

“Seeing through a glass dimly”

What were young people thinking when they broke the law?



Justice Andrew Becroft
High Court of New Zealand

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LET THE LORD



JUDGE THE



CRIMINAL

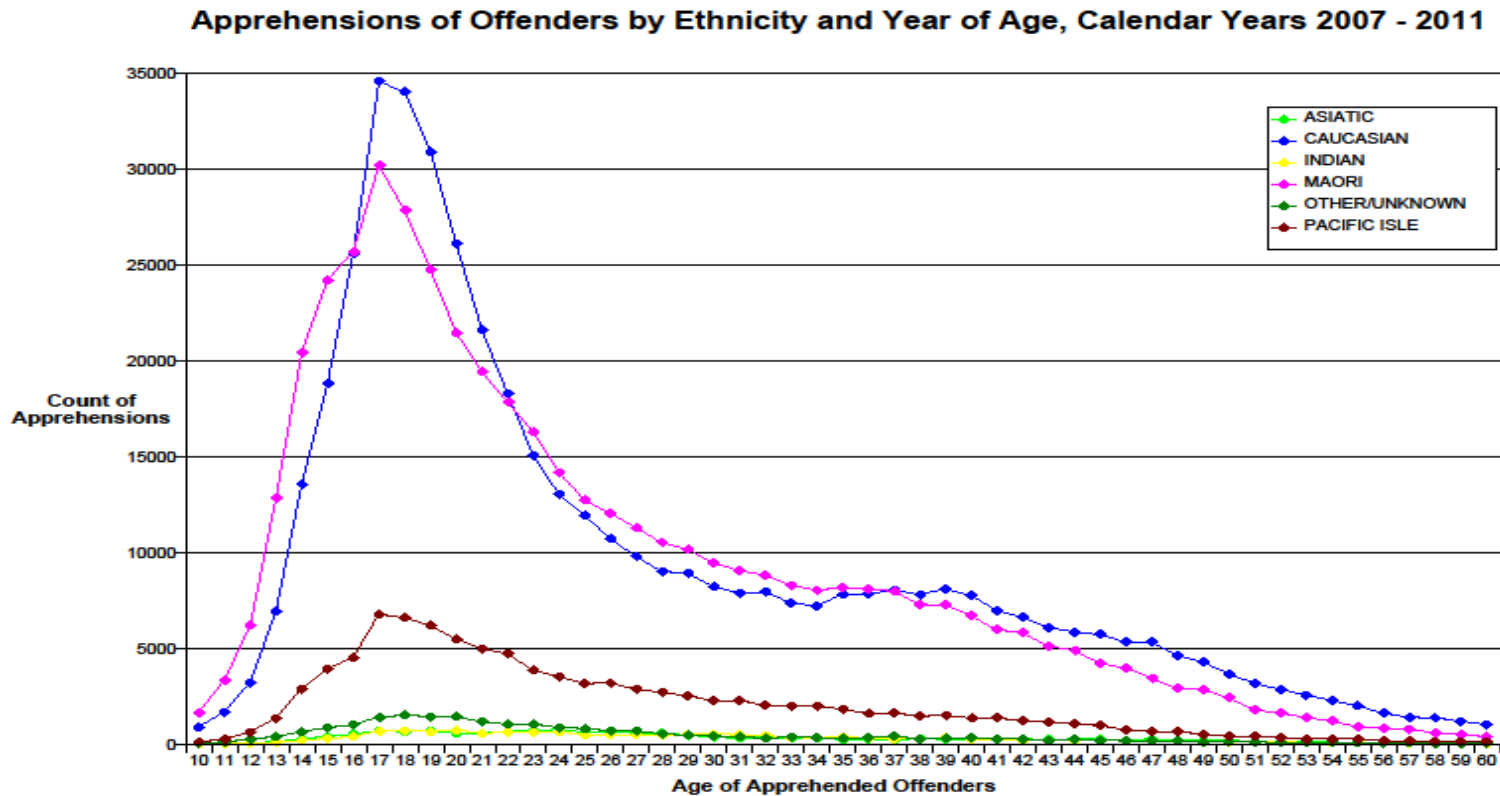


Outline

- 5 introductory points
- A focus on neurodiversity - “brain and behaviour issues” amongst young offenders
- 10 questions
- Conclusion



1. The pivotal importance of focusing on youth crime



2. All youth offenders are not the same

- As a generalisation – there are two types of young offenders
- Vital that we understand the difference
- First type: **The “adolescent onset” offender (desisters)**
 - The majority of youth offenders = 80% (?)
 - But may commit only 20-30% of youth offences
 - Usually only offend as teenagers
 - We can work with this group effectively in the community, usually without Youth Court intervention
 - This group of offenders is usually not charged, but some must be, especially if the offending is serious, albeit isolated



All youth offenders are not the same (cont)

- **Second type: “early onset,” “life-course,” youth offender (persisters)**
 - Small group (10% - and up to 20% of youth offenders)
 - The “unexploded human time-bombs”
 - But may commit 60% plus of youth offences
 - 1,000 at a minimum (NZ)
 - We know their names, and their families are known to many agencies
 - Comprise about 70% of those appearing in the Youth Court



**THE YOUTH COURT
OF NEW ZEALAND**
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“Persisters” – life course offenders

‘a substantial body of longitudinal research consistently points to a very small group of males who display high rates of antisocial behaviour across time and in diverse situations. The professional nomenclature may change, but the faces remain the same as they drift through successive systems aimed at curbing their deviance: schools, juvenile-justice programs, psychiatric-treatment centers, and prisons’ (1996:15).

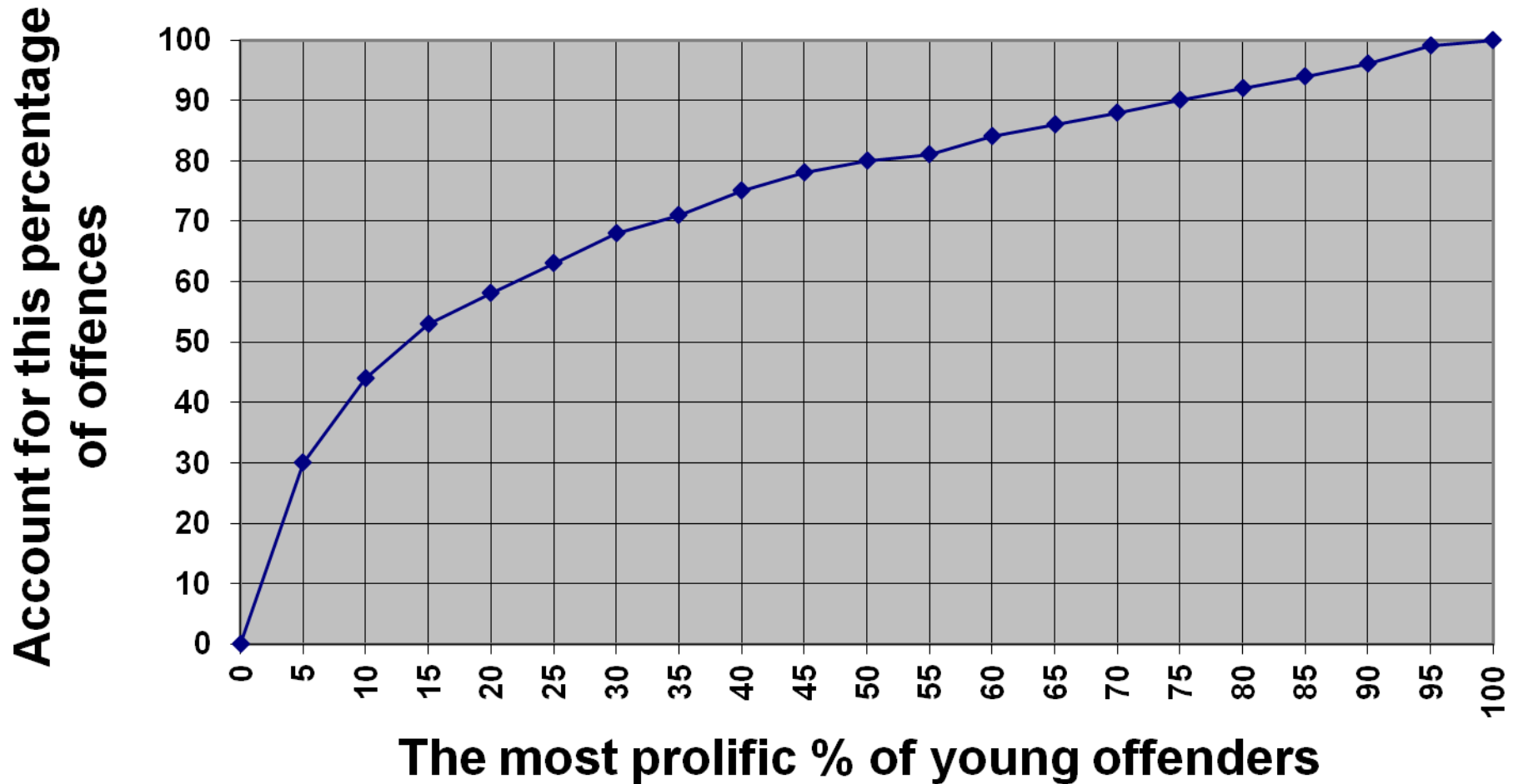
- Moffit 1996, in “Tough is Not Enough” (2000)



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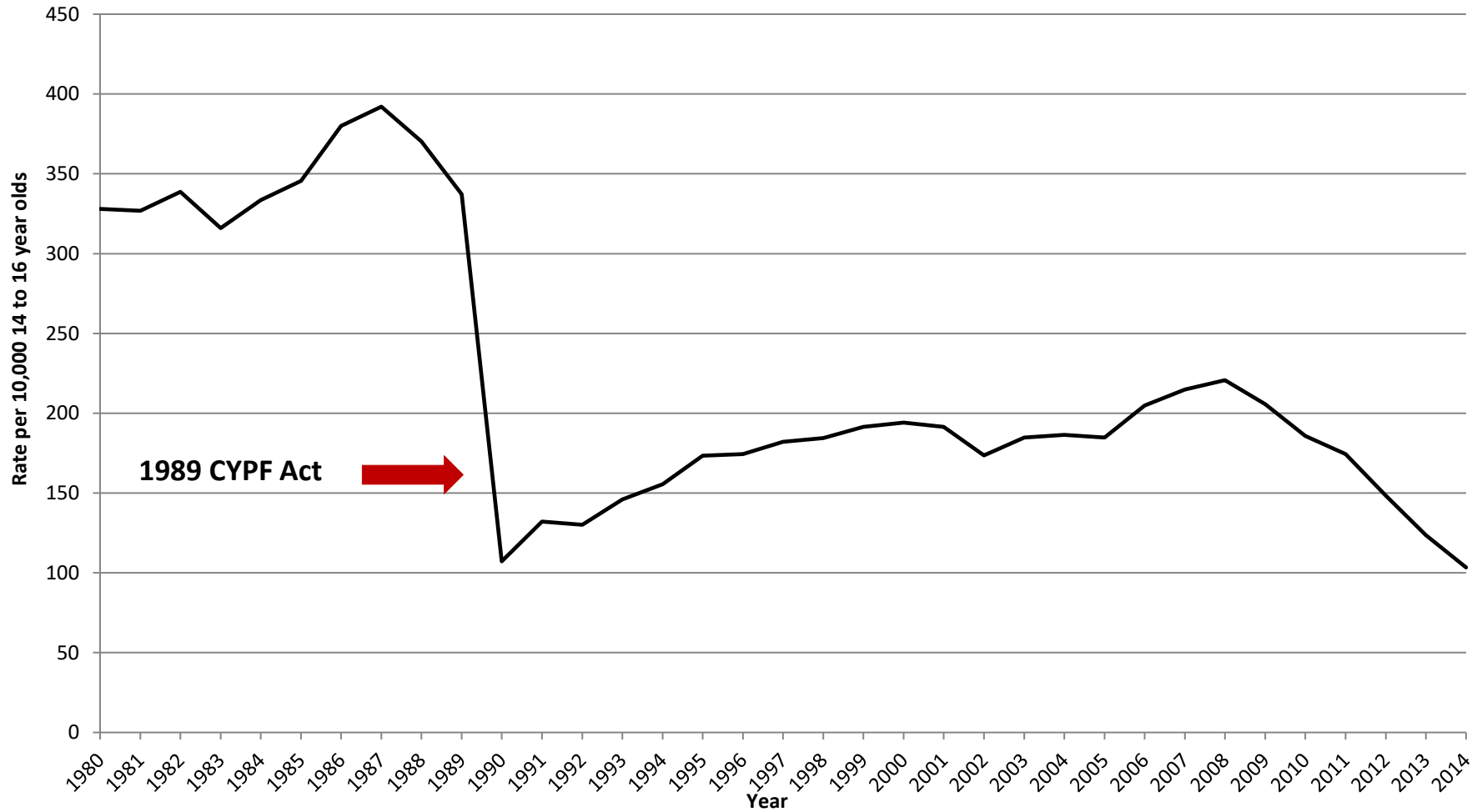


3. But in practice... focus on the most prolific 10 -20% of youth offenders



4. Only the most challenging/prolific 10-20% need to be charged

(Rate per 10,000 population of 14-16 year olds, appearing in the NZ Youth Court)



Those that come to court...

- 81-83% male
- 50-55% Māori
- 76% state care and protection involvement- trauma and abuse
- many specialist mental health service involvement
- 93% poor school attendance- 86% school suspension / expulsion
- 79% attended greater than four secondary schools / training providers
- 43% offending started aged less than twelve years
- 79% specialist drug and alcohol service involvement
- 75% early sexual activity
- 34% suicide / attempt / self harm by young person
- 46% suicide / attempt / self harm by peer or family member
- NEURO-DEVELOPMENTAL ISSUES-FREQUENTLY UNDIAGNOSED



Youth Justice processes effects Māori & non-Māori equally? Yeah right!

- Disproportionate number of Māori apprehensions
- The figures are unacceptable in any civilized community:
 - 20% (Māori in the 14-17 age group)
 - 49% (of police youth apprehensions are Māori)
 - 55% (of young people before the Youth Court are Māori)
 - 62% (of young people in custody are Māori)
- New and culturally based approaches
 - Lay Advocates, a statutory role, fallow for first 20 years
 - Rangatahi Courts
 - Therapeutic jurisprudence



5. Our Challenge!

This is where we should put our resources

“How do we respond to impulsive, aggressive, non-school enrolled, mainly teenage boys (disproportionately Maori) in the grip of alcohol and/or drug dependencies, and who may have mental health issues, co-occurring neuro-diversity disorders from dysfunctional, abusive & split families (at least 75% of which have had some state care and protection involvement) usually from environments of relative poverty and with anti-social friends?”



A focus on neuro-diversity/disorders

| Neurodevelopmental disorder | Reported prevalence rates amongst young people in the general population | Reported prevalence rates amongst young people in custody |
|--|--|---|
| Learning disabilities ³ | 2 - 4% ⁴ | 23 - 32% ⁵ |
| Dyslexia | 10% ⁶ | 43 - 57% ⁷ |
| Communication disorders | 5 - 7% ⁸ | 60 - 90% ⁹ |
| Attention deficit hyperactive disorder | 1.7 - 9% ¹⁰ | 12% ¹¹ |
| Autistic spectrum disorder | 0.6 - 1.2% ¹² | 15% ¹³ |
| Traumatic brain injury | 24 - 31.6% ¹⁴ | 65.1 - 72.1% ¹⁵ |
| Epilepsy | 0.45 - 1% ¹⁶ | 0.7 - 0.8% ¹⁷ |
| Foetal alcohol syndrome | 0.1 - 5% ¹⁸ | 10.9 - 11.7% ¹⁹ |

From "Nobody Made the Connection: The prevalence of neurodisability in young people who offend", Nathan Hughes et al, October 2012

Question 1

What were young people thinking
when they offended?



Question 2

What is the difference between neuro-development conditions (brain and behaviour conditions) and mental health issues?

And how does this difference influence our response?



Question 3

Why do not all neuro-diverse young people or young people with neuro-developmental disabilities break the law?





Question 4

Why does there seem to be a growing prevalence of some conditions e.g. FASD, autism, dyslexia?



Question 5

How do we better train lawyers, judges, social workers and teachers to “not miss” and better focus on possible neuro-developmental disorders?



Question 6

How do we grow the numbers of diagnostic clinicians?



Question 7

How do those in the youth justice system – police, teachers, psychologists and psychiatrists, social workers, lawyers and judges work more collaboratively?



Question 7: Collaboration is vital

**Take the law into
your own hands...**

Hug a Judge!

Question 8

How early can, and should, some of these brain and behaviour issues be identified and diagnosed?



Question 9

Do some assessment tools need to be modified for indigenous young people?



Question 10

What are the implications for Courts in sentencing those with neuro-developmental disorders?



What is our vision in our work with young offenders with brain and behaviour issues?



“Take care of our children. Take care of what they hear, take care of what they see, take care of what they feel. For how the children grow so will be the shape of Aotearoa”

Dame Whina Cooper
13 September 1975
Te Hāpua



THE END



Those that come to court...

Otago Youth Wellness Trust

Analysis of Dunedin youth Offenders: period 1 Jan 2007 – 31 Dec 2010

Alternative Education (n=33)

- 81% male
- 49% Māori
- 76% CYF care and protection involvement
- 100% specialist mental health service involvement
- 93% poor school attendance
- 86% school suspension / expulsion
- 79% attended greater than four secondary schools / training providers
- 43% offending started aged less than twelve years
- 79% specialist drug and alcohol service involvement
- 75% early sexual activity
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Youth offenders who come to Court

Capital & Coast Youth Forensic Services

Statistics: 2000 – 2004 n = 276

- 83% Male
- Māori over-represented (48%)
- 70% faced cannabis and alcohol issues
 - 16% drug dependent; 14% alcohol dependent
- 18% attending school: 28% attending course/training; 45% unemployed
- 45% excluded/expelled from school
- 55% attended more than one school/transient
- 60% in CYFS care at some stage
- 12% living with both parents; 28% with one parent

