intent-other building
BESD	Break, enter and steal - dwelling
BESO	Break, enter and steal - other building
BURG	Burglary
CDIA	Callous disregard involving an accident
CKNO	Carnal knowledge
CKAN	Carnal knowledge of an animal
CFIR	Carry a firearm (weapons)
CPPX	Carry a pillion passenger
CCWE	Carry concealable weapon
CASX	Cast away ships
CSTE	Child stealing
CNUI	Common nuisance
CHMI	Computer hacking & misuse
CONS	Conspiracy
CMUR	Conspire to murder
CCOU	Contempt of court
CDIS	Create disturbance
CCAR	Credit card offences
CANI	Cruelty to animals
CSDD	Cult. to sell d.d.
CURR	Currency offences
DDRN	Dangerous driving - no death
DDRD	Dangerous driving causing death
DDBH	Dangerous driving causing grievous body harm
DEFA	Defamation
DWIN	Demand with intent
DLIB	Deprivation of liberty
DCIO	Disabling to commit an indictable offence
DFIR	Discharge of a firearm
DLDX	Disobey lawful direction (traffic)
DTSX	Disobey traffic sign
DCON	Disorderly conduct
DISP	Disposal of property suspected stolen
DIPP	Drinking in public place
DUID	Drive under influence of drugs
DDIS	Driving under disqualification
DILU	Driving under influence of liquor <15
DILO	Driving under influence of liquor >15
DSUS	Driving under suspension

DWOL	Driving without a licence
DWDC	Driving without due care
DRUN	Drunk
EBOU	Enter and break out
EDAS	Enter dwelling and steal
EDSB	Enter dwelling steal and break out
EOAS	Enter other building and steal
EOSB	Enter other bulding, steal and break out
EPRE	Enter Premises
EIDX	Enter with intent (dwelling)
EIOX	Enter with intent (other building)
EIID	Enter with intent-commit indictable offence
EWCD	Enter without consent - dwelling
ECUS	Escape custody
EFAR	Evade fare
EPAY	Evade payment
EPRO	Evade payment - regulatory offence
EDRU	Export drugs
EXTO	Extortion
FBDI	Face blackened/disguised with intent
FDCP	Fail due care & precaution
FAPP	Fail to appear
FCLS	Fail to change lane safely
FTPF	Fail to pay fine
FPLX	Fail to produce licence/learners permit
FPIP	Fail to provide identifying particulars
FSIX	Fail to signal intent
FSNA	Fail to state name and address
FSAX	Fail to stop at accident
FSBT	Fail to supply breath/blood test
FWHX	Fail to wear helmet
FFAL	False fire alarm
SFNA	False name & address
FNAX	False name and address
FNPL	False Number Plates
FPRE	False pretences
FENT	Forcible entry to property
FORG	Forgery
FRAU	Fraud
GAMB	Gambling

GRAF	Graffiti
GEIN	Graffiti - education institution
HESC	Harbouring escapee
HIJA	Hijacking
HPOL	Hinder police
ICHI	Illtreatment of children
IDRU	Import drugs
IMPO	Imposition
INCE	Incest
IAFX	Indecent assault on female
IAMX	Indecent assault on male
IBEH	Indecent behaviour
IDUT	Indecent dealing of child < 12
IDCH	Indecent dealing of child < 16
IDOT	Indecent dealing of child >= 12
IEXP	Indecent exposure with intent to insult
IGRA	Indecent graffiti
IANI	Injuring animals
IWOR	Insulting words
ITEL	Interfere telecom
IMEC	Interfere with mechanism
IPRI	Invasion of privacy
KIDN	Kidnapping
LIBE	Libel
LFWP	Lighting fires without permit
LITT	Littering
LPRO	Loiter for prostitution
LOIT	Loitering (not for prostitution)
MCMO	Make counterfeit money
MAND	Manslaughter - driving
MANN	Manslaughter - not driving
MCAS	Minor in a casino
MURD	Murder
NACH	Negligent acts causing harm
OLAN	Obscene language
OPOL	Obstruct police
OPOS	Obstruct police (serious criminal code)
ORAI	Obstructing railways
OPDF	Occ prem where drug found
ODOF	Other drug offences

OHOF	Other health offences
OLAO	Other local authority offences
OOGO	Other offences against good order
OROF	Other railway offences
OWEA	Other weapons
PERJ	Perjury
PUPD	Permit use of premises for drug crimes
PIDA	Permits indecent act to oneself
PJUS	Pervert course of justice
PICK	Pickpocketing (stealing from the person)
POIS	Poisoning
PDAX	Possess dangerous article
PODM	Possess dangerous drugs (minor)
PODS	Possess dangerous drugs (sorp)
PHIX	Possess house break implem
PIPD	Possess instrument for producing drugs
PPIX	Possess prohibited instrument (drugs)
PPPX	Possess prohibited plant (drugs)
PPSD	Possess property from sale of drugs
PPUX	Possess property unlawfully
PRFI	Possess replica firearm
PSCA	Possess scales (drugs)
PUDL	Possess unlawful driving licence
PWID	Possess weapon while under influence of liquer/drugs
PFIR	Possession of a firearm
PPIP	Possession of a pipe (drugs)
PUTE	Possession of a utensil (drugs)
PGIN	Possession of graffiti instrument
PHAN	Possession of handcuffs
PPSS	Possession of Property Suspected Stolen
PWCO	Possession of weapon with intent to commi
PCIA	Procure child to commit indecent act
PSAC	Procuring sexual acts by coercion
PCMO	Produce counterfeit money
PRDM	Produce dang drugs (minor)
PRDS	Produce dang drugs (sorp)
PDDX	Produce dangerous drugs
RAPE	Rape
RECE	Receiving stolen property
RARR	Resist arrest (serious assault)

RPOL	Resist police
RIOT	Rioting
ROBB	Robbery
RARM	Robbery armed
RACO	Robbery armed in company
RAVI	Robbery armed with violence
RAWO	Robbery armed with wounding
RAWC	Robbery armed with wounding in company
RCOM	Robbery in company
RAVX	Robbery with actual violence
RAVC	Robbery with actual violence in company
RPVX	Robbery with personal violence
RPVC	Robbery with personal violence in company
SASS	Serious assault
SFCX	Setting fire to crops
SEXA	Sexual Assault
SHOP	Shoplifting (Unlawful take away of goods)
SHRO	Shoplifting - regulatory offence
SODO	Sodomy
SIMM	Solicit for immoral purposes
SPEE	Speeding
STAL	Stalking
SFNT	State false name & address (traffic act)
SABO	Steal and break out
SSER	Steal money as a servant
SAVX	Steal with actual violence
SWTV	Steal with threatened violence
STEA	Stealing
SIBQ	Stealing interstate & bringing into qld
SLIV	Stealing livestock
SAVC	Stealing with actual violence in company
SDDM	Supply dang drugs (minor)
SDDS	Supply dang drugs (sorp)
SFPP	Supply firearm to prev pers
TCIP	Take child away for immoral purposes
TTEL	Take property from telecom
TWPA	Tamper with postal article
TATT	Tattooing a minor
TELE	Telecommunications damage
TWIT	Threatening witnesses

THRE	Threats
TVDX	Threats of violence (day)
TVNX	Threats of violence (night)
TORT	Torture
TDRU	Trafficking drugs
TORC	Travelling outside railway carriage
TRES	Trespassing
UUAG	U use of motor vehicle with aggravation
UDRI	Unaccompanied driving
UADX	Under age drinking
UUVX	Unlaw. use of vessel
UASS	Unlawful assembly
UBOO	Unlawful bookmaking
UDOE	Unlawful deposition of explosive
UDEX	Unlawful discharge of explosives
UEVE	Unlawful entry of vehicle
UOMA	Unlawful opening of mail
UPOW	Unlawful possession of weapon
UUMC	Unlawful use motor cycle
UUBI	Unlawful use of bicycle
UULX	Unlawful use of livestock
UUMV	Unlawful use of motor vehicle
UUVO	Unlawful use of vessel to commit offence
UKAN	Unlawfully kill animals
UFIR	Unlicensed firearms
UMVE	Unroadworthy motor vehicle
UPPR	Use of premises for prostitution
URMC	Use unregistered motor cycle
URMV	Use unregistered motor vehicle
UCMO	Utter counterfeit money
UTTE	Uttering
VAGR	Vagrancy
VCHE	Valueless cheques
VARI	Various offences
WDRO	Wilful damage - regulatory offence
WDVE	Wilful damage - vehicle
WDAM	Wilful damage/destruction
WEXP	Wilful exposure
WOUN	Wounding

References

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- Lynch Metal, 2003 *Youth Justice Criminal Trajectories* Crime and Misconduct Commission Research and Issues Paper Series Number 4, July 2003