

YOUNG OFFENDERS ACT 1997

- ❖ Passed through parliament in June 1997
- ❖ Became law on 6 April 1998
(fully effective in May)
- ❖ Result of 10 years of trials and reforms to the juvenile justice system

WHAT IT DOES

- ❖ Establishes a legislative hierarchy of juvenile justice interventions - warnings, cautions, conferences, court
- ❖ Provides guiding principles
- ❖ Actively seeks to steer young offenders away from the court by directing them to the least serious form of intervention
- ❖ Introduces youth justice conferencing based on philosophy of *restorative justice*

HOW IS IT DIFFERENT FROM THE PREVIOUS SYSTEM ?

- ❖ Previously, police had the option of giving a warning or caution
- ❖ Under the act, young people *entitled* to have their matter dealt with by a warning, caution or conference, if their matter meets the criteria
- ❖ Police must justify each decision

Courts can also refer to youth justice conferences

Courts apply the same criteria as police

POLICE WARNINGS

- ❖ The least formal intervention
- ❖ For summary offences only,
with no violence or related issues eg swearing in public
- ❖ Given on the run
- ❖ Offender need not admit offence
- ❖ Police record the giving of a warning but record is inadmissible & not allowed to go on their criminal record
- ❖ Stats are kept

HOW IS A CAUTION GIVEN?

- ❖ By police and/or *respected member of the community*
- ❖ Normally at police station
- ❖ Young person and parents or other responsible persons attend
- ❖ Interpreters/experts
- ❖ Aim: to get young person to recognise seriousness of offending behaviour
- ❖ Record kept
- ❖ Young person may only be asked to give a written apology to victim but victim does not attend

YOUTH JUSTICE CONFERENCES

Based on idea of restorative justice:

- ❖ Affected parties develop an agreed response to the offence
- ❖ Emphasise restitution (not money) and acceptance of responsibility (not about shame)
- ❖ Respect needs and rights of victim and the offender
- ❖ Explore/ identify support mechanisms for the young person

LEGAL SAFEGUARDS

- ❖ Admissions must be made in the presence of an independent adult
- ❖ Police must advise child of right to obtain legal advice and where that advice may be obtained
- ❖ Cooling off period of 10 days.

HOW TO DECIDE WHICH OPTION TO USE ?

Depends upon the type of offence and:

- ❖ The seriousness of the offence;
- ❖ Degree of violence involved;
- ❖ Harm caused to the victim; And
- ❖ Whether the young person admits to the offence.

LEGAL ADVICE

LEGAL AID ADVICE HOTLINE

1800 10 18 10

Mon-Fri: 9am-12pm

Sat-Sun: 12 noon-12pm

Aboriginal Legal Services also provide legal advice

SPECIALIST YOUTH OFFICERS

- Located at each local area command
- Provide advice and information on juvenile justice issues
- Determine whether to refer a young offender to caution, conference or court, and consult with conference administrators on proposed referrals to conferences
- Authorised to administer cautions
- Attend conferences if necessary
- Contact point for conference convenors and other stakeholders eg ALS, legal aid, local youth sector
- Ensure LACs comply with Act



Conference Administrators

- **Responsible for:**
 - scrutinising and processing youth justice conference referrals from police and courts;
 - recruiting, selecting, training and supervising conference convenors; and
 - monitoring completion of Outcome Plans agreed at conferences (between 90 and 95% of all young offenders satisfactorily complete their agreed Outcome Plan)

Conference Administrators

- **Jointly responsible with local police Youth Liaison Officers for delivering Specialist Youth Officer training**
- **Report directly to the Director, Youth Justice Conferencing**

Training of Specialist Youth Officers

- **Over 1500 police officers have now undertaken competency based training on the Young Offenders Act.**
- **The training package was developed and is continually updated and now delivered at the local level as a collaborative exercise between the Police Service and DJJ YJCD.**

CONFERENCE CONVENORS



- Respected adults with sensitivity, common sense, ability to deal with young people and victims
- Impartial and independent
- Record checks undertaken
- Specially trained for this role.
- Employed on a fee for service basis by DJJ

How is conferencing going?

- In a study of youth justice conferencing published in 2000, the NSW Bureau of Crime Statistics and Research reported high levels of compliance with all statutory requirements with respect to the conduct of conferences except for the time frames within which conferences should, if practicable, be held.
- The levels of satisfaction with both process and outcomes for young offenders, their carers and victims ranged between 80 and 90 percent.
- At least 79% of all respondents said they were satisfied with the way their case had been handled by the justice system

Evaluation

- A recidivism study was released by the Bureau of Crime Statistics and Research on 8 May 2002
 - Study compared young offenders who had a proven court appearance in 1997 or 1998, with young offenders who participated in a youth justice conference in 1998
 - Recidivism is defined as participation in a later youth justice conference or a proven court appearance
 - A proven court appearance is defined as a plea of guilty or a proven offence
 - In general, the study found that recidivism following youth justice conferences is 15-22% less than recidivism following a proven court appearance

Bureau of Crime Stats Data 1998-2001

Intervention	1998	1999	2000	2001
Warning	2,537	8,472 (8,272)	13,389 (13,393)	20,265
Caution	5,616	7,459 (8,542)	7,626 (9,097)	9,465
Youth Justice Conference	508	1,075 (1,339)	1,070 (1,248)	1,148

Source: BOCSAR 2001 and 2002

Children's Court Appearances

Year	No. of Matters	Year	No. of Matters
1991-92	13,753	1996-97	16,113
1992-93	12,537	1997-98	15,672
1993-94	13,608	1998-99	13,672
1994-95	14,269	1999-2000	11,436
1995-96	14,759	2000-01	9,969

Source: Children's Court Information System

ATSI and Non-ATSI Diversion Rates 1998-2001

Year	% Diversion ATSI	% Diversion Non-ATSI
1998	16.58	33.35
1999	24.60	44.09
2000	26.64	51.90
2001	33.07	54.82
Overall	25.32	46.10

Source: EDW NSWPS

Overall Outcomes

- 30% reduction in court appearances
- Highest rate of diversion in NSW
- Majority of young people not re-offending after diversionary intervention
- Less than 5% receive more than two cautions
- No net-widening

Overall Outcomes Pt 2

- Compliance generally good
- Must concentrate on -
 - appropriate SYO making determinations
 - access to legal advice
 - explanation of consent and process
 - community (and internal) promotion
 - quality assurance role as YLO

Stories from conferencing:

- ❖ Three Aboriginal boys conferences for a series of property offences
- ❖ Participated in a joint project to paint two murals at local PCYC
- ❖ Project jointly run by local youth service, the youth justice conference administrator, and the local PCYC
- ❖ Project funded by a grant from the local Social Development Council

- ❖ Boys painted Aboriginal murals
- ❖ Boys learned about their cultural heritage through the course of the project
- ❖ The local paper ran a positive piece on the project, without identifying why the boys participated

More stories:

- ❖ Victim an 11 year old Aboriginal girl
- ❖ Suffered serious injury to her ankle when hit by a bottle that shattered on her leg
- ❖ Spent several months on crutches after micro- surgery
- ❖ Unable to 'tell her story' in words at the conference
- ❖ Convenor gave her paper and crayons
- ❖ She did pages of graphic drawings showing her experience of the offence and its aftermath