
Chapter Two

The New Zealand Model of Family Group Conferences

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Its different. Instead of going to court, your parents give you punishment.

In the past there have been a number of different approaches to dealing with young offenders. Two main models which contended for legislative implementation internationally in the 1950s and 1960s were the crime control model and the welfare approach. Both have been criticised theoretically and practically. Despite their differences, both led to young people being placed in institutions, either for "their own good" or for punishment.

Recently it has become apparent in New Zealand, as elsewhere, that the institutionalisation of large numbers of children and young people is damaging to them, ineffective in preventing delinquency and quite unjust. Thus the new approach emphasises the need to keep children and young people with their families, in their communities and in contact with their culture. It also follows international trends in emphasising:

- **"justice"** This includes accountability for offences, equality, and proportionality of punishment and an emphasis on due process. Another related feature recognised in the New Zealand system as important for accountability is that time frames should be realistic so that young offenders can associate the punishment with the offence, repay their debt quickly and then proceed with their lives, putting the past behind them.

- **diversion, decarceration and destigmatisation** Related to the notion of a "justice" model is an emphasis on frugality of penalties, avoiding processes that label and stigmatise, and avoiding the use of institutions unless they are required for public protection.

At the same time, New Zealand has affirmed some aspects of the welfare model by including goals of:

- **enhancing well-being and strengthening families** The New Zealand system, while rejecting the notion that the recognition of "welfare" needs should stand in place of accountability or lead to removal from the family and the community, emphasises the importance of providing support for young people and their families. The expectation is that this will decrease the chances of re-offending and provide a system which is consistent with the best interests of the child.

In addition, the Children, Young Persons and Their Families Act (1989) contains some important new elements:

- **victim involvement, mediation, reparation and reconciliation** Worldwide there has been a trend towards increasing the involvement of victims in criminal justice processes by better provision for their needs through the opportunity to obtain reparation. Trends towards mediation also allow for victims' involvement in outcomes and the opportunity for reconciliation. The potential benefit of mediation for offenders is that it enables them to understand the consequences of their offence and to express remorse. This compares with John Braithwaite's (1988) concept of "reintegrative shaming". In the New Zealand juvenile justice system, these concepts have been given a practical meaning which extends beyond that incorporated in other jurisdictions.
- **family participation and consensus decision-making** This approach emphasises that families and young people should participate in all parts of the decision-making process and be party to outcomes agreed to by all who are involved, including the young person, the family, the police and the victim. The origins for this lie both in the notions of empowerment and control through participation that have been emerging in the psychological research on treatment effectiveness and also in the traditional Maori hui (meeting) in which decisions are taken collectively by all those

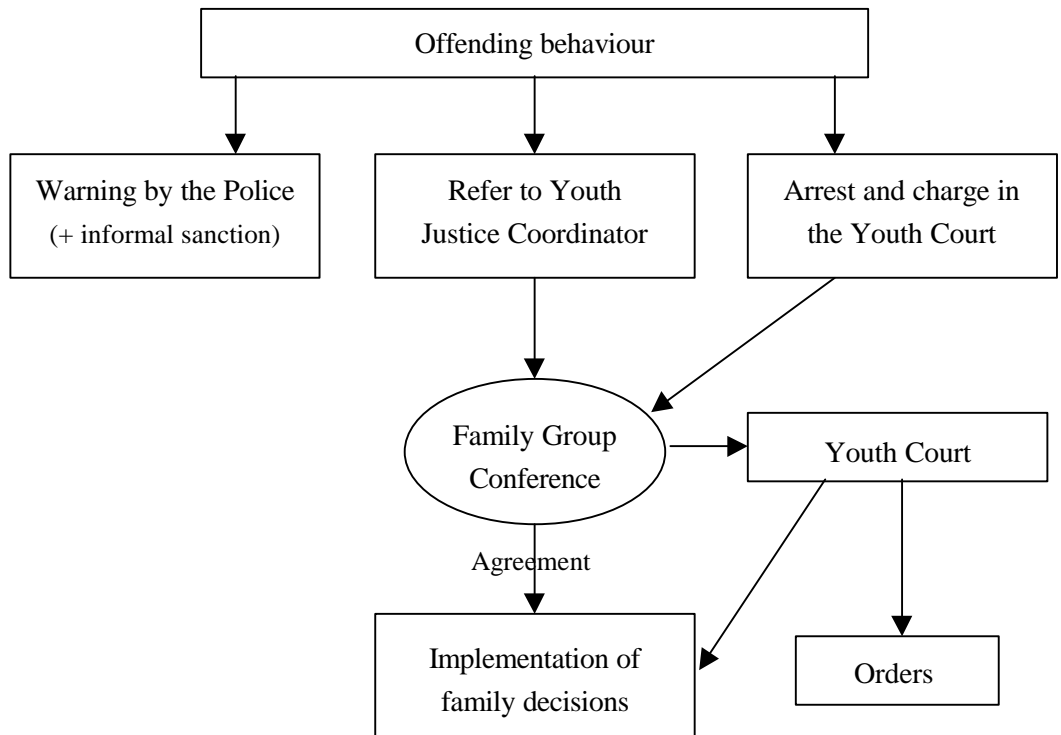
involved including, depending on the seriousness of matters, extended family (whanau), clan (hapu) and tribe (iwi).

- cultural appropriateness** Procedures and services are to be appropriate to the culture of the families and young people including decision-making processes and the arrangements that are made for accountability and enhancing well-being. The political determination to redress the history of Pakeha (people of European origin) domination of a country which was founded on a bi-cultural treaty has come about in response to Maori demands and in response to increasing recognition of the injustice and damage to Maori during the last 150 years of New Zealand history.

The Process

Figure 1 sets out the way the system responds to offenders. The family group conference (FGC) deals with all those offenders whose offences

Figure 1: Youth Justice. Pathways through the System



are considered by the police to be too serious or persistent to be dealt with by warnings and informal police sanctions (such as apologies). There are two routes to an FGC, either by a "direct referral" to a Youth Justice Coordinator (YJC) or, when there has been an arrest and charges have been laid, by referral from the Youth Court. In all these cases, the FGC makes recommendations on the outcome. When a case comes through the Youth Court originally, the recommendations of the FGC go to the Youth Court for approval before implementation. Cases may also be decided by the Youth Court if the FGC recommends it or if there is no agreement.

The Family Group Conference

At the heart of the New Zealand system lies the family group conference. The FGC is a meeting at a time and place chosen by the family and attended by the young person, the family (including the wider family), the victim, the police, the youth advocate (young person's lawyer), where one has been appointed¹ and any other people whom the family wish to have present. It is arranged by the YJC who acts as facilitator and mediator between family and the police, although the YJC can invite others to act as facilitator (especially if this is culturally important). Usually, after the introductions and greetings, the police describe the offence and the young person admits or denies involvement. If there is no denial, the conference proceeds with the victim describing the impact on him or her of the offence. Views are then shared about how matters could be set to rights. The family deliberates privately after which the meeting reconvenes with the professionals and the victim to see if all are agreed on the recommendations and plans advanced by the family.

The FGC is both the central forum for decisions and plays a principal role in achieving the goals of the system:

- **justice** The main method of achieving accountability in the new New Zealand system is through an FGC which, if it agrees, has the power to decide or, in court cases, recommend to the court on appropriate penalties. The new Youth Court's role is limited except when there is a lack of agreement at the FGC or when the charges are denied or in the most serious cases. When cases go directly to an FGC without first being referred by the court, the FGC provides a method of hastening the usually slow court process.

¹. A youth advocate is automatically appointed and paid for by the state when the case has come through the Youth Court.

- **diversion** In the New Zealand system there is increased use of police "diversion" through warnings and the use of informal sanctions. But the FGC is itself a new method of diversion which is available for the persistent offender and for those who commit the more serious offences.
- **victim involvement** In New Zealand, traditional Maori practice involved the victims, the offender and the families of the victim and the offender, firstly, in acknowledging guilt and expressing remorse and, secondly, in finding ways to restore the social balance so that the victim could be compensated by the group and the offender could be reintegrated into the group. Both pressures to allow Maori to return to their own system of justice and the increasing attention to victims in New Zealand has led to victim involvement becoming an integral part of the new system for dealing with young offenders. Unlike practice in other jurisdictions, the involvement of victims has not been limited to merely minor offences and first offenders. All offences committed by juveniles, excepting only murder and manslaughter, now have an FGC which the victim is entitled to attend and which occurs before the court proceeds to deal with the case.
- **enhancing well-being and strengthening families** The FGC is also the forum in which the needs of young people and families can be discussed and where plans can be developed which will provide access to funds for services and programs which are intended to achieve these goals.
- **Family participation and consensus decision-making** are provided for through the FGC which is intended to provide a forum which is sufficiently informal and relaxed to give real meaning to the participation of families and young people. The use of a Youth Justice Coordinator (YJC), who is effectively a mediator between the family and young person on the one hand and the police and the victim on the other, is intended to enable consensus to be reached.
- **culturally appropriate** And, because the process is not strictly defined, it provides a way in which each culture can, potentially, adapt the justice process to fit its own spirit, philosophy and procedures—for Maori, to their own kaupapa.

Evaluating the System

From 1990 to 1992, we were involved as principal researchers in a project evaluating the new system in five areas of New Zealand. The sample included almost 700 young people who came to the attention of the police. FGCs were arranged for over 200 including 70 who appeared in the Youth Court. The research followed the experiences of these young people. It involved attending FGCs, and interviewing YJCs, police, youth advocates, families, young people and victims. The research covered all those who came to notice in a three-month period in five different districts. Maori, Pakeha and Pacific Island interviewers were involved and, as much as possible, they each interviewed families and young people of a similar ethnic group.

The research was designed to describe the process, examine how decisions were taken by the police, by FGCs and by the Youth Court, and to assess the extent to which the Act had succeeded in meeting its principal objectives. The results are reported more fully by Maxwell and Morris (1993).

This chapter concentrates principally on describing how the FGCs operate—both in theory and in practice. It describes the YJC's role and how FGCs are organised (including how they are set up, who attends them, how decisions are reached and what options there are). The views of young people, families and victims who have actually attended FGCs are also presented. The tables and some of the text are drawn from Maxwell and Morris (1993).

The Youth Justice Coordinator

The YJC has overall responsibility for ensuring that the objects and principles of the Act are being met. In a sense, the YJC is the guardian of these. The YJC also has a number of very specific tasks in relation to the arrangements for FGCs and, in carrying out these tasks, he or she is helped by a team of youth justice social workers. The YJCs are the managers of the youth justice system, information providers and facilitators, and mediators between young people, their families and the police, and between young people, their families and victims.

YJCs are recruited from a range of backgrounds, including social workers, probation officers, and the prison service. They are appointed by and are officers of the New Zealand Children and Young Persons Service (CYPS) within the Department of Social Welfare (DSW). Over half identify as Maori, others are Pakeha or Pacific Island. The majority of Maori young people attending FGCs will have Maori YJCs, but far fewer

Pakeha or Pacific Island offenders will have a Pakeha or Pacific Island YJC. In practice, a complete match between the ethnicity of the YJC and the young person and his or her family is not possible given staffing levels. It is, therefore, important for YJCs to have access to quality advice on cultural issues from members of the Maori community, both tangatua whenua (local people) and tauiwi (people from another tribal area), and from members of the various Pacific Island communities. This is true whatever the ethnicity of the YJC, because YJCs need appropriate links to be able to find family and tribal or community connections for those who have become separated from their origins, culture or community. To facilitate FGCs effectively, YJCs also need to have the ability to understand and work appropriately in accordance with the cultural values of those attending.

Arranging the FGC

Time frames

The Act requires that FGCs should be held within 21 days of the YJC receiving the referral when it is a non-court referral and within 14 days when it is a court referral. It is not always possible to meet these targets. Less than one-half of the FGCs in the sample took place within the required time limit although two-thirds were convened within a week of the due date. If only the court referred cases are examined, the percentage of cases which met the statutory time frame was slightly higher but still surprisingly low: just over a half. There was also considerable regional variation in meeting time limits. There are a number of reasons for delays: families and victims can be difficult to contact, and work-load pressures and staff shortages in CYPS can be impediments. In addition, some of those arranging conferences felt it was important to take more time to adequately prepare families and victims or to contact whanau or the extended family, especially when they lived out of the area.

Inviting participants

The entitled participants of the FGC include: the young person, a family member, whoever the family invites, a coordinator, a victim (if the victim wishes to attend or alternatively someone who can represent the victim), a representative of the police, a youth advocate where the young person has been referred by the Youth Court,² and a social worker where the young

² It is possible for a YJC to make a case for the appointment of a youth advocate for a direct referral. The research did not find any cases where funding had been made available for this.

person is already in care. One of the first tasks for the YJC is to determine who exactly are the people who should be invited. Usually the YJC or a youth justice social worker will talk with the immediate family and ask them their views. Sometimes the family may be reluctant to involve wider family. However, especially when there has been serious offending or previous offending, the YJC's job is to try to make sure that wider family or family friends and supporters are involved both to help reach decisions and to provide ongoing support to the family and the young person. It is the duty of the police to supply information on the victims who should be invited.

Time of meeting

FGCs should be arranged for a time that suits the family and victims. In the sample, most FGCs were held between 9 am and 4 pm on a weekday. This may have been the preference of families but it may also have been to suit the police, YJCs and other professionals who seem to prefer to attend FGCs during normal working hours. Some FGCs, however, were held in the evening and a few were held at weekends.

Venue

The most common place for an FGC to be held during the period of our research was in a room in the DSW office. It is, however, possible to hold an FGC in the offender's home, on a marae (Maori meeting house) or, indeed, anywhere where the family chooses. Families and young people often feel more at ease when the FGC is in their own home or on the marae.

There were often difficulties in holding FGCs in DSW premises. The research found that they were either too large or too small for the size of the group; were sterile, cold and intimidating; lacked privacy; and coffee or tea was not usually provided. As one parent put it: "I found the environment a bit intimidating". Holding the FGC at the home of the family is also one way of helping families feel that they are truly involved in deciding what should be done as a result of the offence. Furthermore DSW offices lack the kind of setting that may link Maori and Pacific Island families to their culture and communities. An even greater involvement might occur for Maori if the FGC was more often held on the marae. However, there is a potential problem here in that the setting that is most comfortable for families may be less comfortable for victims.

The Act's intention was that families would be consulted about time and venue but families often do not realise that they can choose where and when the FGC should be held.³

Procedures

Other arrangements for the FGC that need to be considered are the procedures to be followed at the conference itself. It is important to recognise that the time to consider what the family wants is prior to the FGC. For instance, families may want to consider:

- who should run the FGC (while this is usually the YJC it is possible for the family to ask someone else to do this);
- whether or not they want prayers;
- whether or not greeting should be in English, Maori or another language;
- whether or not food and drink should be served and at what point.

Preparation

A successful FGC needs the various parties involved, particularly the families and victims, to be well prepared for the meeting and to be provided, in advance, with information on both what is going to happen and possible outcomes. Neither is likely to have had any or very much prior experience of such a meeting and is unlikely to know what to expect.

At the FGC, families will have to "come up with" appropriate sanctions for their children's offending. Some YJCs provide families with information beforehand and encourage them to check out local programs themselves. During the research, however, many families arrived at the FGC not knowing where to start. They were unfamiliar with what options there were and, in particular, what resources, programs or facilities were available to them locally. Without adequate briefing prior to the FGC about possible outcomes, parents and young persons are likely to follow the suggestions of the professionals rather than come up with some plan themselves. But briefing itself can script the outcomes. Thus effective briefing needs to canvas a wide range of options and avoid suggestions that are very specific. Knowledge is power and if families are denied or given limited knowledge about possible outcomes then they are in effect denied or given limited empowerment.

³. An amendment to the Act is currently before Parliament which proposes that victims should also be consulted about the time and venue of the FGC.

The interview data indicated the need for better briefing not just of families, but of victims. Victims have to be told what to expect in their immediate role at the FGC and what it might be like to meet the offender in person. And victims need to be encouraged to come to FGCs with realistic expectations. In one area a very high level of attendance by victims occurred because the local victim advocate contacted all victims and told them that their chances of reparation were higher if they attended. In reality, the majority of the families had limited financial resources and if victims were led to believe that their attendance would secure reparation, then they would be greatly disappointed.

Attendance

The average number of people attending the FGCs in the sample was nine; the smallest number was two and the largest was thirty-nine. For almost two-thirds of FGCs, the number was between five and ten. Ethnicity made a difference; the largest Pakeha FGC included eighteen people but several Maori FGCs exceeded this number, with the largest being thirty-nine. On average there were eight people at FGCs for Pakeha young people, nine for Maori and ten for Pacific Islanders. Table 1 presents information on who was present at the FGCs in the sample.

Families and Young People

Contrary to the expectations of some, most young people and their families attend FGCs; non-attendance is very rare.

Table 1: Summary of Research Findings on who was present at the Family Group Conferences, New Zealand

Person present	% of FGCs
Young person	96
Parent or carer	98
Whanau or extended family	39
Siblings	21
Family supporter	19
Victim or victim's representative*	46
Enforcement agency	94
Youth advocate*	59
Social worker	62

*Where applicable

The new Act encourages the involvement of whanau and the family group in responding to young people's offending. This is viewed as culturally appropriate since the young person, certainly in Maori terms, is the child not simply of the nuclear but also of the extended family. Hence, whanau (and hapu and iwi) have both rights and responsibilities with respect to the development of that child. Whanau and the family group can also provide support and advice in dealing with young people's offending where parents wish that support and advice. Overall, whanau or the extended family attended about two-fifths of the FGC cases in the research sample. However, they tended to be more often involved in cases involving re-offending, in court-referred cases, and in the more serious cases. There was also a tendency for a larger number of extended family to be present in those cases where more than one FGC was held before a resolution was reached. In fact, FGCs were often put off to enable more family members to attend. The research also indicated that whanau involvement tended to be greater for Maori than was the involvement of the extended family for Pakeha. The involvement of aiga (wider family group) for Pacific Islanders was intermediate between that of Maori and Pakeha. The main value for families wanting whanau or the extended family to be present is the support they can offer to both the young person and their immediate family.

Other support people can also attend FGCs—for example, brothers and sisters, family friends, teachers, youth club organisers and the like. The presence of these people who are concerned for the young person is important, in providing both immediate and longer term support, and understanding.

Victims

Providing victims with a voice in how to deal with those who have committed offences against them is a key ingredient of the new system and a major way of achieving this is to encourage victims to attend FGCs. Almost all the victims who were interviewed welcomed the opportunity and indicated that either they had attended the conference or they would have been pleased to do so if that had been possible. Fewer than 4 per cent of victims said that they did not go to the FGC because they did not want to meet the offender. In practice, however, less than half of the FGCs in the sample were attended by at least one victim. The reason that so many did not attend is explained quite simply by their not being invited, not being told of the FGC soon enough or not being able to come at the time chosen.

Victims expressed to us a range of reasons why they decided to come to the FGC. These included: a consideration of their own interests; a willingness to help or support the young person; a belief that victims should be at such meetings; and a sense of duty and curiosity.

From the research it seems that victims are more likely to come to FGCs held on or after 6 p.m. This suggests that they may not want to take much time off work or give up their time just after work. There was no evidence that victims were less likely to be present at FGCs which were held at the offender's home, but it was not possible to test whether or not victims were less likely to attend FGCs which were held on marae.

Professionals

Most FGCs are attended by a representative of the police; this is usually a Youth Aid officer. The court-appointed youth advocate should be present at FGCs held for young people referred from the Youth Court. This was not always so in the research. Youth advocates were present in less than two-thirds (59 per cent) of these cases, often because the time was considered by them to be inconvenient.

The role of the youth advocate at an FGC has not been set out in the legislation. Most, however, saw their task as including that of ensuring that any summary of facts was an accurate record agreed to by their client and that excessive penalties were not recommended. In other respects, advocates varied in the way they participated and many were uncertain about their role at this meeting.⁴

There is provision for a lay advocate to be appointed and to be present at the FGC. Lay advocates can be appointed by the Youth Court to advise the court on cultural matters and, in the FGC, they can help to ensure culturally appropriate arrangements and outcomes. Although there were no lay advocates at any of the FGCs for young people involved in the research, when present, lay advocates are said by YJCs to have been very helpful.

Social workers are only entitled to be present at FGCs when the DSW has some official responsibility for caring for the young person. The reason for limiting the attendance of social workers is that the new system reflects a shift in emphasis from offenders' welfare to their accountability. However, in practice, social workers are present at many FGCs where there is no statutory justification for their presence. Overall, in the sample,

⁴ At the time of the research, little training had been provided to youth advocates. Debate has also occurred about the extent to which they should become involved in what is primarily a family decision-making process. No clear guidelines have yet emerged.

62 per cent of FGCs had social workers present; this ranged from just over a quarter in one area to 84 per cent in another. Of all the DSW areas visited, only three reported that social workers rarely attended FGCs. There were a range of reasons for this but most were not in tune with what the Act intended and, in particular, were contrary to the shift towards family control over decision-making. Nor, from research interviews, was this in accord with the expressed wishes of the family.

Procedure

Usually the YJC facilitates (conducts) all or almost all the FGCs. It should not really be possible to describe the procedures adopted at a "typical" FGC, for the intention in the Act is to allow families to develop their own. However, in the main, routine procedures have been developed which are followed in almost all cases and so a common pattern can be described.

The most usual beginning for FGCs is for everyone to introduce themselves, although in some areas this may be preceded by prayers or a *karakia* (a blessing) and a welcome in Maori. The coordinator then explains the procedure to be followed, invites the Youth Aid officer to read the summary of facts and then asks the young person whether or not these are accurate. If the information is incorrect, it may be possible to correct it there and then. If the young person denies his or her responsibility for the offence, however, the FGC then stops and the matter is referred back to the police. If the police still think that the young person committed the offence, the matter will go to the Youth Court by way of a summons. If the young person admits the offence, the FGC can proceed and the coordinator usually then asks any attending victim to speak. If a victim is not present, someone else, usually either a victim's representative or the youth aid officer, reports on behalf of the victim (in some areas this is done by a youth justice social worker). Some victims felt uncomfortable about speaking, often because they had not been adequately prepared for what would happen. Well prepared or well briefed victims, on the other hand, often played a very positive part in the proceedings, enabling the young person to understand the consequences of his or her actions, and suggesting suitable ways of making amends.

The primary focus in FGCs is intended to be the offence and the young person's accountability for it. The research observations confirm that this is what happens in most cases. This does not mean that discussions never focus on attempts to understand the reasons why the young person committed the offence or the circumstances surrounding it, but this is not usual.

Following a general discussion amongst all the participants about possible outcomes, families should be given the opportunity to discuss in private how best they feel they can respond to their child's offending. In the research, however, there were many examples of a failure on the part of professionals to withdraw during the FGC and to give the families some time on their own. Overall, professionals did not withdraw in 42 per cent of the FGCs in the sample. Regional variation was enormous, ranging from 5 per cent to 63 per cent.

Whether or not the professionals have withdrawn, it is the family's task to come up with a "plan" at this stage. There may be some further discussion or negotiation after this with the non-family members. Details are arranged regarding who will supervise and check on whether or not the plans are carried out. The YJC then seeks agreement from the police and from any victim who is present. The agreed plan is recorded and the meeting closes, sometimes with a prayer.

FGCs take much longer than the few moments required for the average court appearance. In the research, just under a third took less than an hour, but almost a third took between an hour and an hour and-a-half while more than a quarter took between one and a half and two hours. Around 10 per cent took more than two hours. FGCs also differ from the court process in that they are frequently resolved in one session. Additional FGCs may be required, however, for a variety of reasons including: the absence of the family or young person, seeking more time to involve the victims, attempting to invite more family and allowing the family more time to think about options.

What has been described so far is the "typical" FGC. But families have their own preferences—for example, whether or not there should be prayers, whether or not there should be food provided and who should facilitate the meeting—and they should be consulted about these matters. It is possible to move from the format outlined and, indeed, the Act intends this. In the research there were examples of FGCs working in a very different way for Maori families.

Outcomes

The primary purpose of the new system is to make young people accountable for their offences by encouraging them to take responsibility for their actions, to make good the damage that was done, or to accept a penalty. In practice, this is most likely to mean that the young person apologises, pays reparation or makes a donation to a charity, undertakes some type of work (in some cases for the victim) or accepts some form of restriction on their liberty such as a curfew, grounding or an agreement not

to drive. In some cases, warnings are given or there may be an agreement about what will happen if the young person re-offends. If the people at the FGC cannot agree about this, then the case is likely to be referred to the Youth Court. The FGC may also agree to refer the matter to the court for orders.

National data and the research data confirm that by far the majority of outcomes reflect responses to young people's offending rather than to their welfare needs. Overall, the most common outcomes were apologies (in 70 per cent of the cases) and work in the community (in 58 per cent of the cases). When work in the community was imposed the number of hours ranged from two to 200; the average was 65 and the most common was 48. These hours are quite high compared with the hours of community work in adult diversion schemes which do not normally exceed 50. However, many of the cases dealt with at FGCs are moderately serious, for example burglary and car theft.

Given the focus on victims in the legislation, it is perhaps surprising that little of the work in the community is done directly for the victims. In the research, less than a quarter was directly for victims. This may be, in part, because victims prefer not to have direct contact with the young person. However, when the victims were actually present at the FGC and there was a decision to arrange work in the community, it was more frequently arranged for the victim or for a group or person suggested by the victim.

Overall, reparation is not widely used. Both the national data and the research data indicated that it was agreed to only in about one-third of cases. To some extent, this indicates the limited financial resources of the families concerned, but of course in many cases the goods taken are recovered or the offence is not one where reparation is appropriate. Reparation was awarded slightly more frequently at FGCs in the sample where the victim was present but it was still only just over 40 per cent, which gives little support to the belief that the victim's presence is more likely to ensure reparation. Orders for supervision with residence and supervision with activity were the least common penalties recommended in the sample: 2 per cent and 3 per cent respectively.

"Active penalties" is a phrase that describes any one of a group of penalties including work in the community, monetary penalties, donations and restrictions on liberty. These are summarised in Table 2. This shows very clearly that the majority of young people are held accountable for their offences. Real and sometimes quite heavy penalties were agreed to at almost all the FGCs in the sample.

Table 2: Summary of research findings on FGC outcomes, New Zealand

- "Active" penalties were agreed to by **83 per cent** of the young people involved in non-court referred FGCs.
 - "Active" penalties were agreed to by **89 per cent** of the young people involved in court referred FGCs.
 - If "apologies" are added, the figures become **95 per cent** and **94 per cent** respectively.
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This focus on offending and accountability is what was intended. Sometimes, however, FGCs made recommendations which not only tried to make the young person accountable but also addressed other needs. About a quarter of recommendations in the sample were about the work, educational or skills needs of the young people concerned and a fifth advocated some measure of support and counselling for the young person.

Although the legislation did intend that the issue of the well-being of the young person should be addressed, we also observed many cases where welfare needs were not adequately met by the recommendation and sometimes they were not explored at all during the deliberations. A discussion of this tension between welfare and accountability is included at the end of this chapter.

The Views of Families and Young People

There is no doubt that families and young people feel more involved now than those families and young people who were part of the former court process. In previous research by Morris and Young (1987), families and young people saw the court as alien, remote and frustrating. They described their participation as rare and their communication as routine and felt that they had wasted their time. In the research, more than half the families and more than a quarter of the young persons interviewed felt that they had been involved in what happened at the FGC. A typical response by a young person follows:

It was quite open and quite good . . . you get to talk openly. It's not as if there's any pressure on you.

Similar views were expressed by parents who emphasised the freedom to speak openly; they felt that they were treated with respect and that:

Everything that should have been talked about was talked about . . . we shared what we had to say . . . excellent.

On the other hand, more than a third of the young people interviewed (though less than a fifth of parents) said that they had not been involved in what happened. The responses of these young people are perhaps best summarised by the boy who said: "I didn't know why I had to be there". Other young people answered questions about their involvement in the FGC in a way which indicated that they were either excluded by the adults present (literally by the adults ignoring them almost entirely or by the way in which adults asked questions) or that they did not feel able to participate because of feelings of shame and embarrassment, or simply because they did not know what to say.

The presence of victims at FGCs was generally accepted by the parents and young people interviewed. This was seen as important for potentially reconciling the victim and the young person, and for contributing to teaching the young person to accept responsibility and to be accountable for what he or she had done. The following quote from a parent sums this up:

I really enjoyed being in the meeting as a father. It's great to have the victims as well, and that makes me feel better. I listened to their concerns and everything they said. I felt for them and the pain and hurt they have got. The input that they had . . . taught me a lot . . . I won't forget it.

Young people also referred to the impact and value of the victims' presence:

I didn't want to see the victims but it did have an impact, especially seeing the elderly victim.

In a few cases, however, the victim's presence was not seen as a positive influence; rather it was seen as inhibiting discussions. Indeed, on a few occasions, it was viewed as counter-productive:

The only bad thing was the victims . . . us against them . . . made everyone edgy.

I didn't like the first meeting with the victims, I felt very defensive. They wanted to send my son to prison and that made me feel protective.

These comments underline the extent to which the emotional nature of these encounters is inevitable. Nevertheless, feelings may be able to be

better managed if families and victims know more about what to expect at FGCs.

Who decides?

Parents in particular and to some extent young people are intended to have much more say in the new system. Parents and young people in the sample were asked their views on "who decided" the FGC outcome. The most frequent response by the young people was their family or both their family and the professionals. Few young people identified themselves as having decided. And when asked specifically about their involvement in the decision made about the outcome, young people mainly indicated that they had *not* been a party to the decision. As before, they indicated either that adults had not allowed them to decide or that they themselves did not feel it appropriate for them to decide. Parents, on the other hand, were much more likely than their children to identify themselves as the decision-makers. Overall, this occurred in more than two-thirds of the cases.

A disturbing feature here is that the professionals alone were identified as the decision makers by 15 per cent of the families. The police, in particular, were often identified as determining the outcome and this underlines the fact that the FGC is still, essentially, a mechanism of state control.

The police [decided]. The family decision ended up being based on what the police were insisting on after the previous decision was thrown back at us by the court. The judge wasn't supporting the family at all. We thought \$1000 reparation was a reasonable penalty for two burglaries. It destroyed our faith in being able to make decisions. The family were left with nowhere to go by the police and the judge's attitude.

Parents, nevertheless, do have more say in the FGCs than they previously did in the courts or before Children's Boards. Nevertheless, there are still question marks over the role of some professionals in both shaping and determining outcomes.

Victims' Views

The theory underlying the bringing together of victims, young offenders and their families is to effect a reconciliation between the parties. It is intended that the offender should accept responsibility for the wrong done to the victim and should offer to make amends to the victim. In particular, it is intended that attendance at the FGC should, in part, be a healing experience for victims. There is no doubt that some victims found attending the FGC and, more importantly, participating in the FGC,

helpful, positive and rewarding. Overall, close to 60 per cent of those who attended the FGC and who were interviewed by us said this. Generally, the victims who felt better as a result of the FGC said that they had been involved in, rather than excluded from, the process. They understood better what had happened and why. The meeting with the offender was sometimes seen as a cathartic experience; negative feelings about the offence and the offender could be released. Victims also commented on the "benefit" for them of giving them a voice in determining appropriate outcomes.

Not all victims, however, were as enthusiastic. Some victims clearly felt worse after attending the FGC. Overall, about a quarter of the victims who attended and who were interviewed said that they felt worse. The victims who felt worse expressed feelings of depression, fear, distress and unresolved anger. Some felt that they were seen as "the problem". Some saw the silence of the young person as conveying disinterest or even that "he seemed to be laughing at us". Others felt that their needs were being neglected at the same time as those of the young person and his or her family were being considered. Some reported that they felt a lack of support at the FGC. Overall, it was not so much the absence of reparation that caused distress as a failure to respond to their needs and a lack of a clear expression of remorse by the young person:

I felt worse . . . very, very angry. I was shaking. She didn't seem to care what she had done.

It is a mistake to assume that victims and offenders can simply be brought together without first careful briefing of the parties and without adequate training of coordinators to manage such an emotional and, by its nature, unpredictable meeting.

Satisfaction with the Outcomes

The Act intended all the participants in the FGC to reach an agreement about the appropriate outcome and this usually occurs. Ninety-five per cent of the FGCs in the sample were recorded as having reached an agreement; the national figure for 1990 was much the same. This means that, on the whole, participants are likely to be satisfied with FGC outcomes. Certainly this was so for most of the professionals, families and young people in the sample. It was not so, however, for victims. Table 3 summarises this information.

Table 3: Summary of Research Findings on Levels of Satisfaction with Family Group Conference Outcomes, New Zealand

Person	% Satisfied
Police	91
YJCs	86
Parents	85
Young people	84
Attending victims	53

Parents and young people

Overall, despite some concerns about how decisions were made at the FGC, levels of satisfaction with outcomes were very high amongst the young people in the sample and their parents. Only a few parents and young people actually expressed dissatisfaction with the outcome. With parents, the issue seems to have been either that their child "got off too lightly" or, more commonly, they believed that some kind of help or treatment which they considered necessary was not offered.

With young people, the issue was almost invariably how their outcome compared with co-offenders or, more generally, with their notion of appropriate penalties.

Victims

Perhaps not surprisingly, those least satisfied with FGC outcomes were the victims. Just over one-half of those contacted by us expressed some satisfaction with the outcome and nearly a third expressed dissatisfaction. Generally, victims who attended FGCs expressed both more satisfaction and more dissatisfaction than victims who did not attend. Often the non-attending victims were unaware of the eventual outcome, while others (both attenders and non-attenders) saw it as too light or doubted the genuineness of the written apologies they received.

The fact that many victims who had attended the FGC had strong reservations about the FGC outcome raises questions about the extent to which they were fully informed that their agreement was necessary for the outcome to be accepted. In one case, the victim was asked how she felt about a proposal for the boy to perform 150 hours community work. She replied:

Its disgraceful . . . not punitive. Even 200 hours community work to compensate for \$4,000 worth is like \$20 an hour payment. I get paid \$12 an hour . . . it's a let off, an easy option.

This was left hanging in the air. There was no further discussion of the penalty and the victim's disagreement was not mentioned in the official record of the FGCs recommendations produced for the Youth Court.

Although 95 per cent of the FGC cases in the sample are recorded as having had an "agreed" outcome, this does not sit well with the high levels of dissatisfaction expressed by victims or with the many comments recorded which expressed dissatisfaction with the lack of severity of the penalties.

This failure on the part of FGCs to satisfy victims may reflect the point made earlier about the lack of adequate briefing. If victims attend FGCs with false or unrealistic expectations, it is not surprising that they remain dissatisfied; for instance, victims may be unaware of the relatively moderate penalties that are normally handed down by the courts for similar offences and may believe that the court would have been more severe. Such perceptions may contribute to the fact that the goal of reconciliation between offenders and victims was not always met in the FGCs observed. However, another reason also became apparent; several victims were quite satisfied at the time of the FGC but became dissatisfied later, especially when they received no further information or promised reparation payments.

Reconciliation, however, did clearly occur on occasions. At one FGC, after tearful apologies had been made by both the youth and his family, there seemed to be a reluctance amongst the parties to leave the meeting. There were handshakes and embraces all round and finally a suggestion by one of the victims that the offender and his family join him for a meal at a later date. In another, the victim became very sympathetic towards the youth and, after the break, moved to sit by him in a symbolic gesture of alliance. In yet another case, victims who were initially very angry with the young person became supportive after spending half an hour with her on their own and subsequently offered to attend court with her. The researcher's field notes ended: "I feel privileged to have been at such a touching and effective FGC".

Cultural Appropriateness

The Act intended procedures for dealing with young people who commit offences to become more culturally appropriate. The research data throw some light on the extent to which this has been achieved. The Maori researchers involved in the project were concerned about the number of Maori FGCs that were held in DSW offices. They did not accept that these FGCs could be culturally appropriate for Maori or that Maori families could be empowered by such a foreign environment. They pointed to the

contrast when the FGC was held on a marae or even in the family's home if it was held in accordance with Maori kaupapa (customs).

The Maori researchers also commented on the extent of whanau participation and the conflicts and tensions that could flow from this. It has already been noted that whanau or extended family participation was higher for Maori than for Pakeha. To some extent this is a reflection of the fact that Maori more often retain strong links to their wider family. However, it also reflects the coordinators' belief that this is more important for Maori people. The researchers commented that many families felt whakamaa (a deep sense of shame) at sharing their problems with their whanau. But they also pointed to some Maori families who had only reluctantly allowed whanau to be invited but who were later grateful for the support provided because it enabled solutions that would not have been within the power of the household.

The Maori researchers also believed that it is important to go beyond the tokenism of including greetings and prayers in a different language. They argued, rightly, that cultural appropriateness is not achieved without handing the management of the process over to those who fully understand the culture. In Maori terms, this means running the entire FGC according to the Maori kaupapa (the word refers to both format and values) appropriate to that iwi. This does not mean that every Maori FGC should necessarily become a tribal matter involving kaumatua (tribal elders) and full whanau participation. In more minor cases, satisfactory solutions can usually be achieved in meetings involving the immediate family. However, where the offending is persistent or serious and where immediate family resources seem insufficient, the Maori researchers felt that the importance of careful preparation, the involvement of whanau, hapu and iwi, and the adoption of a Maori approach to the process was crucial.

An appraisal of the FGC process from the perspective of Pacific Island families and young people is difficult because of the variety of Pacific Island groups involved and the relatively small number of Pacific Island young people in the sample. However, there is little doubt that those researchers who attended FGCs involving Pacific Island families were concerned about the communication problems generated by the lack of adequate arrangements for an interpreter and by the general bewilderment of the families. In general, the cultural issues for Pacific Island families are similar to those experienced by Maori families but the difficulties created from having to relate to Pakeha processes not in keeping with their own cultural practices are almost certainly magnified because of the recency of their contact with NZ society and the extent of the language barrier for many.

Finally, families and young people were asked about the cultural appropriateness of the FGCs for them. There were two different types of response depending on whether the families and young people saw the process as Pakeha or saw elements that gave the process a cultural emphasis for them.

The Pakeha way

Some saw the process in Pakeha rather than Maori or Pacific Island terms but felt that this was not necessarily bad because they accepted the Pakeha nature of the world in which they lived. Other respondents felt differently and more negatively about the process remaining in Pakeha hands. For these young people and their families, a process based on their own cultural practices would have been preferable.

The cultural way

For other families, the presence of whanau, the opportunity to explore wider issues and the fact that they were able to have the FGC in their own home or on a marae was seen as part of what it meant to do things their own way. These aspects of the FGC were appreciated:

The setting is important—at home is good; it gives us back some power. It was great. The boys felt shame. We had a kaumatua there, there was a powhiri (Maori welcoming ritual), karakia (prayer), and kai (food). All could speak.

He (the offender) hadn't known Maori culture and now he will.

Only a few Maori explicitly disassociated themselves from attempts to create a Maori process.

In the research there were examples of both cultural process in action and cultural conflict in action. There were also occasions in which interpreters should have been arranged for the FGC and were not. Instances of breaches of protocol were also observed—for example, coordinators welcoming FGC participants in a way which would have been appropriate for an FGC held in DSW but which was quite inappropriate when the FGC was held in the family's own home, and coordinators not using kaumatua who were present to facilitate the FGC. Cultural advisers were rarely used. In the view of the Maori researchers, most of the FGCs they attended were instances in which the interpretation of the Act or neglect of the intent of the Act resulted in culturally inappropriate processes taking place. They saw this situation arising from ignorance of the Act, a dearth of resources and mismanagement, rather than from any inherent faults in the legislation itself.

Other Measures of Success

There are three further measures which can, to some extent, indicate the success or otherwise of the FGCs: completing the tasks agreed to at the FGC, the frequency of reconvening FGCs, and re-offending by the young people involved. Overall, where it was possible to obtain information on the cases in the sample (and in a few cases this was not possible), tasks were completed within three to four months in over half of the cases (59 per cent) and partly completed in a further 28 per cent of the cases. "Partly completed" means that most, but not all, of the tasks were done: for instance, cases where 80 of the 100 hours work in the community had been completed, or cases where reparation had been made but only some of the counselling sessions had been attended. In only 13 per cent of the FGCs in the sample did the tasks remain largely uncompleted. For the most part, these were where young people had re-offended.

FGCs can be re-convened in a number of situations: for example, if the young person did not complete the tasks agreed to at the FGC, or if he or she re-offended, or as a method of monitoring the young person's progress. Overall in the sample, only 18 per cent of FGCs were re-convened within three to four months after the original FGC.

Re-offending is not a particularly good indicator of the success or otherwise of FGCs. One problem is that re-offending may occur without being detected. Equally, offending may occur due to factors extraneous to the way in which the FGC responded to the young person. Nevertheless, information is provided on re-offending by the young people in the FGC sample because it is so often perceived to be relevant. Overall, less than a half (48 per cent) had re-offended within six months. It needs to be stressed here, however, that there was no information on the re-offending rates of young people before the Act and so it was not possible to make any effective comparisons. Some may feel that this figure for re-offending is too high. On the other hand, those referred for an FGC made up little more than a third of the total sample of 700 young offenders in the study and included those who had committed the most serious offences, had committed many offences or had a previous history of offending. Thus the fact that over one-half did not re-offend can perhaps be viewed as a positive result.

Conclusions

FGCs are new and it is hardly surprising that there are some difficulties in their implementation: too many FGCs are held in places and at times best

suited to the professionals involved in the system; victims who say they are willing to attend are not invited or are given inadequate notice; neither families nor victims seem to be given sufficient information regarding what the FGCs involve and what might be expected of them; procedures at FGCs cannot yet be described as culturally appropriate; and not all professionals have yet given up their control over information or decision-making. The fact that victims are the group least satisfied by the new system must also be a matter of some concern.

However, FGCs are clearly working far more effectively than was expected by those who dismissed the possibility that young offender's families would be at all responsive. Almost all the parents or care givers take an active part in the conference and, when offences are serious or persistent, extended family members are prepared to come and provide additional support and help. Victims are willing to attend and most of them play a constructive and helpful part. Agreements are reached in most FGCs about the appropriate outcome and, at the same time, young people are held accountable for their offences and remain, for the most part, with their family and in the community, with support to make a fresh start.

The research clearly indicated that Maori, Pakeha and Pacific Islander alike became distressed when FGCs were not adequately set-up or managed. However, families from all ethnic groups at times expressed appreciation of the informality of FGCs, the facility for all to express their opinions, the possibility of having the FGC in their own home and the opportunity to have family support available. Many families found the FGC far preferable to court as a method of reaching decisions and for involving them in the process. The comments quoted below summarise many of these views:

A great idea—we were really involved. It is an excellent idea to sort it out in the home and to involve families. (Parent)

I'm really pleased that it doesn't go straight to court like the old days. The kids are given a chance now. (Parent)

Really good. I got to see the victim, apologise and help her with money. The victim also got a chance to say things. (Young person)

I like the idea of the victim getting reparation. It is good to meet the victim, good to involve the parents. (Parent)

It was a good idea to meet the offender and his parents and understand how people got to be like this. I was angry at first but later I was sympathetic. I feel we decided the right thing. I preferred this system to the court. At the FGC you get to know what happened and to be involved. (Victim)

But FGCs are not to be judged simply by whether they are meeting practice goals, or even whether they are seen as satisfactory methods of decision-making in the eyes of the participants. Practice difficulties could, in principle, be remedied. And consumer satisfaction can never be the primary criterion of a criminal justice system. Ultimately, the most important criterion of success is whether the FGC is indeed, an integral and effective way of achieving the goals of the system. In this paper it is not possible to recount all the data from the study that bears on this question and these results have been described elsewhere (Maxwell & Morris 1993). However, a brief summary of the findings that relate to whether the Act achieves its objectives is listed below.

Meeting the Goals of Youth Justice in New Zealand

- **accountability** Most young people who commit moderately serious offences now pay an appropriate penalty for their crime (between 80-90 per cent) and most also make some attempt to make good the wrong they have done to others (penalties + apologies = 95 per cent).
- **reducing time frames** Time frames for FGCs are, mostly, realistic given the age of the child or young person. However, when the Youth Court is also involved, short time frames have not generally been achieved.
- **due process** The emphasis on the protection of young people's rights has not always been matched by the quality of practice by front-line police. Youth advocates often fail to attend FGCs.
- **diversion** Far fewer young people now reach the courts; when they do, most are dealt with without court orders and there are far fewer custodial sentences than in the past. The rate of Youth Court appearances has dropped from 67 per 1,000 in 1988 to 16 in 1990.
- **enhancing well-being and strengthening families** Making available services that will assist the young person and their family has proved problematic, principally because of a lack of services.
- **family involvement** Involving families and young people in making the decisions for themselves and taking charge of their lives is being achieved through the FGC process to a greater extent than ever before. Nearly two-thirds of parents are involved but only a third of young people.

- **victim involvement** Involving victims in the decisions about outcomes occurs in about half the cases.
- **consensus decision making** In 95 per cent of cases in 1990, decisions were agreed to by the family, the young person, police and victims, though questions can be raised about the reality of this.
- **culturally appropriate ways of resolving matters** Families can choose their own procedures and the time and place of meetings but the system does not always encourage this.
- **culturally appropriate ways of providing services** Developing and funding a range of services to suit different cultural needs and wishes and operated by people sensitive to that culture has proved a problem.
- **culturally appropriate penalties** Encouraging the creation of penalties which reflect different cultural responses has not yet been achieved.

As already noted, to some extent, the failures in the system are due to imperfections in practice. However, other problems stem from inherent conflicts between the multiple objectives. In particular, there is an inherent contradiction between making young people accountable and providing for their welfare needs, and in practice the latter tended to be neglected in favour of the former. Such a contradiction could be resolved by prioritising objectives. Alternatively, the needs of families and young people could be met independently of the youth justice system so that the FGC was no longer the gateway to services and programs.

A second conflict is between meeting the needs of victims and offenders. Inevitably this must involve a contradiction. Indeed overseas research suggests that this is true (Marshall & Merry 1990). Again it can be suggested that the limitation of the FGC in meeting victims' needs must be recognised and that services for victims be provided separately from the criminal justice system.

Two more contradictions are more difficult to resolve. Inevitably there is a conflict between a system designed to both achieve state control of families and young people on the one hand, and goals of participation and empowerment, on the other hand. Yet the participatory approach does result in families and young people feeling a sense of control over their own lives and being enabled, rather than disabled, by their contact with the system. Similarly there is an inevitable conflict between notions of equity

and proportionality of penalties in a system where decisions are made by families and victims who vary in their views.

A Last Word on Family Group Conferences

Much has been said about the FGCs' uniqueness, innovatory nature and potential for revolutionising youth justice systems, not just in New Zealand, but also in other countries. The FGC has been acclaimed as not only achieving appropriate and acceptable outcomes but as having other, more far-reaching, social and psychological benefits. It has been seen as the key to re-engaging families with their young people and providing ways in which, through shaming and remorse, there can be a reintegration into the family and the community: a community which includes the victim who can be released from fear and enabled to forgive the person who has caused the wrongs. It has also been seen as a way to incorporate and validate the alternative processes of different cultural groups within a Western justice system. It is easy to appreciate the appeal of the FGC for those who are advocates of sharing in decision-making because of the potential it has to empower people who might otherwise be disempowered and to restore power to those who have been disenfranchised from the system.

On the other hand, the FGC has been criticised as inappropriate for dysfunctional families, as basically more suited to Maori than to Pakeha, and as suited to Maori and the New Zealand social climate but not suited to other societies such as Australia and its Aboriginal people. Advocates of a crime control philosophy perceive it as a soft option, the police being powerless to deal with young offenders who are protected from the consequences of their actions. Others point to the FGC as yet another method of extending the control of the state over families and of Pakeha over Maori.

What is the truth? Such a question really has no answer—it depends on one's views. On the whole, we see the FGC primarily as a positive, yet moderately tough option and as one which could be adapted to other societies and to other cultural groups. It has the potential to help families who are having difficulties in finding links with those who can support them and to restore to young people a sense of identity and belonging. Enthusiasm is tempered by a recognition that it is impossible to expect the production of a magical event given the unrehearsed cast, a host of different directors and an unexplored script at every performance. But the problem is not that the FGC fails at times to deliver all that is hoped for but rather that, after all, it occupies, at most, only a few hours in the lives of these young people and their families. No single event can possibly

achieve permanent and lasting change however dramatic the impact and however emotional and real the feelings are that are generated at the time. Real and permanent change will depend on the development of those features of society as a whole that help young people and their families solve problems, avoid cycles of poverty and disadvantage and find ways of being productive and effective members of a society that values them. The challenge for New Zealand is to build towards these goals.

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