

# Intention-to-charge FGCs:

A key diversionary approach or a pathway to court?

The Oranga Tamariki Evidence Centre works to build the evidence base that helps us better understand wellbeing and what works to improve outcomes for New Zealand's children, young people and their whānau.

**Email:** [research@ot.govt.nz](mailto:research@ot.govt.nz)

**Authors:** Philip Spier and Dr Amelia Gill (Oranga Tamariki Evidence Centre)

**Published:** June 2021

**ISBN:** 978-0-9951498-5-4

If you need this material in a different version, please email us at [research@ot.govt.nz](mailto:research@ot.govt.nz) and we will provide it for you.

**Citation guidance:**

This report can be referenced as Spier, P., & Gill, A. (2021). *Intention-to-charge FGCs: A key diversionary approach or a pathway to court?* Wellington, New Zealand: Oranga Tamariki—Ministry for Children.

**Copyright:**

This document *Intention-to-charge FGCs: A key diversionary approach or a pathway to court?* is licensed under the Creative Commons Attribution 4.0 International License <http://creativecommons.org/licenses/by/4.0/>.

Please attribute © New Zealand Government, Oranga Tamariki—Ministry for Children 2021.

**Disclaimer:**

Oranga Tamariki has made every effort to ensure the information in this report is reliable but does not guarantee its accuracy and does not accept liability for any errors.

**Acknowledgements:**

We would like to thank Ryan Wilkinson, Phil Dinham, Peter McIntosh, Greg Clark, Sara Minster, Rose Mwipiko and Leonid Pridachin for reviewing the draft report.

# Contents

<b>Executive summary .....</b>	<b>2</b>
ITC FGC decisions, pathways, and final outcomes .....	2
Diversionary plan content .....	5
Family/whānau participation at the ITC FGC .....	6
Victim engagement in the ITC FGC process .....	6
Discussion and conclusions .....	6
<b>Introduction .....</b>	<b>8</b>
What are ITC FGCs? .....	8
Research method .....	10
<b>ITC FGC decision-making .....</b>	<b>12</b>
What was the initial ITC FGC decision? .....	12
Why were charges laid in court? .....	13
<b>Pathways and final outcomes after ITC FGCs .....</b>	<b>15</b>
How often are diversionary plans completed? .....	15
How are matters laid in court dealt with? .....	16
Other final outcomes .....	17
<b>Diversionary plan content .....</b>	<b>18</b>
Considerations when developing an FGC plan .....	18
Accountability and addressing victims' interests .....	18
Addressing the causes of offending in the plan .....	19
Duration of diversionary plans and recommended outcomes .....	24
Are family/whānau needs considered in plans? .....	25
Linking identified risks and needs to plan elements .....	25
<b>Family/whānau participation .....</b>	<b>26</b>
Family/whānau involvement throughout the FGC process is the ideal .....	26
How often do family members attend ITC FGCs? .....	26
<b>Victim engagement .....</b>	<b>30</b>
Numbers and characteristics of victims .....	30
Consultation with victims .....	32
Victim participation at the ITC FGC .....	33
Victimless offences .....	36
<b>Discussion and conclusions .....</b>	<b>37</b>
<b>References .....</b>	<b>39</b>
<b>Appendix 1: Additional tables .....</b>	<b>40</b>
<b>Appendix 2: ITC FGC sample characteristics .....</b>	<b>42</b>
Where and when are ITC FGCs held? .....	42
What offences are dealt with at ITC FGCs? .....	43
What are the characteristics of young people participating in ITC FGCs? .....	44
<b>Appendix 3: Diversionary plan vignette .....</b>	<b>47</b>



# Executive summary

This research focused on how ‘intention-to-charge’ family group conferences (ITC FGCs<sup>1</sup>) operate. Of primary interest was the extent to which offending matters were dealt with by a diversionary plan versus charges being laid in court. The research also examined the content of diversionary plans, how often they were completed, and what happened when they were not. The level of attendance at ITC FGCs by family/whānau and victims was also examined.

## What are ITC FGCs?

Unless a young person has been arrested and charged, Police cannot institute proceedings in court against a young person who has allegedly offended unless an ITC FGC has been held. A core function of the ITC FGC is to consider whether the young person should be prosecuted or whether the offending can be dealt with in some other way, such as with a ‘diversionary plan’. Ideally, this decision should be agreed to by all those present.

## Research method and limitations

This research focused on a random sample of 175 of the total 706 ITC FGCs held between 1 January and 31 August 2019. Documents and case-notes in CYRAS<sup>2</sup> were reviewed, and key information was captured in a structured format in Excel.

Researchers did not observe ITC FGC discussions and decision-making in person. The analysis and conclusions in this report reflect the information recorded in CYRAS, which may omit some intricacies of the real-world FGC process.

With a sample size of 175 (from 706), the *maximum* margin of error for the proportions presented in the report is  $\pm 6\%$  (at the 95% level of confidence).

## ITC FGC decisions, pathways, and final outcomes

When the decision at the ITC FGC is to develop a diversionary plan, this may not be how the offending matters are finally dealt with. If the plan is not completed by the young person, Police may decide to lay charges in court. Figure 1 summarises the initial decisions and pathways to the final outcomes.

### Initial decisions at the ITC FGC

#### *For half of the ITC FGCs, the decision was made to lay charges in court*

For half (50%, 87) of the total sample of 175 ITC FGCs, the decision was made to lay charges in court. The main reasons recorded in CYRAS for this were:

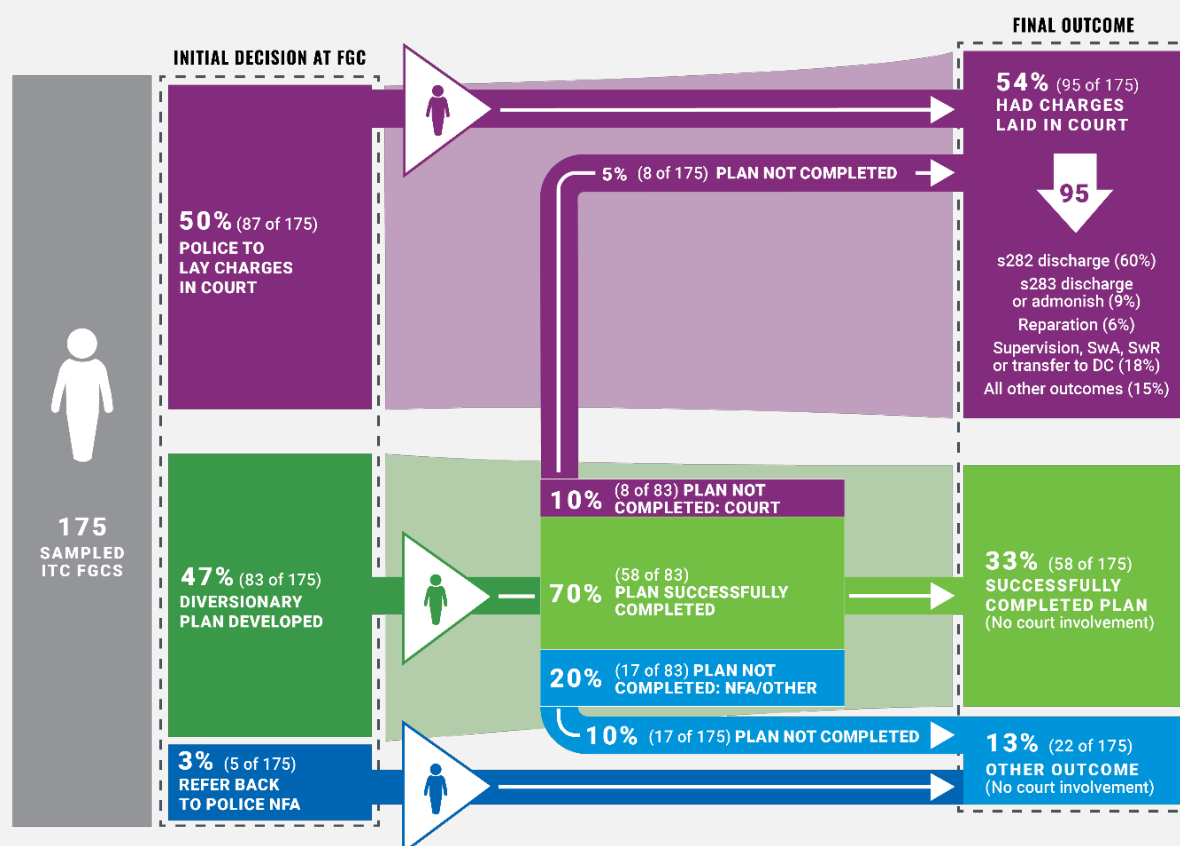
- there was agreement by FGC members that charges should be laid, often so the new offending matters could be dealt with at the same time as active charges in court from earlier offending (36% of the 87)

<sup>1</sup> FGCs convened under s247(b) of the Oranga Tamariki Act 1989.

<sup>2</sup> CYRAS is the main case management system for frontline staff in Oranga Tamariki.

- the FGC decision record stated little more than “*Police indicated they intend to lay the charges*” (although in a few cases the decision record stated that this occurred when the young person and family/whānau failed to attend the FGC) (36% of the 87)
- the young person denied (or did not admit) the offending, so a diversionary plan could not be developed (20% of the 87)
- FGC members could not reach agreement, so the matters were referred back to Police, who then laid the charges in court (9% of the 87).

**Figure 1: Initial decisions, pathways, and final outcomes for the sampled ITC FGCs**



**Notes:**

- NFA = No further action; SwA = Supervision with Activity; SwR = Supervision with Residence; DC = District Court.
- Percentages do not always sum to the total due to rounding.
- The court outcomes shown in the upper right segment are for the 95 cases finalised in court. For example, 60% of the 95 cases received a s282 discharge (where the charge is deemed never to have been filed). Some cases had more than one order made, so percentages total to more than 100%.

For a further 3% (5) of the ITC FGCs, the offending matters were referred back to Police but there was no evidence in CYRAS of the matters being taken further (but this is not to say that Police did not pursue some other course of action).

**For 47% of the ITC FGCs, the decision was to develop a diversionary plan**

Diversionary plans resulted from 47% (83) of the total 175 ITC FGCs. Young people having their first youth justice FGC were much more likely to have a plan developed than young people who had multiple prior youth justice FGCs (of any type).

***Initial decisions made at ITC FGCs differed according to ethnicity, although this may be explained by other factors***

European/other youth were the least likely to have charges laid, and the most likely to have a plan developed. In contrast, Pacific youth were the most likely to have charges laid, and the least likely to have a plan developed. Figures for Māori youth were in between the two other ethnic groups. However, it is likely that at least part of these differences between ethnic groups was due to other factors such as the differences seen in the seriousness of offending and in prior youth justice history.

**Diversiónary plan completion**

***Seventy percent of the diversionary plans were successfully completed***

Of the 83 diversionary plans put in place at ITC FGCs:

- 70% (58) were successfully completed
- 10% (8) were not completed and Police subsequently laid charges in court
- 20% (17) were not completed and the matters were not (or did not appear to be) taken further.

**Final outcomes**

***One-third of all ITC FGC offending matters were closed by way of successful diversionary plans***

With 58 of the 83 diversionary plans being successfully completed, this means that overall, 33% (58) of the total 175 ITC FGC offending matters were closed by way of successful diversionary plans, without charges being laid in court (Figure 1).

***More than half of all ITC FGC offending matters were finalised in court***

Overall, the offending matters referred to 54% (95) of the 175 ITC FGCs ending up being laid in court. This figure includes 50% (87) where the initial decision at the ITC FGC was for charges to be laid in court, and a further 5% (8) after diversionary plans were not completed and Police subsequently laid charges in court.

The majority (60%) of these 95 court cases were finalised with an unconditional discharge under s282 of the Oranga Tamariki Act 1989 ('the Act'). At the other end of the spectrum 18% received one of the four most serious responses to proven offending available to the Youth Court (i.e., a supervision, supervision with activity, or supervision with residence order; or transfer to the District Court for sentencing).

***The remaining 13% of all ITC FGC matters ended without charges being laid or a diversionary plan being completed***

Overall, 13% of the 175 ITC FGC offending matters ended without charges being laid in court or a diversionary plan being completed. This figure includes 3% where the initial decision made at the ITC FGC was for the matters to be referred back to Police and no further action was apparent, and 10% where diversionary plans were not completed but the matters were not (or did not appear to be) taken further.

## Diversiónary plan content

The purpose of diversionary plan elements will usually be associated with holding the young person accountable for the offending behaviour, addressing victims' interests, and addressing the causes of offending (needs) for the young person.

### *Holding young people accountable and addressing victims' interests*

- **Apology to the victim**

Most (87%) of the 67 diversionary plans where there were victims involved, included the young person making an apology to the victim.

- **Reparation to the victim**

Reparation was included in 47% of the 45 plans where there was an identified financial loss to a victim. In a further 7% of the plans, the young person was to do some work for the victim in lieu of monetary reparation. The remaining 47% of plans did not include reparation to the victims, noting this figure includes four victims (9%) who waived any reparation payment to them.

- **Community work**

A little over 40% of the 83 plans included the young person doing unpaid community work as part of the consequences for the offending.

### *Addressing the causes of offending for young people*

- **Engagement in education, training or employment**

Most (86%) of the 83 plans included elements relating to this area. In the majority of cases, this involved the young person continuing attendance or enrolling in education or training. However, for nearly a quarter of the young people, there was focus on continuing or gaining employment.

- **Addressing health-related issues**

Two-thirds of the 83 plans included items relating to the young person's health. Most commonly this was addressing alcohol and drug use issues (28% of plans). Next most common were addressing mental health issues (16%), requesting a formal health assessment (16%), or addressing anger issues (14%).

- **Mentoring**

Mentoring was included in nearly half of the 83 diversionary plans. The purpose of the mentoring was often not articulated in the plan.

- **Parenting education**

Parenting education referrals were included in 14% of the 83 plans. These were spread evenly across the young people themselves and their family/whānau.

- **Other plan elements**

Other elements included in some plans varied widely, with the most common relating to the young person: living where specified, getting a driver licence, engaging with an activity provider, engaging in sport or other pro-social activities, not associating with antisocial peers, or completing a project on an agreed topic.

Only 25% of the 83 diversionary plans mentioned consideration of family/whānau needs. In some cases, existing supports were considered appropriate, but in other cases, support was needed to e.g., strengthen parenting skills and relationships.

## Family/whānau participation at the ITC FGC

Two-thirds of the 175 ITC FGCs had two or more family/whānau members present. However, 26% had only one member of the young person's family/whānau in attendance, and 7% had no family/whānau attending.

Most (84%) of the ITC FGCs had a parent, stepparent, or caregiver of the young person present. The young person's mother was by far the most likely to attend (71%), with the young person's father being present at only one-third of ITC FGCs.

Of the total 401 family members who attended the 175 ITC FGCs, 70% were female and 30% were male.

Where the reasons for reduced numbers of family/whānau being in attendance were recorded, this was often due to a significant family breakdown. Fatigue with the FGC process also appears to reduce family/whānau attendance.

## Victim engagement in the ITC FGC process

The potential for involvement of victims in the ITC FGC process is high, given the numbers of referrals that include identified victims: 43% of ITC FGCs involved one victim and 44% involved two or more victims. However, 13% of the referrals did not involve any identified victims – almost always because the referrals were for victimless offences such as traffic-related and disorder offences.

Three-quarters of the 360 victims identified in referrals were individuals (39% male and 37% female). Most individuals whose age group could be identified or estimated were adults, but around 16% were young people or children.

Fifteen percent of victims were businesses (e.g., a supermarket, dairy, service station, retail store, liquor store, or a vehicle-related business).

Of the 360 victims who potentially could have attended the ITC FGCs:

- 21% attended in person, or a victim representative attended on their behalf
- 28% provided a submission in lieu of attending
- 51% did not participate in the FGC process.

Businesses who were victims had the lowest rate of physical attendance (7%), while female victims (28%) were more likely to attend than male victims (16%).

Where the reasons for victims not physically attending ITC FGCs were recorded, most commonly this was due to them being unwilling to attend (34%). There were issues with contacting 28% of victims and 23% said they were unavailable to attend.

## Discussion and conclusions

### *Half of the ITC FGC decisions being to lay charges seems a high proportion*

The decision at 50% of the ITC FGCs held was to lay charges. This seems a high proportion given Principle 208(2)(a) in the Act that *“unless the public interest requires otherwise, criminal proceedings should not be instituted against a child or young person if there is an alternative means of dealing with the matter”*.

The Police stance on whether charges should be laid in court is pivotal, and it appeared for at least some of the ITC FGCs, that Police were going to lay charges regardless of what occurred at the FGC. Further qualitative research would be useful to better understand the role of Police in ITC FGC decision-making.

Sixty percent of the offending matters that went to court were finalised with a s282 discharge. This often signifies that a court-ordered FGC plan has been successfully completed. Whether a completed diversionary plan could have been achieved if some of these matters had not gone to court is not known.

***Further research is required to understand the link between identified risks and needs and the content of plans***

It was not always clear if or how information on the identified risks and needs of young people and their family/whānau had been used to inform diversionary plan content. This was particularly the case in relation to family/whānau as only a quarter of plans mentioned consideration of their needs. Further research is required to understand the link between identified risks and needs and the content of plans.

***Increasing family/whānau attendance at ITC FGCs<sup>3</sup>***

For one-third of all ITC FGCs sampled, only one or no family/whānau of the young person attended the FGC. This is likely to limit the possibility of family/whānau-led plans being developed. Low-level attendance was more likely when the young person had multiple previous youth justice FGCs, so developing strategies to improve family/whānau attendance in these situations would be useful.

Only 30% of all family members who attended ITC FGCs were male, so improving attendance levels by fathers and other male relatives could be a future area of focus.

***Increasing victim attendance at ITC FGCs***

Victims appeared more likely to physically attend the ITC FGC if the youth justice coordinator met with them in person before the FGC, than was the case for other methods of contact. However less than a quarter of victims were consulted in person, with the majority being consulted by phone. Increasing the frequency of face-to-face consultation with victims may increase their attendance at ITC FGCs beyond the 21% found in this research.

Businesses who had been victimised had the lowest physical attendance rates at ITC FGCs, and male victims were less likely to attend than females. Improving attendance rates by businesses and male victims could be future areas of focus.

The vast majority of ITC FGCs are held Monday to Thursday during standard work hours, and this may be impacting on victims wanting to, or being able to, attend the FGC. Greater flexibility as to when FGCs are held, and exploring alternative participation methods, such as the use of video communication platforms, may increase victim participation at FGCs.

<sup>3</sup> See also: Oranga Tamariki Evidence Centre (2020a).

# Introduction

This research focuses on the way in which ‘intention-to-charge’ family group conferences (ITC FGCs) operate. These are FGCs convened under s247(b) of the Oranga Tamariki Act 1989 (‘the Act’).

A core function of the ITC FGC is to consider whether the young person<sup>4</sup> should be prosecuted for the alleged offence(s) or whether the offending can be dealt with in some other way. In making this decision, consideration should be given to Principle 208(2)(a) in the Act which states that “*unless the public interest requires otherwise, criminal proceedings should not be instituted against a child or young person if there is an alternative means of dealing with the matter*”.

Of primary interest in this research is the extent to which ITC FGCs successfully resolve the offending matters with a diversionary plan that does not involve prosecution, or whether the ITC FGC operates just as a step in a pathway to charges being laid in court.

The ITC FGC research also provides unique insights into:

- how often plans are successfully completed, and what happens when they are not completed
- the elements included in diversionary plans
- which family/whānau members attend
- victim characteristics, participation rates, and non-attendance reasons.

## What are ITC FGCs?

### ITC FGC referrals

Under s245 of the Act, where a young person who has allegedly offended has not been arrested and charged, and Police believe that commencing criminal proceedings is required in the public interest, charges cannot be laid in the Youth Court unless a referral has been made to a youth justice coordinator (YJ coordinator) to convene an ITC FGC.

### Convening the ITC FGC<sup>5</sup>

The YJ coordinator must convene (i.e., plan and prepare for) the FGC under s247(b) within 21 days of receiving a formal intention to charge notification from Police. The ITC FGC must then be held within one month from the date the FGC is convened (unless there are special reasons why a longer period is required).

<sup>4</sup> Children aged 12 or 13 years can also be referred to an ITC FGC for some serious/repeat offending. Given these numbers are very small, for convenience the term ‘young person’ has been used throughout the report to refer to all individuals referred to an ITC FGC.

<sup>5</sup> For more information on convening youth justice FGCs, see the Oranga Tamariki Practice Centre: <https://practice.orangatamariki.govt.nz/previous-practice-centre/policy/convening-the-youth-justice-family-group-conference/>.

The YJ coordinator will contact key parties to ensure they understand the process and how they can participate. Consultation should occur with family/whānau and any victim(s) to set the date, time, and location for the FGC, and identify who will attend.

Appendix 2, Table A2.1 shows that 57% of the sampled ITC FGCs were held at Oranga Tamariki site offices. Just over a quarter were held at a community centre or in a meeting room in the community. Most (87%) ITC FGCs were held between Monday and Thursday, with the remaining 13% being held on a Friday, or very rarely on the weekend. Half of the sampled ITC FGCs were held in the morning, nearly a quarter were held during traditional lunch hours, and 20% were held in the afternoon.

## Who can attend the ITC FGC?

The people who are 'entitled' to attend an ITC FGC under s251 of the Act, and are therefore able to participate in decision-making, include:

- the young person (or child)
- every person who is:
  - a parent, guardian, or caregiver of the young person; or
  - a member of the young person's family, whānau, or family group
- the YJ coordinator
- a Police youth aid officer (the person intending to commence proceedings)
- any victim or representative of that victim
- a youth advocate<sup>6</sup> (specialist youth lawyer) or some other legal representative
- various other people in the situations specified under s251(1)(h) to s251(1)(n)
- any other person(s) the family/whānau or young person wish to be present.

Other people, who are not entitled participants, and who have special information (e.g., education or health related), may attend the ITC FGC as necessary, but they are there to give advice, not to participate in decision-making. Support people for victims can also attend the ITC FGC, but not participate in decision-making.

## Holding the ITC FGC<sup>7</sup>

The young person is given the opportunity at the ITC FGC to admit the offence. If this happens, the aim is to reach agreement as to how the young person should be dealt with. If the offence is denied by the young person, a diversionary plan cannot be developed, and Police have the option to lay the matter in court.

The young person and family/whānau present must be offered the opportunity to deliberate in private (often referred to as 'family time') about what they think the plan should be in response to the offending. CYRAS<sup>8</sup> showed that family time was taken

<sup>6</sup> Historically, the vast majority of ITC FGCs held have not included legal representation for young people. However, a legislative change from 1 July 2019 requires Oranga Tamariki to appoint a youth advocate for a young person if any of the alleged offences referred to the ITC FGC are punishable by 10 years or more in prison (e.g., burglary, robbery-related offences, and arson).

<sup>7</sup> For more information see: <https://practice.orangatamariki.govt.nz/previous-practice-centre/policy/holding-the-youth-justice-family-group-conference/>.

<sup>8</sup> CYRAS is the main case management system for Oranga Tamariki. It provides for all Care and Protection, Youth Justice, Residential and Adoption Services task recording requirements.

in 63% of the 136 ITC FGCs where information was recorded, and at least one family/whānau member was present.

FGC members will discuss any plan put forward by the family/whānau and work together to try and reach consensus on an outcome.

If agreement on an outcome cannot be reached, the matter will be referred back to Police, and they have the option to lay the matter in court.

### After the ITC FGC<sup>9</sup>

The YJ coordinator must provide a copy of the agreed ITC FGC plan/outcome to everyone affected by the decision. The YJ coordinator also has responsibility for plans being reviewed. If a plan is not working, or circumstances change, they can reconvene the FGC if necessary.

## Research method

This project involved the manual review of ITC FGC and court-related documents and case-notes in CYRAS. Data was captured in Excel in a structured format to assist with data analysis.

The proceedings of FGCs are privileged and not to be published (s271), but this research utilised the s38 exemption which allows the publication of results of bona fide research relating to FGCs. Information must be aggregated in such a way that the particulars of the proceedings at any FGC are not identifiable.

The focus for this study was on the ITC FGCs held in the period 1 January to 30 August 2019. This period was chosen as, when the data collection phase commenced in early-2020, enough time had elapsed since the FGCs were held for most plans to be completed, or other actions taken.

Due to time and resource constraints, a simple random sample of 250 ITC FGCs was initially selected for review from the 706 that were held during this period. However, the resources available to undertake the data collection were further limited by the COVID-19 lockdown and restrictions, so a decision was made in June 2020 to reduce the target sample size to 175.

With this sample size (175 from a total of 706), the *maximum* margin of error for the proportions presented in the report is  $\pm 6\%$  (at the 95% level of confidence).

Appendix 1, Table A1.1 shows that the composition of the random sample of 175 ITC FGCs is representative of the population of all 706 ITC FGCs held in the eight-month period.

### Limitations of this research

Data collection was limited to review of free-text case-notes and official documents stored in CYRAS. The project relied heavily on analysis of the *Record of Decisions* documents required for FGCs under s262 of the Act. This document is primarily

<sup>9</sup> For more information see: <https://practice.orangatamariki.govt.nz/previous-practice-centre/policy/after-the-youth-justice-family-group-conference/>.

designed to record decisions, recommendations and plans made at the FGC in a clear and accessible way for key stakeholders (including young people themselves).

Researchers did not observe ITC FGC discussions and decision-making in person. Therefore, analysis and conclusions reflect the information recorded in CYRAS, which may omit some intricacies of the real-world FGC process.

This project identified considerable variation of content within official documents, with some documents providing much more information than others. This suggests some documentation may not be complete, which may have affected the research findings.

Further qualitative research, including interviews with FGC participants, would be useful to check key findings from this project, and further explore areas of interest that could not be fully investigated using official documentation.

### **Legislative changes from 1 July 2019**

Numerous amendments to the Act came into force from 1 July 2019, including the inclusion of 17-year-olds within the jurisdiction of the youth justice system. There is not, however, any focus in this report on the amendments, as most of the period examined pre-dates these legislative changes.

# ITC FGC decision-making

The function of the ITC FGC, as specified in s258(1)(b) of the Act, is to *consider whether the young person should be prosecuted for that offence or whether the matter can be dealt with in some other way, and to recommend to the relevant enforcement agency [almost always NZ Police] accordingly.*

Dealing with the matter(s) “*in some other way*” usually involves formulating a ‘diversionary’ plan at the ITC FGC to address the effects and causes of the offending without recourse to the courts. A diversionary plan can only be formulated when the young person admits the offending. The nature of the plan must be agreed to by all FGC members present.

The offending matters will almost always end up being laid in the Youth Court when:

- the young person does not admit the offending, or the FGC is unable to ascertain whether the young person admits the offending
- agreement cannot be reached at the FGC on how the matters should be dealt with, so the matters are referred back to Police
- the FGC participants all agree that the matters should be laid in court.

When the decision at the ITC FGC is to develop a diversionary plan, this may not be how the offending matters are finally dealt with. If the plan is not completed by the young person, Police may decide to lay charges in court.

This chapter examines the initial ITC FGC decisions, and the following chapter examines the final outcomes for all offending matters after the ITC FGCs were held.

## What was the initial ITC FGC decision?

The FGC Record of Decisions documents in CYRAS were used to assess the initial decisions of the 175 sampled ITC FGCs. Figure 3 in the following chapter summarises the initial decisions as well as pathways to the final outcomes.

***For half of the ITC FGCs the decision was for charges to be laid, while diversionary plans were developed in 47% of cases***

For half (50%, 87) of the ITC FGCs, the initial decision was for charges to be laid in the Youth Court. At 10 of these 87 FGCs, a ‘non-diversionary’ plan for dealing with the offending matters was agreed to that included laying the charges in court and asking the Youth Court to consider endorsing the recommended plan.

For 47% (83) of the ITC FGCs, there was agreement to a diversionary plan (the nature of which is discussed in the later chapter *Diversionary plan content*). Young people having their first youth justice FGC were much more likely to have a diversionary plan developed than young people who had multiple prior youth justice FGCs (of any type<sup>10</sup>). Sixty-five percent of those having their first youth justice FGC had a diversionary plan developed, compared to 42% for those with one or two prior

<sup>10</sup> Youth justice FGCs include ITC FGCs, court-ordered FGCs, and children who offend FGCs.

youth justice FGCs, and 21% for those with three or more prior youth justice FGCs (Appendix 1, Table A1.2).

For the remaining 3% (5) of the ITC FGCs, the offending matters were referred back to Police, but there was no evidence in CYRAS of the matters being taken further.

***Initial decisions made at ITC FGCs differed according to ethnicity, although this may be explained by other factors***

European/other young people were the least likely to have charges laid, and the most likely to have a diversionary plan developed (Appendix 1, Table A1.2). In contrast, Pacific young people were the most likely to have charges laid, and the least likely to have a plan developed. Figures for Māori young people were in between the two other ethnic groups. While the number of Pacific young people in the sample was small (20), the differences between ethnic groups were nearly all statistically significant.

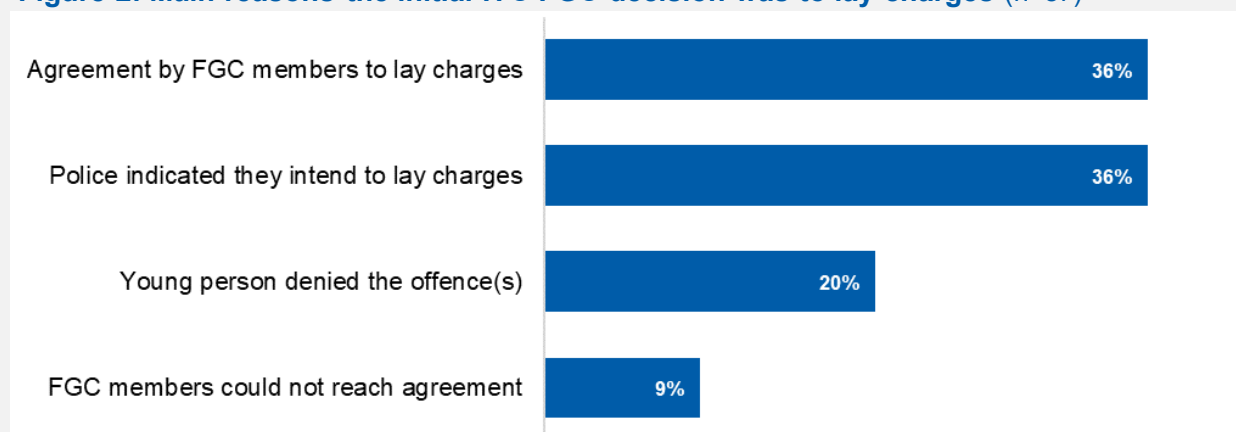
However, it is likely that at least part of the differences above are due to factors other than ethnicity. For example, ITC FGC matters may be more likely to go to court if they involve serious offending, and the most serious offence was of 'High' or 'Medium-high' seriousness for 75% of Pacific youth compared to 60% of Māori youth and 45% of European/other youth (Appendix 1, Table A1.3). ITC FGC matters may also be more likely to go to court if the young person has had multiple previous youth justice FGCs, and 40% of Pacific youth had three or more prior youth justice FGCs (of any type), compared to 28% of Māori youth and 11% of European/other youth.

Initial outcomes were not statistically different across gender or age.

## Why were charges laid in court?

The initial decision for half (87) of the ITC FGCs was for charges to be laid in the Youth Court. Figure 2 shows the main reasons recorded in CYRAS for this decision. As researchers did not observe ITC FGC discussions directly, the reporting of decision-making was constrained by what was recorded in official documentation.

**Figure 2: Main reasons the initial ITC FGC decision was to lay charges (n=87)**



For 36% (31) of these 87 ITC FGCs, there was consensus agreement by FGC members for the charges to be laid in court. Of note for 17 of these 31 ITC FGCs was the young person had active charges in the Youth Court from earlier offending,

and there was often mention of dealing with the current offending and the active court matters together in one court-ordered FGC plan.

For a further 36% (31) of the 87 ITC FGCs where charges were laid, the decision record stated little more than “*Police indicated they intend to lay the charges*”. While the reason for this may have been clear at the FGC, it was not usually captured in CYRAS. Occasionally the decision record stated that Police indicated they intend to lay charges when the young person and family/whānau failed to attend the FGC.

For 20% of the 87 ITC FGCs, the young person denied (or did not admit) the offences, so a plan could not be developed. For a further 9% of the 87 FGCs (5% of all 175 FGCs), agreement on a course of action could not be reached. In both instances, matters were referred back to Police and charges were laid.

The Police stance on whether charges should be laid in court is pivotal. If they want charges to be laid, then whether there is agreement to this or not from other FGC members, then this can happen. Further qualitative research is required to better understand the role of Police in ITC FGC decision-making.

# Pathways and final outcomes after ITC FGCs

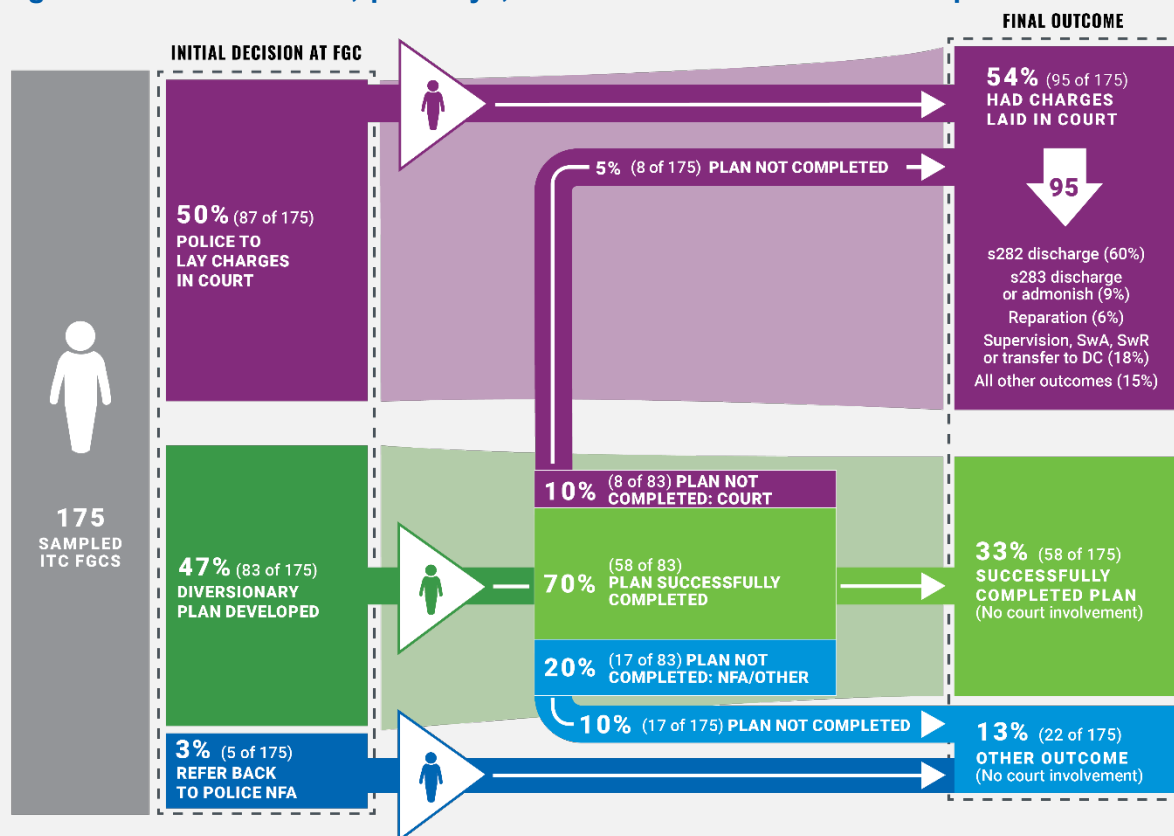
This chapter summarises pathways after the initial ITC FGC decisions were made, as well as the final outcomes recorded for all 175 sampled ITC FGCs.

## How often are diversionary plans completed?

*Seventy percent of diversionary plans were completed, meaning one-third of all ITC FGC matters were resolved through a completed plan*

Figure 3 shows that a diversionary plan was put in place at 47% (83) of the 175 ITC FGCs. Of these 83 diversionary plans, 70% (58) were completed by the young person. This means that, overall, 33% (58) of the total 175 ITC FGC offending matters were resolved by the successful completion of diversionary plans, without charges being laid in court.

**Figure 3: Initial decisions, pathways, and final outcomes for the sampled ITC FGCs**



Notes:

1. 'NFA' = No further action; SwA = Supervision with Activity; SwR = Supervision with Residence; DC = District Court.
2. Percentages do not always sum to the total due to rounding.
3. The court outcomes shown in the upper right segment are for the 95 cases finalised in court. For example, 60% of the 95 cases received a s282 discharge (where the charge is deemed never to have been filed). Some cases had more than one order made, so percentages total to more than 100%.

## How are matters laid in court dealt with?

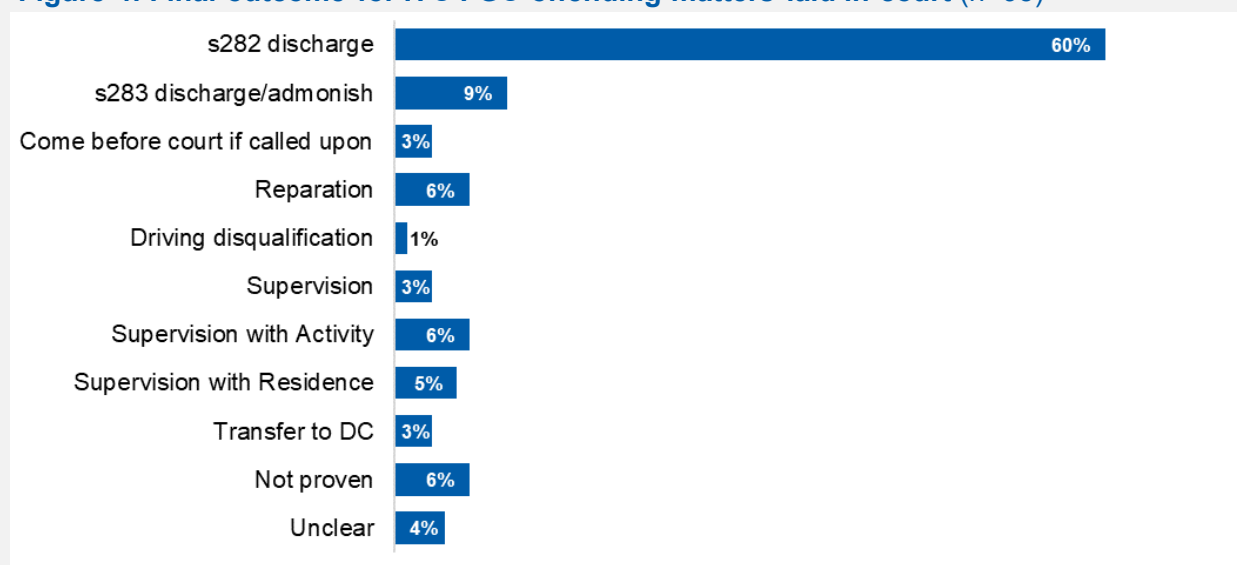
### *More than half of all ITC FGC matters were finalised in court*

Overall, 54% of the 175 ITC FGC offending matters had charges laid in court. This figure includes the 50% of ITC FGCs where the initial decision was for charges to be laid in court, and a further 5% after the agreed diversionary plans were not completed and Police subsequently laid charges in court.

### *Sixty percent of ITC FGC matters dealt with in court received a s282 discharge*

Figure 4 shows that the majority (60%) of the 95 ITC FGC offending matters dealt with in court were finalised with a s282 discharge. This type of discharge often signals that a court-ordered FGC plan was successfully completed. A s282 discharge means the charge is deemed never to have been filed, so the young person does not have a criminal record for this offence.

**Figure 4: Final outcome for ITC FGC offending matters laid in court (n=95)**



Note: Some court cases had more than one order made, so percentages total to more than 100%.

Section 283 of the Act lists a hierarchy of responses if charges against a young person are 'proved' in the Youth Court. Proven charges are not convictions but can still be drawn to the attention of the Youth Court should the young person reoffend and appear in court again.

Thirteen percent of the 95 court matters were proven and received a low-level response under Sections 283(a) to 283(c) i.e., a discharge, admonishment (a reprimand), or an order to come before the court if called upon<sup>11</sup>.

Reparation was ordered in 6% of the court cases, always alongside some other order (mostly a s282 discharge). A driving disqualification was ordered in one case.

One of the four most serious responses to proven offending available under s283 were imposed for 18% of the court matters. This includes 3% resulting in a

<sup>11</sup> A s283(c) order is akin to a 'good behaviour bond' for a period of 12 months. If the young person reoffends, he or she may be called before the court for further action to be taken on this charge.

Supervision order, 6% in a Supervision with Activity order, 5% in a Supervision with Residence order, and 3% were transferred to the District Court for sentencing.

Six percent of the court matters had a 'not proven' disposition, with the charges being dismissed, withdrawn, or the young person was found unfit to stand trial.

The outcome was unclear for the remaining 4% of cases. This includes two cases where the outcome could not be identified in CYRAS, and two cases where the young person was attending a programme relating to harmful sexual behaviour and the matters had not been finalised at the time of the data collection.

## Other final outcomes

### *Thirteen percent of all ITC FGC matters were closed with neither charges being laid in court or a diversionary plan being completed*

Overall, 13% (22) of the 175 ITC FGC offending matters were closed with neither charges being laid in court or a diversionary plan completed. This figure includes:

- 3% (5) where the matters were referred back to Police from the ITC FGC and CYRAS records did not indicate that any further action was taken
- 10% (17) where diversionary plans were not completed, but the matters were not, or did not appear to be, taken further by Police.

For some of the matters referred back to Police from the ITC FGC, Police may have used Alternative Action to address identified needs, but there was no record of this in CYRAS.

While it was often not clear why offending matters were not taken further by Police after diversionary plans were not completed, in a few cases there was reference to one or more of the following:

- the young person had not reoffended for quite some time (e.g., 6 to 12 months)
- part of the diversionary plan had been completed
- parties agreed that there was little to be gained from taking the matters to court given the time that had elapsed since the offences were committed
- the young person was told that any further offending would lead to a more serious response.

For a small number of the total 22 offending matters that did not appear to be taken further by Police, there was reference to subsequently dealing with the young person in some way other than through youth justice due to mental health or care and protection concerns.

# Diversiónary plan content

## Considerations when developing an FGC plan

The Act provides some guidance on considerations when developing a youth justice FGC plan (e.g., s259A and s260), but plans are individualised to each young person.

Areas that youth justice FGC plans will usually seek to address are:

- **accountability** of the young person for the offending behaviour
- **addressing the interests of any victim** e.g., with an apology or reparation
- **addressing the causes of the offending** (needs) of the young person e.g., by addressing any education and health issues, considering family/whānau support, etc.

A diversionary plan was put in place at 83 (47%) of the 175 sampled ITC FGCs. The extent to which various elements appeared in these plans is discussed below. A vignette designed as an example of an 'average' diversionary plan is presented in Appendix 3 (names and dates are fictitious).

## Accountability and addressing victims' interests

A young person taking responsibility for his or her behaviour is an important part of the youth justice FGC process. This starts with the admission of the offending and can also include making an apology and paying reparation (where relevant) as part of 'putting things right' for the victim.

For the 83 ITC FGCs where a diversionary plan was developed, 81% (67) involved one or more victims, while in 19% (16) there were no identified victims.

### *Where victims were identified, most plans included an apology to them*

An apology to the victim(s) was part of the diversionary plan for 87% (58) of the 67 ITC FGCs that involved victims.

Apologies took different forms. If a victim was present at the FGC, then a face-to-face apology was often made. Written apology letters to victims were also very common. In a few cases, the YJ coordinator arranged for the young person to do a video apology, or to visit the victim to apologise in person (after checking the victim was agreeable to this).

### *Reparation was included in around half of the diversionary plans where a financial loss to the victim(s) was identified*

Offending can result in financial losses being incurred by victims, most commonly when their property is stolen or damaged. The scale of loss can vary considerably, and in some instances in the sample here, the offence caused tens of thousands of dollars of damage or loss (e.g., from an arson offence).

Reparation is a financial payment from the young person or the family/whānau to the victim as a contribution to the replacement or repair of their property.

Where the amount of property stolen or damaged was large, victims commonly accessed their insurance to cover the loss. When this was the case, some victims requested reparation to cover the insurance excess they had to pay. There were, however, examples where the victim did not have insurance cover, so reparation was sought to cover the entire loss.

Victims appeared to have experienced some financial loss for 45 of the 67 ITC FGCs involving victims where diversionary plans were developed. The exact amount of the financial loss was not always documented in the Police referral or consultation documents, nor in CYRAS case notes relating to interactions between YJ coordinators and victims.

Of the 45 diversionary plans where there appeared to be financial losses for victims:

- 47% (21) included monetary reparation in the plan: including 33% (15) for the full amount being sought, and 13% (6) for part of the amount being sought
- 7% (3) specified that the young person would do some work for the victim in lieu of monetary reparation
- 47% (21) did not include reparation in the plan. The reason for no reparation being included in the plan was often not clear, but in four cases this was because the victim waived any reparation payment to them. There were also three instances where there was specific mention of the young person and family/whānau not being in a financial position to afford reparation.

The remaining 22 of the 67 diversionary plans that involved victims had no identified financial loss, so reparation was not relevant.

### ***Reparation agreed to in diversionary plans was not always paid***

For the 21 diversionary plans where reparation to the victim was included in the plan, the agreed amount:

- was paid in full to 10 of the victims
- was only paid in part for two victims
- was not paid to five victims, and for a further four victims it was unclear whether they were paid.

### ***Community work was included in four out of every 10 plans***

As part of the consequences for the offending, 42% (35) of the 83 diversionary plans included the young person doing unpaid community work.

The number of hours of community work was specified in 33 of the 35 plans, with the mean being 36 hours and the median being 30 hours.

## **Addressing the causes of offending in the plan**

A youth justice FGC plan that addresses the underlying causes of offending for the young person can provide a pathway to reduced reoffending. Ideally, the measures in the plan for dealing with offending should also strengthen the family/whānau of the young person and foster their ability to develop their own means of dealing with the young person's offending (key principles in s208(2)(c)).

Youth justice FGCs must consider whether the young person should be required to attend a parenting education programme, a mentoring programme and/or an alcohol or drug rehabilitation programme. They also must consider whether a parent or guardian or other person responsible for the care of the young person should be required to attend a parenting education programme.

### ***Parenting education/support referrals were not common in plans***

In 14% (12) of the 83 diversionary plans, parenting-related elements were included as follows:

- in three plans, the young person was to be referred to a parenting course or for parenting support
- in four plans, a parent or both parents of the young person were to be referred to a parenting course or for parenting support
- in three plans, a referral was to be made for Family Functional Therapy for the young person and his or her family/whānau, with one of these plans also mentioning an additional parenting course referral for the young person
- in two plans, the young person and family/whānau were currently engaged in either Family Functional Therapy or parenting-related services, and the plan noted that this should continue.

The other 86% (71) of the diversionary plans did not include a parenting-related referral. However, four plans did mention that a parenting education programme was offered to the young person or his or her mother, but this was declined. In two other cases it was noted that there was no referral because the family/whānau had previously received parenting-related services.

### ***Mentoring was included in just under half of the plans***

Mentoring was included as part of the plan for 47% (39) of the 83 ITC FGCs. This included 37% (31) where new mentoring arrangements were to be put in place, and 10% (8) where mentoring already in place was to be supported to continue. Mentoring was not included in 53% (44) of the diversionary plans.

The purpose of mentoring was not usually stated in plans. Where it was, the purpose included support to achieve goals/aspirations, become more active (e.g., through joining sports teams or the gym), find a job, or complete aspects of the plan.

### ***A quarter of plans included referral to alcohol or drug related services***

Twenty-eight percent (23) of the 83 diversionary plans referenced alcohol or drug use issues by the young person.

A quarter (21) of the plans included a referral to an alcohol or drug related service. The purpose of this referral in 10% (8) of the plans was to provide education, in 7% (6) it was for an assessment of needs, and in 8% (7) it was for counselling or therapy around the substance abuse issues.

In 5% (4) of the plans there was an agreed condition that the young person was not to consume alcohol or drugs while the plan was in effect or was to undertake a drug test to show they were drug-free. In two instances, such a condition was in the same plan as a referral to an alcohol or drug related service.

### **Most plans included an element relating to education, training or employment**

Eighty-six percent (71) of the 83 diversionary plans included elements relating to education, training, or employment for the young person, and the remaining 14% (12) did not (Table 1). Eight of the plans included more than one education, training, or employment element.

**Table 1: Education, training, or employment elements in diversionary plans**

Education, training or employment plan element	Percentage (n=83)
Nothing in plan	14%
Continue with current education or training	36%
• <i>Mainstream school</i>	(17%)
• <i>Alternative education</i>	(13%)
• <i>Correspondence school</i>	(1%)
• <i>Training course</i>	(5%)
Enrol in education or training	24%
• <i>Mainstream school</i>	(2%)
• <i>Alternative education</i>	(7%)
• <i>Correspondence school</i>	(5%)
• <i>Training course</i>	(10%)
Referral for an education assessment	6%
Provide assistance to explore education options	5%
Continue with current employment	8%
Provide assistance to look for employment	16%

Note: Percentages total to more than 100% as some plans included more than one element.

Participation in some form of schooling (mainstream, alternative education, or correspondence) was an element in 46% (38) of the 83 diversionary plans. This included 31% (26) that referenced the young person continuing to participate in school, and 14% (12) that included an element that the young person was to be supported to enrol in school.

Participation in a tertiary training course was an element specified in 14% (12) of the plans. This included 5% (4) that referenced the young person continuing to participate in a course, and 10% (8) that included an element that the young person was to be supported to enrol in a training course.

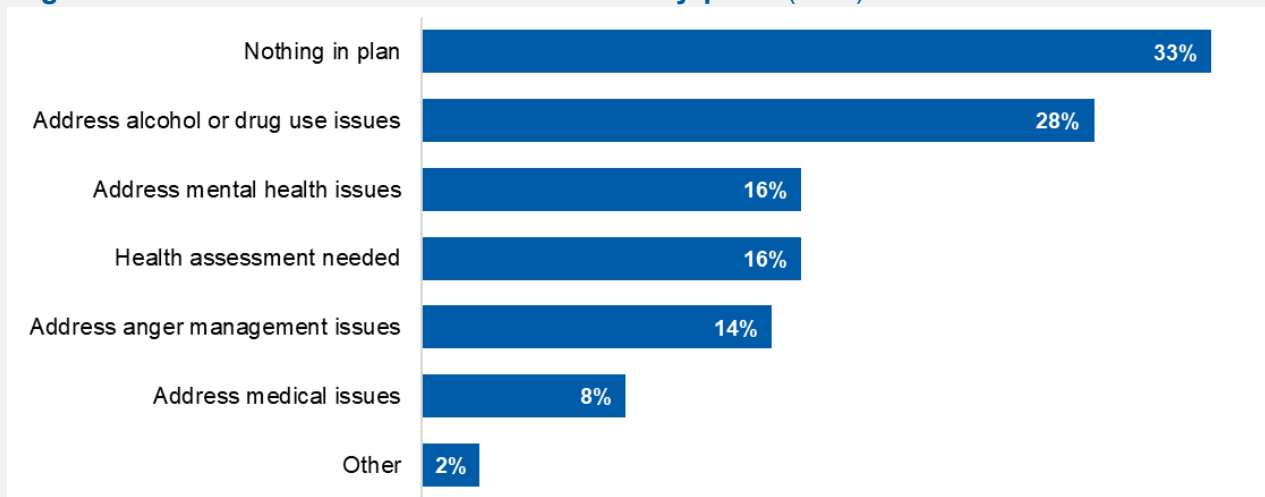
Six percent (5) of the plans specified that a referral was to be made for the young person to have an education assessment from an educational psychologist from Group Special Education. In a further 5% (4) of the plans, education options were going to be explored with the assistance of a person specified in the plan.

Employment was a focus for the young person in 24% (20) of the diversionary plans. This included 8% (7) that referenced the young person continuing in their current job, and 16% (13) that specified the young person was to be supported to find employment. A referral to the Youth Service was often mentioned as part of the support to find employment. Most of the young people whose focus was on employment were aged 16 or 17 years at the time the plan was developed.

### **Two-thirds of plans included an element relating to the young person's health**

Two-thirds (56) of the 83 diversionary plans included one or more items relating to the young person's health, and one-third (27) did not (Figure 5).

**Figure 5: Health-related elements in diversionary plans (n=83)**



Note: Percentages total to more than 100% as some plans included more than one health element.

Addressing alcohol and drug use issues was part of 28% (23) of the plans (with the nature of this discussed earlier). This information is included in the analysis again here for completeness in the discussion of all health-related elements in plans.

Sixteen percent (13) of the plans included an element relating to addressing the young person's mental health issues. In many cases this was a referral for specialist counselling with, for example, a psychiatrist or psychologist, or with *Child and Adolescent Mental Health Services*.

Sixteen percent (13) of the plans specified that a referral will be made for the young person to have a health assessment completed by an approved youth justice health assessor, and that any recommendations from this assessment should be actioned.

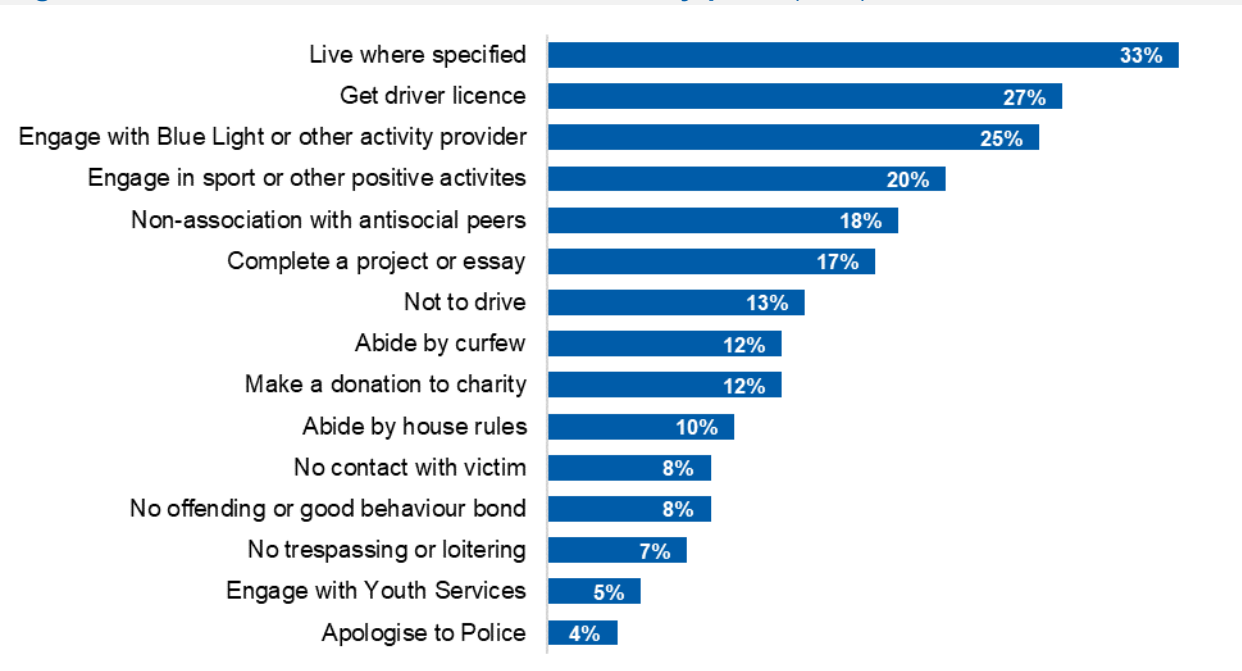
A further 14% (12) of the plans specified that the young person was to be referred to a provider in relation to anger management issues. In some cases, this was for an assessment, and in others it was for counselling in relation to anger, self-control and/or emotional regulation.

Eight percent (7) of the plans included a medical-related element such as making an appointment for the young person with a dentist or doctor, or encouragement for the young person to continue to take their medication.

### **Other elements in diversionary plans varied widely**

Diversionary plans included a wide variety of other elements, with those included in at least three plans shown in Figure 6. The most common other element in 33% (27) of plans was that the young person should reside at a specified address or with a specified person (usually a family member). Ten percent (8) of plans included an element that the young person should abide by house rules, with this element often being included in the same plan as the 'live where specified' element.

**Figure 6: Other elements included in diversionary plans (n=83)**



In 27% (22) of the plans, the young person was to be supported to get a driver licence. Most of these young people were aged 16 or 17 years, and their offending included a vehicle-related offence.

In a quarter (21) of the plans, the young person was to engage with Blue Light or some other provider to participate in camps, adventure days, or other specified activities.

In 20% (17) of the plans, the young person was to be supported to play a sport, do boxing training, go to the gym, or engage in other pro-social activities (e.g., kapa haka or attend a youth group).

Eighteen percent (15) of the plans specified that the young person was not to associate with co-offenders or other anti-social peers.

In 17% (14) of the plans, the young person was to complete a project, essay, or letter of reflection. Topics included the effects of crime (e.g., on victims), their future goals or aspirations, or what they have learned from the current experience.

Thirteen percent (11) of the plans included a voluntary agreement by the young person not to drive for a specified period. In all these cases, the young person had committed one or more traffic offences such as failing to stop for Police, dangerous driving, or driving with excess alcohol.

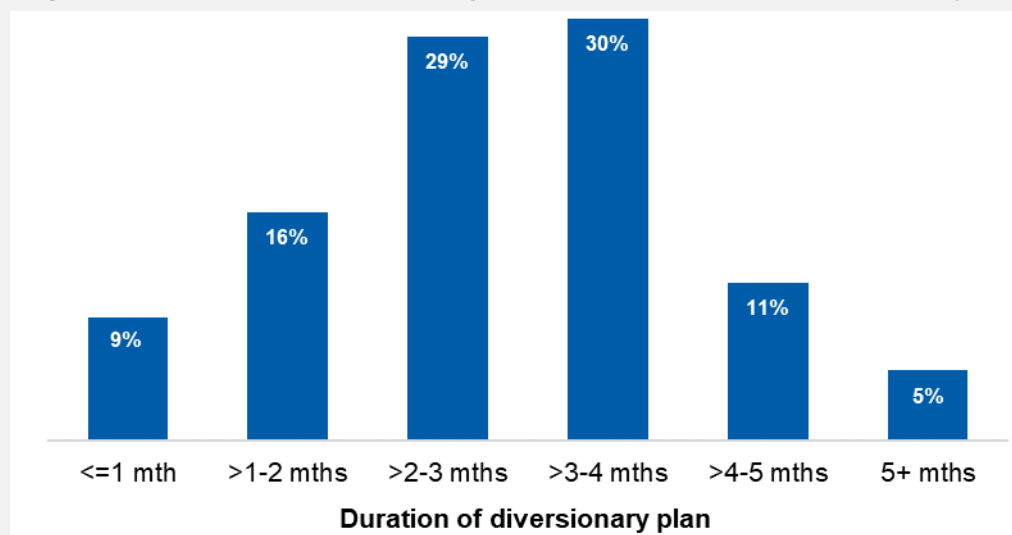
In 12% (10) of the plans, the young person agreed to abide by a curfew for a specified period, and in a further 12% (10) of plans, the young person agreed to make a donation to charity.

## Duration of diversionary plans and recommended outcomes

### *On average, diversionary plans allowed three months for completion*

The majority of diversionary plans allowed between two and four months for the plan to be completed (Figure 7). The average duration of plans was three months, with the mean duration being 87 days and the median duration being 91 days.

**Figure 7: Duration of diversionary plans for the sampled ITC FGCs (n=80)**



Note: The duration of the plan was not specified in three instances.

The plan duration was one month or less for 9% of the ITC FGCs. This included a small number where the plan was completed on the day the FGC was held e.g., it was agreed that a face-to-face apology and the payment of reparation to the victim at the FGC was sufficient to deal with the matter. In contrast, 5% of plans allowed five months or more for completion.

### *Recommended outcomes of plans were not always framed around success*

Most (70) of the 83 diversionary plans included a recommended outcome in relation to the plan. In 37% of plans, the recommended outcome was framed around the young person being successful such as:

*If the plan is successfully completed, no further action will be taken by Police.*

However, in 37% of plans, the outcome was framed around failure such as:

*If the plan is not completed, or if <name> reoffends, then charges will be laid in court.*

In 26% of plans, the outcome was framed around both success and failure such as:

*If the plan is successfully completed, no further action will be taken by Police. However, if the plan is not completed, or if <name> reoffends, then charges will be laid in court.*

## Are family/whānau needs considered in plans?

A youth justice principle specified in s208 of the Act is that any measures for dealing with offending by young people should be designed to strengthen the family/whānau of the young person and foster their ability to develop their own means of dealing with the offending by their young people.

Given the above, as well as the range of family/whānau issues identified in police referrals (Appendix 2, Figure A2.3), it would be reasonable to expect diversionary plans to include elements that address family/whānau needs as appropriate.

### *Consideration of family/whānau needs was mentioned in only a quarter of the plans*

For the 83 ITC FGCs where a diversionary plan was developed, only 25% (21) mentioned consideration of family/whānau needs.

In eight of the 21 plans, it was considered that family/whānau needs were being met by existing supports. In the 13 other plans, new supports were to be provided to the family/whānau.

The need for parenting education/support was identified in four plans; the need for Family Functional Therapy was identified in three plans; and the need for Multisystemic Therapy or family counselling were each identified in two plans. The social worker looking into some support for the family/whānau was mentioned in one plan, while another plan mentioned assisting the young person's partner into teen parent alternative education.

## Linking identified risks and needs to plan elements

This project captured information on any risks and needs for young people and their family/whānau that were recorded in Police referral and consultation documents or in other FGC-related case-notes and documents in CYRAS. However, this information often did not appear complete, so analysis of the link between identified risks and needs and the elements that were included in diversionary plans was out of scope for this project.

Understanding how risks and needs for young people and their family/whānau are identified, and how these are used to inform plan content would be a useful next step.

# Family/whānau participation

The Act includes principles which emphasise the importance of family/whānau<sup>12</sup> participating in decision-making about their children and young people, including in the responses to offending. These principles include:

- recognition of the child's or young person's place within family/whānau, and wherever possible, family/whānau should participate in decisions, and regard should be had to their views, s5(1)(c)
- measures for dealing with offending should strengthen family/whānau and foster their ability to develop their own means of dealing with offending, s208(2)(c)
- sanctions imposed on the child or young person should promote their development within their family/whānau, s208(2)(f).

While the research here cannot provide definitive evidence on the extent to which the principles above are given effect, some insights are given below.

## Family/whānau involvement throughout the FGC process is the ideal

Before convening a youth justice FGC, the YJ coordinator should consult with family/whānau in relation to when and where the FGC is to be held, who should attend, and the procedure to be adopted at the conference. So far as it is practicable and consistent with the principles of this Act (including any views expressed by victims consulted), the YJ coordinator should give effect to these wishes.

At the FGC, the young person and his or her family/whānau are encouraged to contribute to the deliberations and decision-making..

If an FGC plan is agreed to, family/whānau can have an important role in supporting and monitoring completion of the plan by the young person.

## How often do family members attend ITC FGCs?

### *Around one-third of ITC FGCs had only one or no family/whānau attending*

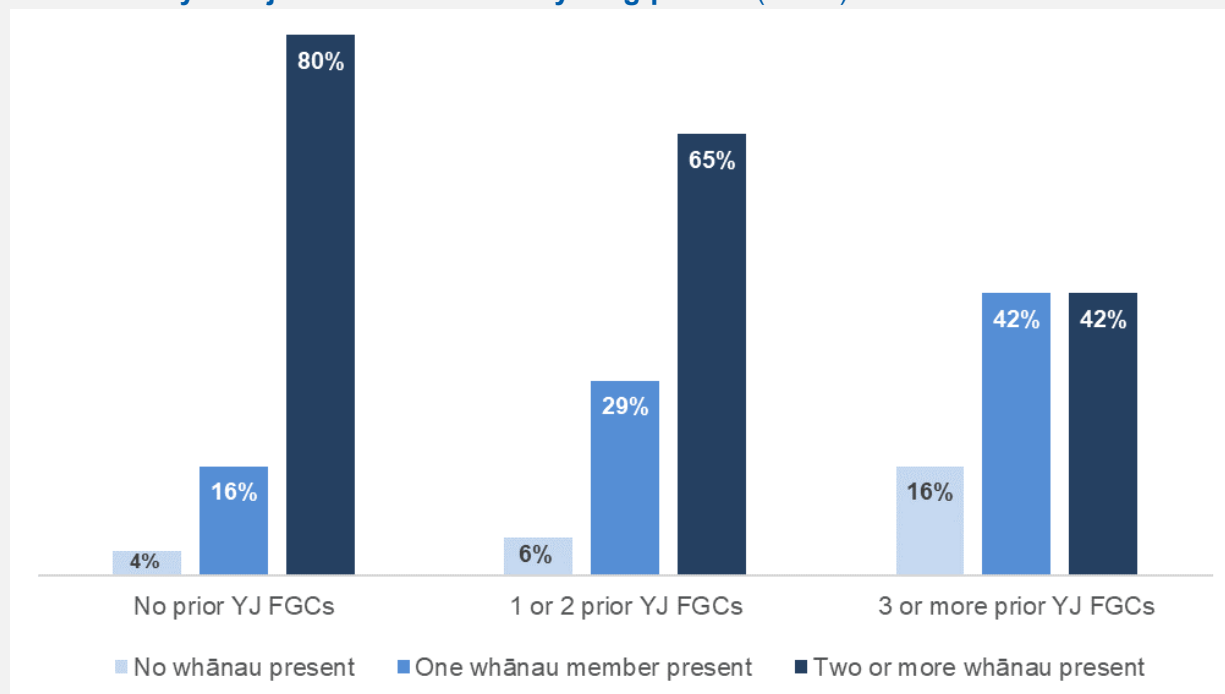
At just under a third (56) of the 175 sampled ITC FGCs, two family/whānau members were present, and at just over a third (60), three or more were present. However, 26% (46) of the ITC FGCs had only one member of the young person's family/whānau in attendance, and 7% (13) had no family/whānau attending. The mean number of family/whānau in attendance was 2.3 and the median was 2.

<sup>12</sup> The term 'family/whānau' is used here as shorthand for family, whānau or family group. 'Family group' is defined in the Act as including an extended family in which there is at least one adult member with whom the young person has a biological or legal relationship, or to whom the young person has a significant psychological attachment; or is the young person's whānau or other culturally recognised family group.

### **Family/whānau attendance was lower when young people had multiple prior youth justice FGCs**

There appears to be a negative relationship between the number of family/whānau who attend ITC FGCs and the number of prior youth justice FGCs (of any type) a young person has had. That is, numbers of family/whānau present were highest when it was the young person's first FGC, whereas numbers present were lowest when the young person had multiple prior youth justice FGCs (Figure 8). This suggests that fatigue with the FGC process may reduce family/whānau attendance.<sup>13</sup>

**Figure 8: Family/whānau attendance at sampled ITC FGCs, by number of previous youth justice FGCs for the young person (n=175)**



Note: For the 175 ITC FGCs, 80 young people had no prior YJ FGCs (i.e., the ITC FGC in this study was their first YJ FGC), 52 had one or two prior YJ FGCs, and 43 had three or more prior YJ FGCs.

### **'Mum' was the most likely family member to attend the ITC FGC**

Most (84% or 147) of the 175 sampled ITC FGCs had a parent, stepparent, or caregiver of the young person present (Figure 9). Greater detail on the family/whānau members present at ITC FGCs is shown in Appendix 1, Table A1.4.

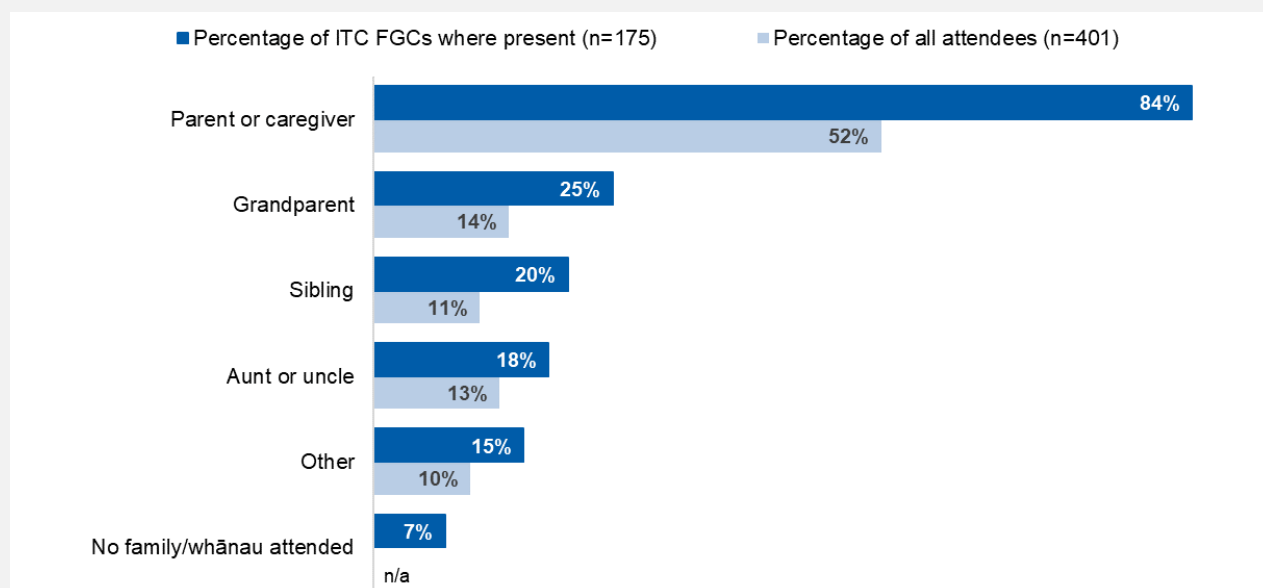
The young person's mother was by far the most likely to attend (71%), and for 17% of the 175 ITC FGCs, the young person's mother was the only family member present. The young person's father was present at only one-third of all ITC FGCs. This figure includes 26% of all ITC FGCs where mum and dad were both present.

One or more grandparents of the young people attended 25% of the 175 ITC FGCs, siblings attended 20%, and aunts or uncles attended 18%. For each of these groups, the female relative was more likely to attend than the male relative.

Various other family/whānau or support people attended 15% of the ITC FGCs.

<sup>13</sup> 'Family group conference fatigue' was also noted as an issue on p15 in Slater et al., 2015.

**Figure 9: Family/whānau attendance at sampled ITC FGCs, by relationship to young person**



***Only 30% of all family/whānau who attended ITC FGCs were male, so improving attendance levels by male relatives could be a future area of focus***

Of the total 401 family/whānau members who attended the 175 sampled ITC FGCs, 70% were female and 30% were male.

Young peoples' mothers regularly attended ITC FGCs, with the next most common female family/whānau attendees being a grandmother, aunt, sister, or caregiver (see Appendix 1, Table A1.4).

The most common male attendees were young peoples' fathers, albeit being present at only a third of the 175 ITC FGCs and accounting for only 14% of all family/whānau attendees. The next most common male attendees were an uncle, brother, or grandfather. Improving attendance levels at FGCs by male relatives of young people could be a future area of focus.

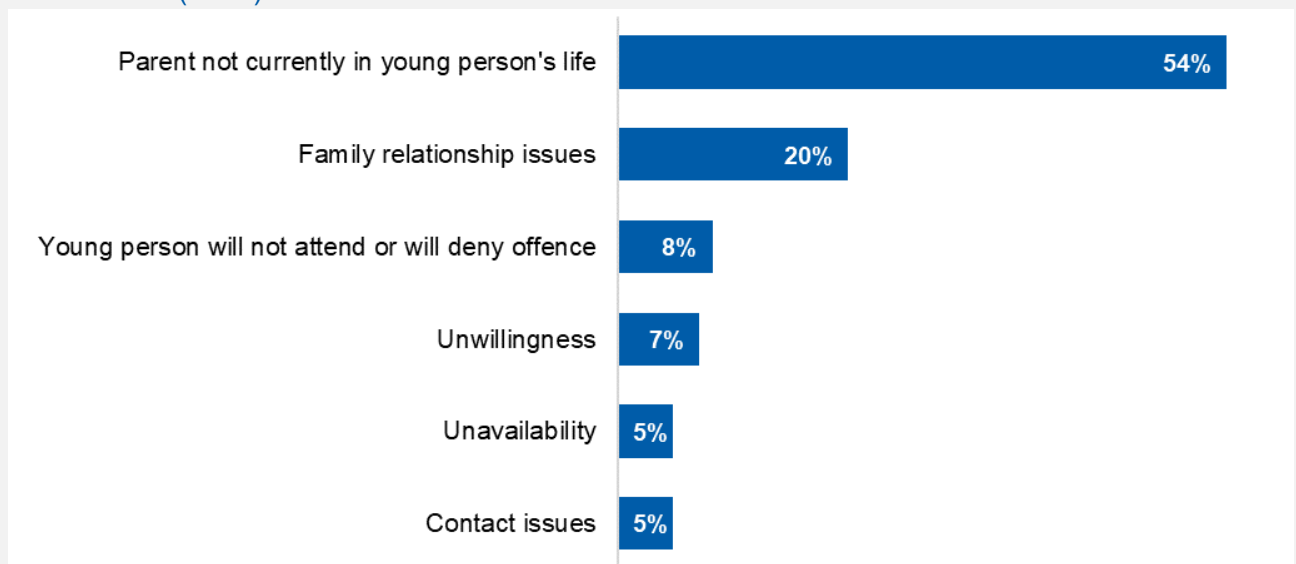
***Non-attendance by family/whānau was often a symptom of a significant underlying issue***

The reason for not attending the ITC FGC was recorded for 83 family/whānau members who were either parents, caregivers, or grandparents. The reason for non-attendance often indicated a significant family breakdown (Figure 10).

For 54% of the 83 family/whānau members, non-attendance was due to the parent not being in the young person's life at all, including where they were deceased, in prison, or living overseas.

Non-attendance due to significant family relationship issues (20%) included cases where the young person had current care and protection issues and was placed outside of the immediate family/whānau; and cases where some family/whānau members did not want the parent to attend due to current or previous offending by that parent.

**Figure 10: Reason a family/whānau member did not attend the ITC FGC, where known (n=83)**



Other less common reasons recorded for non-attendance by family/whānau included where the young person was not going to attend or was going to deny the offending (8%), unwillingness to attend (7%), issues with being able to contact them (5%), and issues around their availability (5%) e.g., they were working or attending a tangi.

***The level of involvement and support by family/whānau attendees is likely to be more important than the number of attendees***

Ideally, the purpose of family/whānau attendees at the FGC is to participate meaningfully in decision-making and provide support to the young person. Measuring the extent to which this occurred at ITC FGCs would have been useful, but this was not possible from the information recorded in CYRAS. This research therefore focused on the *number* of family/whānau attendees at each ITC FGC and their *relationship* to the young person as these were readily available from the FGC Record of Decisions documents.

Further qualitative research is needed to understand the level of involvement and support provided by family/whānau during FGCs, and the impact this has on the decision to develop a diversionary plan or lay charges, and if a plan is developed, the likelihood this will be completed by the young person.

# Victim engagement

The victim of an offence, or a representative of the victim, is 'entitled' to attend a youth justice FGC and participate in the decision-making. The victim (or their representative) may also bring other people for support, but these support people are not entitled members of the FGC, so cannot participate in decision-making.

## Numbers and characteristics of victims

The random sample of 175 ITC FGCs held between January and August 2019 involved a total of 508 offences. Victims were associated with 424 (83%) of these offences, with the remaining 84 offences (17%) being "victimless" (discussed later).

For some of the ITC FGC referrals, there were victims who clearly had more than one offence for which they were the identified victim. For example, the young person had shoplifted on two separate occasions at the same business or had assaulted or threatened the same victim on more than one occasion. The analysis found that the 424 offences had 364 victims associated with them.<sup>14</sup> The identity of four victims was not clear to Police at the time of referral, so there were 360 victims who could have been consulted about participating in the ITC FGC process.

### *Most ITC FGC referrals involved at least one victim, but 13% involved none*

The potential for involvement of victims in the ITC FGC process is high given that most referrals involved at least one victim. For the sample of 175 ITC FGC referrals:

- 43% (75) involved one victim
- 19% (34) involved two victims
- 11% (19) involved three victims
- 14% (24) involved four or more victims, including four that each involved more than 10 victims from a spree of offending by the young person, but
- 13% (23) did not involve any victims.

ITC FGCs not involving any identified victims was almost always because the referrals were for victimless offences (discussed at the end of this chapter).<sup>15</sup>

### *Characteristics of the victims of youth offending are not usually recorded*

Characteristics of the victims of offending by children and young people in New Zealand are not readily available.<sup>16</sup> The Police FGC referral and consultation documents and information recorded in CYRAS were examined to determine the

<sup>14</sup> These victims are not distinct individuals as, based on inspection of their names, small numbers appeared to be associated with more than one of the 175 sampled ITC FGCs. This could result from separate offending incidents against them, or multiple ITC FGCs for co-offenders from the same offending incident. Given the limited information recorded on the characteristics of victims, it is not possible to be precise about distinct victim numbers.

<sup>15</sup> Some of the ITC FGCs that involved one or more victims, also involved victimless offences.

<sup>16</sup> The *New Zealand Crime & Victims Survey*, Ministry of Justice, collects victimisation information for a sample of New Zealanders aged at least 15 years. Victimisation is not assessed for children, and the survey does not collect information on whether alleged offenders are adults or youth.

extent to which we could identify the type of victim (e.g., an individual, business, or school), and for individuals, their gender, age group and ethnicity. While Police collects demographic information for many victims<sup>17</sup>, it is not standard practice to share this information with Oranga Tamariki in the FGC referral or consultation documents. The recording of demographic information in CYRAS is sparse for adult victims but is more often captured if the victim is a child or young person.

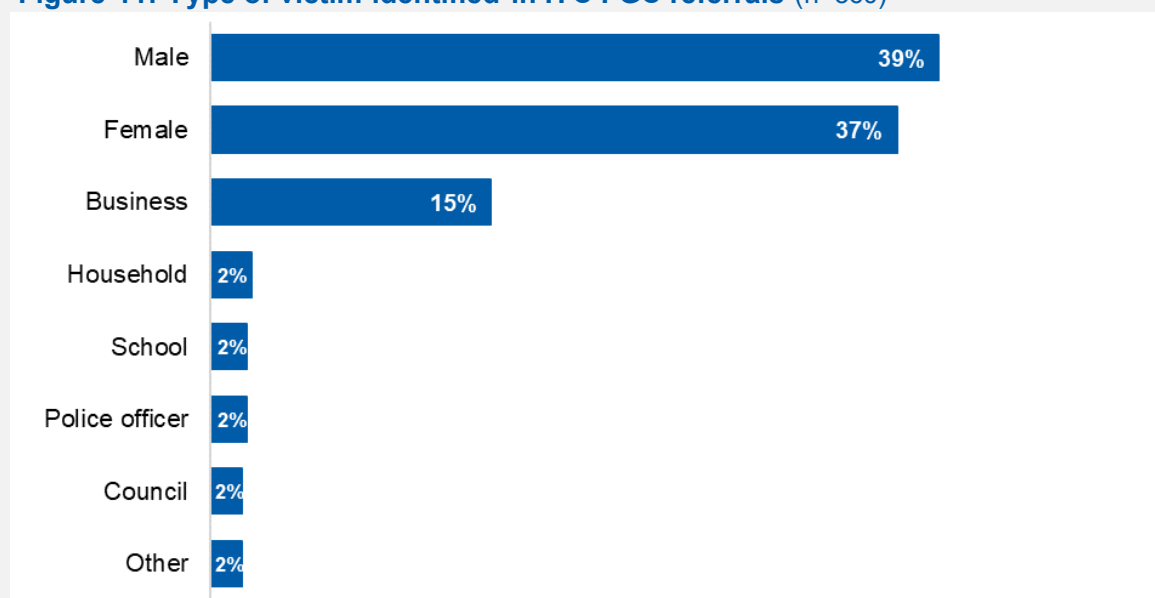
If a victim was an individual, but their gender was not recorded, in most cases it was imputed based on pronouns used to refer to them (e.g., he or she), or less often based on common male or female given names (e.g., John or Sarah respectively).

Where the offence was not directly against a person, the name of the victim provided by Police or recorded in CYRAS was used to group victims into categories (e.g., businesses or schools). While the intent of some offences against these entities is not necessarily to cause direct harm to any individual, people are invariably impacted by having to deal with the trauma, loss or damage caused by the offences.

### ***Three-quarters of the victims associated with ITC FGCs were individuals and 15% were businesses***

Three-quarters (76% or 272) of the 360 victims identified in ITC FGC referrals were individuals, with 39% being male and 37% female (Figure 11).

**Figure 11: Type of victim identified in ITC FGC referrals (n=360)**



Fifteen percent (54) of the 360 victims were businesses, most often being a supermarket, dairy, service station, large retail store, liquor store, or a vehicle-related business (e.g., a car dealership, repair, or rental business).

Two percent (8) of the victims were a 'Household' (e.g., a group of people living in the same dwelling who were burgled). Police officers, schools, councils (i.e., local government bodies), and other entities each accounted for 2% (6 or 7) of the victims.

<sup>17</sup> For example, see: <https://www.police.govt.nz/about-us/publications-statistics/data-and-statistics/policedatanz/victimisations-demographics>.

### ***Of the victims who were individuals, most appeared to be adults, but around 16% were young people or children***

Where the ages of male and female victims were recorded or could be estimated, these were grouped into three categories: *adults* (taken to be aged 17 years or older), *young people* (aged 14 to 16 years), and *children* (aged 13 years or younger). Age was usually recorded when the victim was a child or young person.

The age group of victims was imputed as being adult in 103 cases where the offence type appeared likely to involve an adult victim (i.e., the victim's car was stolen, or their house was burgled). The age group could not be identified or estimated for 14% (38) of the 272 victims who were male or female.

For the 234 individual victims whose age group could be identified or estimated, most (84% or 196) appeared to be adults. Thirteen percent (30) of the individual victims were young people, with most offences against them being violent in nature i.e., assaults, robbery, or threatening behaviour. The remaining 3% (8) of the individual victims were children, with the offences against them most often being sexual or violent in nature.

Information on victim ethnicity was only recorded for just over a quarter of the individuals, so may not provide a representative picture. However, the available data suggests that victimisation arising from youth crime is likely to be spread across ethnic groups closer to the distribution of ethnicity in the New Zealand population than we see in relation to offender ethnicity (where Māori are the majority, e.g., see Appendix 1, Table A1.1). That is, over half of the victims of youth crime are likely to be European.

## **Consultation with victims**

### ***Victims were most often consulted by phone during the convening process***

The YJ coordinator role includes working with victim(s) to ensure they understand the youth justice FGC process, can actively participate and/or express their views at the FGC, and have confidence in their safety and wellbeing throughout the process.

The first contact with each victim is usually by letter which will include general information on victim's rights. This should be followed-up with a phone call or a face-to-face visit with the victim. The 'highest priority' method<sup>18</sup> that YJ coordinators used to consult victims during the FGC convening process could be identified for 275 of the 360 victims.

Sixty-one percent of the 275 victims for whom the contact method was recorded were consulted by phone and 5% were consulted by email. Twenty-three percent of victims were consulted in person at their home or some other agreed venue. Three percent of victims appeared to have only been sent a letter.

Eight percent of victims were not contacted or consulted. In a few cases, victims could not be consulted because the contact details provided by Police were no

<sup>18</sup> Where more than one victim contact method was used by the YJ coordinator (e.g., a letter followed by a phone call), a single 'highest priority' contact method was recorded, with the priority order (from highest to lowest) being: meet in person, phone, email, letter, none.

longer valid (e.g., the victim's phone number did not work) and updated contact details could not be obtained. Occasionally, the victim had told Police they do not want any further contact regarding the offence, so the YJ coordinator respected this and did not contact them.

Other reasons for consultation not occurring included: the victim did not reply to phone messages or emails from the YJ coordinator; the victim was a business who was known locally not to participate in FGCs; or it was known the offences were going to be laid in court (e.g., because they were denied by the young person) and contact with the victim was going to be made later in relation to a court-ordered FGC.

Where the victim was a child or young person, and particularly when the offending was of a violent or sexual nature, the first point of contact by the YJ coordinator was usually the victim's parent or caregiver. There was often discussion as to whether the child or young person should be consulted in person by the YJ coordinator, or whether the parent or caregiver will represent their views going forward.

## Victim participation at the ITC FGC

### *Victims attending FGCs in person is the ideal*

Research suggests that justice and recidivism outcomes are better when victims participate in justice processes, particularly restorative justice processes.<sup>19</sup>

As part of their convening role, YJ coordinators will encourage victims to attend the FGC in person. Attendance at the FGC allows the victim to have direct input into how the young person should be held accountable for their offending. Victims attending the FGC and describing the effects the offence has had on them, can also challenge young people to face up to the fact they have caused harm to a 'real' person.

If a victim does not want to or cannot attend themselves, they are entitled to have another person represent them at the FGC. The victim representative can participate fully in all decision-making. Where the victim is a child or young person, the victim representative will commonly be their parent or caregiver.

If a victim (or victim representative) cannot attend in person, they can provide a written or verbal submission to the YJ coordinator to present at the FGC on their behalf. Some victims will however choose not to participate in the FGC process.

### *Almost half of the victims participated in the ITC FGC process, including 21% who attended in person*

The FGC Record of Decisions documents in CYRAS were used to assess victim attendance, or whether the victim provided a submission to be presented at the FGC. Attendance by each victim was assessed at a binary level (i.e., Yes or No), so if more than one person attended in relation to a single victimisation, then attendance was only counted once. This occurred sometimes where the victim was a business or household, or where the parents/caregivers of a young victim both attended as victim representatives.

<sup>19</sup> For example, see p4 in: Oranga Tamariki Evidence Centre (2020b).

Of the 360 victims who potentially could have attended the ITC FGCs:

- 21% (74) attended in person, or a victim representative attended on their behalf
- 28% (101) provided a submission in lieu of attending
- 51% (185) did not participate in the FGC process.

Table 2 shows that businesses who were victims had the lowest rate of physical attendance at ITC FGCs (7%), but they had the highest rate of making submissions (44%). Female victims (28%) were more likely than male victims (16%) to physically attend ITC FGCs. Around a quarter of both males and females made submissions in lieu of attending the ITC FGC.

**Table 2: Victim participation rates for ITC FGCs, according to type of victim, age group and offence type**

	Number	Victim participation		
		Attended	Submission	None
<b>Victim type</b>				
Male	140	16%	25%	59%
Female	132	28%	27%	45%
Business	54	7%	44%	48%
All other victims	34	32%	18%	50%
<b>Age group</b>				
Adult	196	21%	27%	53%
Young person or child	38	26%	24%	50%
Not applicable/unclear <sup>1</sup>	126	-	-	-
<b>Offence type</b>				
Theft-related	153	16%	36%	48%
Burglary	63	22%	24%	54%
Property damage	44	23%	16%	61%
Injury causing act	43	28%	26%	47%
Robbery-related	19	21%	32%	47%
All other offences	38	24%	18%	58%
All victims	360	21%	28%	51%

Note:

1. Includes victims who are not individuals, as well as individuals whose age was not available.

Participation rates were not significantly different for adults and young people/ children. It is possible, however, that there may be differences in participation rates for some age groups, but exact ages of victims were not usually available.

While there appeared to be some differences in the physical attendance rates at ITC FGCs according to offence type, because of the modest sample sizes, none of the differences were statistically significant. The lowest attendance rate was for theft-related offences (16%), largely due to businesses rarely attending ITC FGCs for shoplifting or other theft offences.

The high attendance rate seen for injury causing acts was due to over 40% (10) of the 24 female victims attending. Only 15% (2) of the 15 male victims of such offences attended.

Most of the 19 robbery-related offences were committed against individuals (16) rather than businesses (3). Three of the 11 male victims of a robbery-related offence attended, whereas none of the five female victims attended.

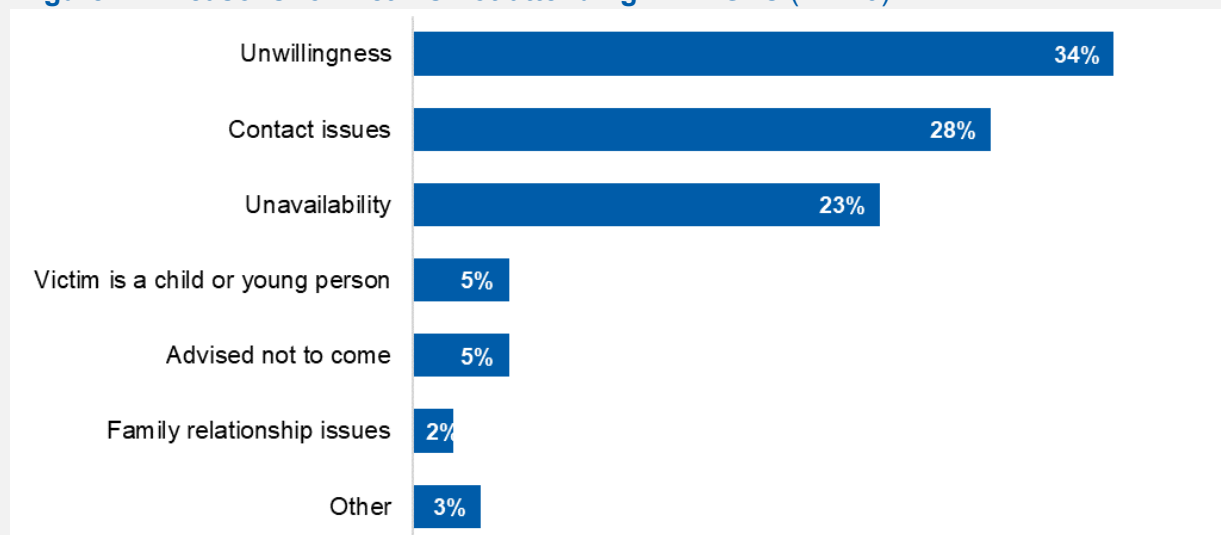
**Victims appeared more likely to attend the ITC FGC if they were consulted in person**

Victims appeared more likely to physically attend the ITC FGC if the YJ coordinator met with them in person before the FGC, compared to other methods of contact.<sup>20</sup> Forty-one percent (26) of the 64 victims who were consulted in person attended the ITC FGC, compared to 19% (32) of the 168 victims contacted by phone. Attendance rates were even lower for the small numbers contacted by email (two of 14 attended) or letter only (none of eight attended).

**Common reasons for victims not attending were their lack of willingness or availability to do so, or there were issues with contacting them**

Reasons for non-attendance were recorded for 149 victims and varied widely. The most common reason was their unwillingness to attend (34%). Reasons for not wanting to attend ranged widely from tension with the young person's family and fear of reprisal to the victim not feeling impacted by the offending or having moved on from the offence. Some victims did not want to participate as they felt the FGC process was a waste of time, while others felt their views could be adequately represented through a submission or a third party speaking on their behalf. Others were unwilling to attend because it was company policy not to do so (often these victims were large retail businesses).

**Figure 12: Reasons for victims not attending ITC FGCs (n=149)**



Of the victims whose reason for not attending was known, 28% either were not contacted, or it was unclear whether they had been contacted. In cases where victims could not be contacted, efforts ranged from multiple contact attempts using different contact methods to a single text that got no reply. In some cases, it

<sup>20</sup> Oranga Tamariki Evidence Centre (2020a) found: “The default for most whānau is at least one face-to-face meeting with a YJ coordinator before an FGC, but for victims this is much less consistent— even though many coordinators see face-to-face contact as an important part of supporting victim attendance”.

appeared that more effort could have been made to improve contact rates. In a small number of cases there was no attempt to contact the victim. While the reason for this was not always recorded, this was sometimes due to the YJ coordinators knowledge that the case was going to court after the ITC FGC because of concurrent offending, and there would subsequently be a court-ordered FGC.

Another common reason for victims not attending the ITC FGC was that they were not available to attend at that time and/or location (23%). This included victims who were working, away from home, or living elsewhere at the time of the FGC. This finding suggests that with more effort to arrange a suitable time, or alternative methods of participation such as the use of video communication platforms, victim participation could be improved.<sup>21</sup>

In 5% of cases where the victim did not attend, they were a child or young person. Reasons for children and young people not attending ITC FGCs included trauma and parents not wanting to cause more stress or bring back bad memories. In some of these cases, one or both parents attended as the representative of the victim. It appears that the FGC process could be made more child-friendly for young victims as well as the alleged offender.

In 5% of cases victims were advised by the YJ coordinator not to attend the ITC FGC. This was usually due to the coordinator's knowledge that the case would inevitably progress to court.

Family relationship issues accounted for 3% of victim non-attendance. This included cases where the victim was related to the young person who offended and complex family dynamics lead them to not attend the ITC FGC, or where the victim and young person's family had a history of antagonism that the victim did not want to aggravate.

Reasons captured in the 'other' category included the victim being sick on the day of the ITC FGC, previous negative experiences with Child, Youth and Family, and knowledge that the young person would deny the offence, so it would go to court.

## Victimless offences

### *Most victimless offences were either traffic-related or disorder offences*

Nearly half (40) of the 84 offences that did not involve a victim were traffic-related offences (e.g., driving with excess alcohol, failing to stop for Police, or an unlicensed driver failing to comply with a prohibition). Disorder-type offences (mainly disorderly behaviour and resisting or obstructing Police<sup>22</sup>) accounted for around a quarter (22) of the victimless offences. Most of the other victimless offences involved cannabis and other drug-related offences, or possession of an offensive weapon/knife.

<sup>21</sup> Oranga Tamariki Evidence Centre (2020a) noted that low-attending groups of victims such as supermarket managers and dairy owners have unique barriers to attendance, and personalising video participation at the FGC is one approach that may enable increased victim attendance.

<sup>22</sup> In the Police referrals, they did not usually identify any victims for resisting or obstructing police offences. However, where the offence was an assault on a police officer, the referral always identified the officer as the victim.

# Discussion and conclusions

This research provides unique insights into ITC FGC processes, decisions, and outcomes that are not readily available through structured administrative data. Some aspects of this research were however limited as researchers did not observe the FGCs in person. Further qualitative research would be useful to fill any gaps.

A core function of the ITC FGC is to consider whether the young person should be prosecuted or whether the offending can be dealt with in some other way, such as with a diversionary plan.

## ***Half of the ITC FGC decisions being to lay charges seems a high proportion***

The decision at 50% of the ITC FGCs held was to lay charges. This seems a high proportion given Principle 208(2)(a) in the Act that “*unless the public interest requires otherwise, criminal proceedings should not be instituted against a child or young person if there is an alternative means of dealing with the matter*”.

The Police stance on whether charges should be laid in court is pivotal because if they want charges to be laid, then this can happen. It appeared for at least some of the ITC FGCs, that Police were going to lay charges regardless of what occurred at the FGC. Further qualitative research would be useful to better understand the role of Police in ITC FGC decision-making.

Sixty percent of the ITC FGC offending matters that went to court were finalised with a s282 discharge. This often signifies a successfully completed court-ordered FGC plan. Whether a completed ITC FGC plan could have been achieved in some cases had these matters not gone to court is not known. There may be factors associated with court-ordered FGC plans that influence the likelihood of completion (e.g., the involvement of Rangatahi and Pasifika Courts in plan monitoring).

## ***Further research is required to understand the link between identified risks and needs and the content of plans***

Information on the risks and needs of young people and their family/whānau was often contained in the Police and Oranga Tamariki FGC documentation in CYRAS. However, it was not always clear if or how this information had been used to inform plan content. This was particularly the case in relation to family/whānau as only a quarter of plans mentioned consideration of their needs. Further research is required to understand the link between identified risks and needs and the content of plans.

## ***Further research is required to understand the link between risks and needs identified for young people and their family/whānau and the content of plans***

Information on the risks and needs of young people and their family/whānau was often contained in the documentation in CYRAS, but it was not clear whether this information had been used in a systematic way to inform plan content. Only a quarter of plans mentioned consideration of family/whānau needs, which seems like a low proportion given the large number of issues recorded for family/whānau. Further research would be useful to understand the link between risks and needs identified for young people and their family/whānau and the content of plans.

### ***Increasing family/whānau attendance at ITC FGCs<sup>23</sup>***

For one-third of all ITC FGCs sampled, only one or no family/whānau of the young person attended the FGC. This is likely to limit the possibility of family/whānau-led plans being developed. Low-level attendance was more likely when the young person had multiple previous youth justice FGCs, so developing strategies to improve family/whānau attendance in these situations would be useful.

Only 30% of all family members who attended ITC FGCs were male, so improving attendance levels by fathers and other male relatives could be a future area of focus.

### ***Increasing victim attendance at ITC FGCs***

Victims appeared more likely to physically attend the ITC FGC if the youth justice coordinator met with them in person before the FGC, than was the case for other methods of contact. However less than a quarter of victims were consulted in person, with the majority being consulted by phone. Increasing the frequency of face-to-face consultation with victims may increase their attendance at ITC FGCs beyond the 21% found in this research.

Businesses who had been victimised had the lowest physical attendance rates at ITC FGCs, and male victims were less likely to attend than females. Improving attendance rates by businesses and male victims could be future areas of focus.

The vast majority of ITC FGCs are held Monday to Thursday during standard work hours, and this may be impacting on victims wanting to, or being able to, attend the FGC. Greater flexibility as to when FGCs are held, and exploring alternative participation methods, such as the use of video communication platforms, may increase victim participation at FGCs.

<sup>23</sup> Further information on barriers to FGC participation for victims and whānau, and suggestions on behavioural science informed approaches to increase FGC attendance, is available in Oranga Tamariki Evidence Centre (2020a).

# References

- Oranga Tamariki Evidence Centre (2020a). *Increasing victim and whānau attendance at Youth Justice FGCs*. Wellington, New Zealand: Oranga Tamariki—Ministry for Children.
- Oranga Tamariki Evidence Centre. (2020b). *Evidence brief: Maximising victim participation and engagement*. Wellington, New Zealand: Oranga Tamariki—Ministry for Children.
- Slater, C., Lambie, I., & McDowell, H. (2015). *Youth justice co-ordinators' perspectives on New Zealand's youth justice family group conference process*. *Journal of Social Work*, 15(6), 621– 643.

# Appendix 1: Additional tables

**Table A1.1: Characteristics of young people for the random sample and full population of ITC FGCs held in January to August 2019**

Characteristic	Sample (n=175)	Population (n=706)
<b>Gender</b>		
Male	78%	78%
Female	22%	22%
<b>Ethnicity (prioritised)</b>		
Māori	62%	63%
European/other	27%	28%
Pacific peoples	11%	9%
<b>Age when FGC held</b>		
12–14 years	18%	22%
15 years	38%	35%
16 years	37%	34%
17–18 years	7%	9%
<b>Region where FGC held</b>		
Te Tai Tokerau/Auckland	48%	44%
Central North	25%	28%
Greater Wellington/South Island	27%	27%

**Table A1.2: Initial decision at sampled ITC FGCs held in January to August 2019, by characteristics of young people**

Characteristic	Number	Lay charges in court	Diversionary plan	Refer back to Police: NFA	Total
<b>Gender</b>					
Male	136	51%	46%	3%	100%
Female	39	44%	54%	3%	100%
<b>Ethnicity (prioritised)</b>					
Māori	108	52%	44%	4%	100%
European/other	47	34%	66%	0%	100%
Pacific peoples	20	75%	20%	5%	100%
<b>Age when FGC held</b>					
12–14 years	31	48%	45%	6%	100%
15 years	67	48%	51%	1%	100%
16 years	65	52%	45%	3%	100%
17–18 years	12	50%	50%	0%	100%
<b>Prior YJ FGC count</b>					
None	80	34%	65%	1%	100%
1 or 2	52	52%	42%	6%	100%
3 or more	43	77%	21%	2%	100%
<b>Overall</b>	<b>175</b>	<b>50%</b>	<b>47%</b>	<b>3%</b>	<b>100%</b>

Note: NFA = no further action; YJ FGC = youth justice family group conference.

**Table A1.3: Seriousness level of most serious referred offence and number of prior youth justice FGCs for young people with a sampled ITC FGC held in January to August 2019, by ethnicity**

	Māori (n=108)	European/ other (n=47)	Pacific peoples (n=20)	Total (n=175)
<b>Seriousness level of most serious referred offence</b>				
Low	7%	19%	5%	10%
Low-Medium	8%	13%	5%	9%
Medium	24%	23%	15%	23%
Medium-High	40%	23%	40%	35%
High	20%	21%	35%	22%
Total	100%	100%	100%	100%
<b>Number of prior YJ FGCs</b>				
None	41%	64%	30%	46%
1 or 2	31%	26%	30%	30%
3 or more	28%	11%	40%	25%
Total	100%	100%	100%	100%

**Table A1.4: Family/whānau attendance at ITC FGCs, by relationship to young person**

Relationship to young person	Percentage of ITC FGCs where present (n=175)	Percentage of all attendees (n=401)
<b>Parent/Caregiver</b>	<b>84%</b>	<b>52%</b>
<i>Mother</i>	(71%)	(31%)
<i>Father</i>	(33%)	(14%)
<i>Stepparent</i>	(6%)	(2%)
<i>Caregiver</i>	(9%)	(4%)
<b>Grandparent</b>	<b>25%</b>	<b>14%</b>
<i>Grandmother</i>	(22%)	(10%)
<i>Grandfather</i>	(9%)	(4%)
<b>Sibling</b>	<b>20%</b>	<b>11%</b>
<i>Sister</i>	(13%)	(7%)
<i>Brother</i>	(8%)	(4%)
<b>Aunt/Uncle</b>	<b>18%</b>	<b>13%</b>
<i>Aunt</i>	(16%)	(9%)
<i>Uncle</i>	(6%)	(4%)
<b>Other</b>	<b>15%</b>	<b>10%</b>
<i>Cousin</i>	(6%)	(3%)
<i>Family support</i>	(5%)	(3%)
<i>Other relation</i>	(4%)	(2%)
<i>Girlfriend</i>	(2%)	(1%)
<i>Girlfriend's family</i>	(s)	(1%)
<b>No family/whānau attended</b>	<b>7%</b>	-
Total	-	100%

Note: 's' indicates the percentage was suppressed as it was based on a number under three.

# Appendix 2: ITC FGC sample characteristics

Information is presented below on where and when the 175 sampled ITC FGCs were held, demographic and background characteristics of the young people who participated in the FGCs, and the number and types of offences being dealt with.

## Where and when are ITC FGCs held?

### *The majority of ITC FGCs were held at Oranga Tamariki site offices*

Table A2.1 shows that the ITC FGCs were commonly held at Oranga Tamariki site offices (57%). Twenty-seven percent of ITC FGCs were held at a community centre or in a meeting room at some other community location. A further 7% were held in a church, while 3% were held at the family/whānau home of the young person. Three percent of ITC FGCs were held via audio-visual link to an Oranga Tamariki secure residence from a site office, and 2% were held at a police station.

**Table A2.1: Where and when the sampled ITC FGCs were held in January to August 2019**

ITC FGC location and day/time held	Number	Percentage
<b>Location where held</b>		
Oranga Tamariki site office	100	57%
Community centre/location	48	27%
Church	13	7%
Whānau home	5	3%
Oranga Tamariki secure residence	5	3%
Police station	4	2%
<b>Day of the week held</b>		
Monday	39	22%
Tuesday	44	25%
Wednesday	35	20%
Thursday	34	19%
Friday	22	13%
Saturday or Sunday	1	1%
<b>Commencement time</b>		
9am–11:30am	88	50%
12noon–1:30pm	42	24%
2pm–4:30pm	35	20%
5pm–6:30pm	9	5%
Unknown	1	1%
<b>Total</b>	<b>175</b>	<b>100%</b>

### ***Most ITC FGCs are held on weekdays during standard working hours***

Most (87%) ITC FGCs were held between Monday and Thursday, with between 19% and 25% being held on each of these days. The sampled ITC FGCs were less commonly held on a Friday (13%) and were only once held on the weekend.

Half of all ITC FGCs were held in the morning, with 10am or 11am being the most common commencement times in the morning. Nearly a quarter were held during 'lunchtime', and 20% were held in the afternoon. Only 5% of ITC FGCs were held at 5pm or later.

Given most ITC FGCs are held on weekdays during standard working hours, this is likely to hinder physical attendance in person by some family/whānau and victims.

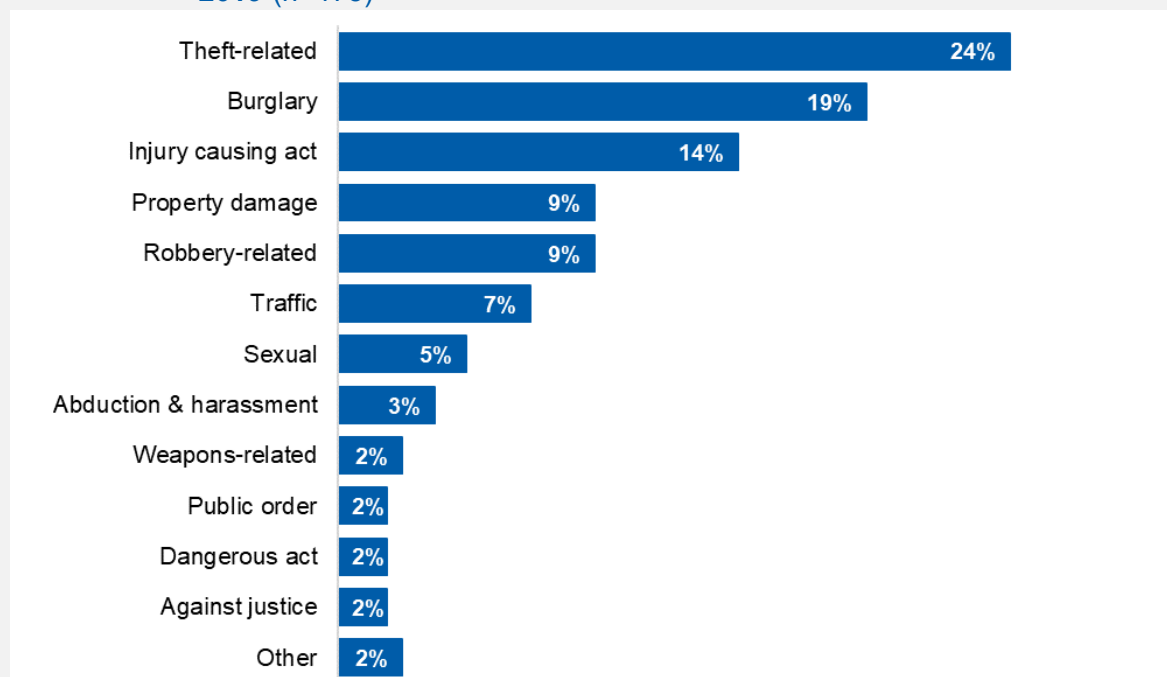
## **What offences are dealt with at ITC FGCs?**

### ***Two thirds of ITC FGCs involve more than one offence, with theft-related and burglary being the most common offences***

The 175 sampled ITC FGCs held between January and August 2019 involved a total of 508 offences. Thirty-five percent involved a single offence, 25% involved two offences, and 24% involved three or four offences. Sixteen percent involved five or more offences, including four ITC FGCs that involved more than 10 offences.

For 24% of the ITC FGCs, the most serious offence was theft-related, and for 19% it was burglary (Figure A2.1). Most theft-related offences involved unlawfully taking or getting into a motor vehicle i.e., being the driver or passenger in a stolen car.

**Figure A2.1: Most serious offence at sampled ITC FGCs held in January to August 2019 (n=175)**



The most serious offence for 14% of the ITC FGCs was an injury causing act – most commonly assault with intent to injure or wound. Less often, it was common assault, assault on a police officer, or assault on a person in a family relationship.

Other categories each accounted for less than 10% of the most serious offences being dealt with at ITC FGCs.

## What are the characteristics of young people participating in ITC FGCs?

*The majority of ITC FGCs involve young people who are male, Māori, or aged 15 or 16 years*

Over three-quarters of young people who participated in the 175 sampled ITC FGCs were male and 22% were female (Appendix 1, Table A1.1).

Sixty-two percent of young people who had an ITC FGC were Māori, 27% were European/other, and 11% were Pacific peoples.

Three-quarters of the 175 ITC FGC participants were aged 15 or 16 years when the ITC FGC was held, and 7% were aged at least 17 years. Eighteen percent of participants were aged 14 years or younger.

A recent *Youth Offending Risk Screening Tool* (YORST) risk of reoffending score was available from Police for most (85% or 148) of the young people who had an ITC FGC. For those with a YORST available, only 6% had a low-risk score, 66% had a medium-risk score, and 28% had a high-risk score.<sup>24</sup>

### *Police FGC-related documents highlighted many issues for young people*

The FGC-related documents from Police, included the referral and consultation forms, and the *Youth Offender Risk Screening Tool* (YORST) results. These documents often included useful background information on the young people. Many referrals identified multiple issues for the young person, with a total of 299 discrete issues being identified within 118 referrals.<sup>25</sup> Police documents did not identify any issues for the young person in 33% of the referrals (57 of 175).

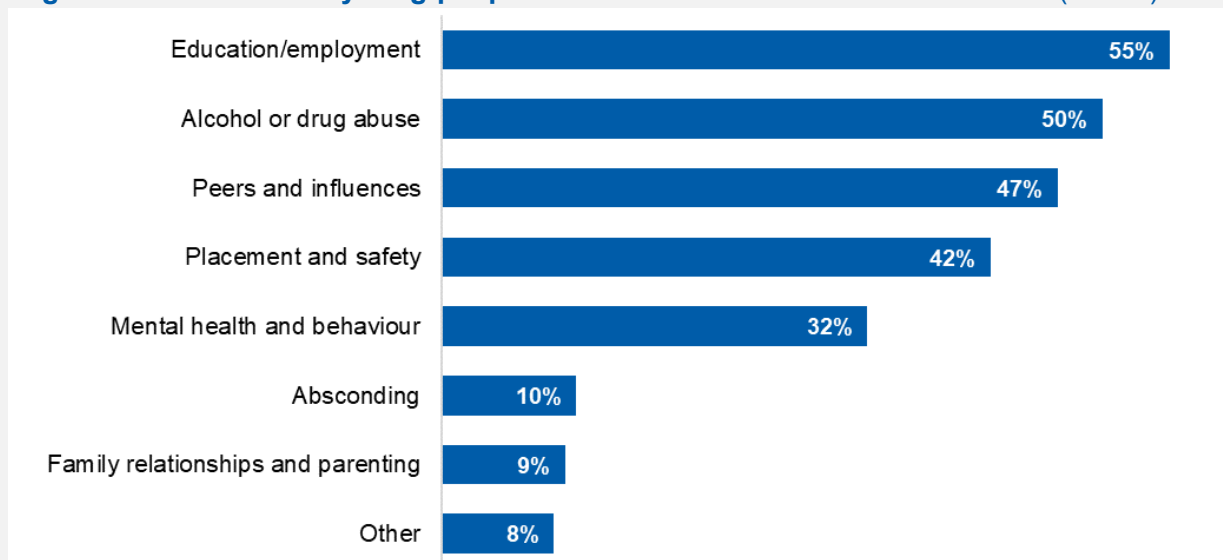
The analysis below shows the percentage of ITC FGC referrals where each issue was identified out of the total number where at least one issue was identified. The 57 ITC FGCs where no issues were identified were excluded under the assumption that, where no issues were identified by Police, this was more likely due to insufficient information rather than the young person having no underlying issues. If the analysis had used the full sample (175), the prevalence of each issue would be lower.

Of those young people with at least one identified issue, 55% had education and/or employment related issues. This included being chronically truant, excluded or expelled from education, or not being in education, employment, or training (NEET).

<sup>24</sup> The YORST estimates the risk of reoffending between 0 and 100 percent. For this analysis, low-risk YORST scores were values of less than 30, medium-risk scores were 30 to 69, and high-risk scores were 70 to 100. These risk bands are those specified in Mossman, E. (2012). *Research to Validate the New Zealand Police Youth Offending Risk Screening Tool (YORST) Phase II: Predictive Ability Analysis*. Wellington, New Zealand: New Zealand Police.

<sup>25</sup> Issues were counted for each ITC FGC within the sample. Therefore, in a small number of cases where young people had more than one ITC FGC included in the sample, their issues are counted more than once in this analysis.

**Figure A2.2: Issues for young people identified in Police ITC FGC referrals (n=118)**



***Police referrals mentioned issues with alcohol or drug use for half of the young people, and mental health or behavioural issues for nearly one-third***

Fifty percent of the 118 referrals stated that young people consumed or used alcohol or drugs, and 47% had peers known to the Police or gang connections. Forty-two percent of referrals mentioned that the young person had current or prior issues around his or her placement or safety, including care and protection involvement.

The Police referrals mentioned mental health and/or behavioural issues including trauma, ADHD, or self-harm for nearly one-third of young people.

Ten percent had issues with absconding. Another 9% of young people had family relationship or parenting issues including having a lack of parental support, being estranged from family/whānau, being pregnant (or having a pregnant partner) or being a parent.

Less frequently identified issues captured in the 'Other' category included: having no boundaries; having confused ideas of right and wrong; lack of empathy; a history of sexual offending; inadequate legitimate income; and prostitution.

***Police FGC-related documents also highlighted many issues for family/whānau***

Police documents identified 179 discrete family/whānau<sup>26</sup> issues within 100 ITC FGC referrals. Police documents did not identify any issues for the family/whānau in 43% of the referrals (75 of 175). Like in the previous section, the analysis below shows the percentage of referrals where each issue was identified out of the total number of referrals where at least one issue was identified.

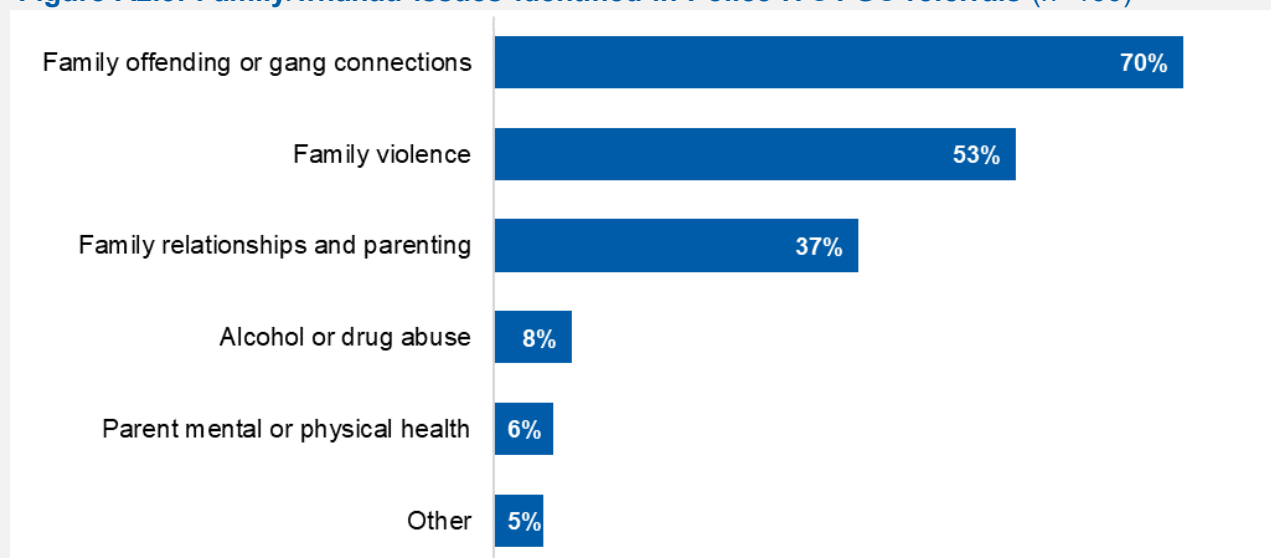
***Family/whānau offending or gang connections were identified in 70% of referrals***

Of the 100 ITC FGC referrals where at least one family/whānau issue was identified, 70% indicated there was known family/whānau offending or gang connections. This

<sup>26</sup> In this analysis, family/whānau issues related to either parents, caregivers, or siblings.

included current or historic parental or sibling offending or imprisonment, or gang connections known to Police.

**Figure A2.3: Family/whānau issues identified in Police ITC FGC referrals (n=100)**



***Family violence was an issue identified in over half of the referrals***

Over half (53%) of the referrals indicated that family violence was an issue for the family/whānau, often with multiple instances of family violence being known to Police.

Family relationship or parenting issues were identified in 37% of referrals. This included lack of supervision or parental control, or poor parenting skills, as well as inter-parent relationship issues.

Family/whānau alcohol or drug abuse was identified in 8% of referrals, while significant parental mental or physical health issues were identified in 6% of referrals. Other less common family/whānau issues included deceased or uncooperative parents.

# Appendix 3: Diversionary plan vignette

## RECORD OF DECISIONS

AND RECOMMENDATIONS MADE, AND PLANS FORMULATED, BY FAMILY GROUP CONFERENCE UNDER PART IV OF ACT

(Section 262, Oranga Tamariki Act 1989)

*All names of people and dates in this Record are fictitious. The elements included in the diversionary plan represent an example of an “average” plan.*

<b>Name of child or young person:</b>	Curtis Martin
<b>Name known by:</b>	Curtis
<b>Date of birth:</b>	1 March 2003
<b>Age:</b>	16
<b>Date family group conference reached decision:</b>	17 April 2019
<b>Persons present (and relationship to child or young person):</b>	
Curtis Martin	Young person
Ana King	Mum
Darren Martin	Dad
May King	Grandmother
Donna Simmons	Oranga Tamariki Social Worker
Greg Stone	Police Youth Aid
Matt Heke	Conference Coordinator

(Alleged) Offences in respect of which the family group conference is convened and whether the child or young person admitted commission of offence:

- 1 ITC - Other Burglary. Moe's Tavern, Auckland on 01/04/2019: Admitted

---

Name of Informant: Constable Greg Stone

---

Enforcement agency: New Zealand Police

---

Family group conference convened under: Section 247 (b) (Intention to charge)

---

## **Decisions and recommendations made, and plans formulated by the family group conference:**

### **PUTTING THINGS RIGHT**

#### **1. Apology**

Curtis will write an apology letter to the victim Mr Moe. He will deliver this letter to the Otahuhu site office, Auckland by Friday 24th April 2019.

#### **2. Reparation**

Reparation of \$200 will be paid by Mum, Ana King, to Mr Moe, to cover the insurance excess. Curtis will do household chores to repay Mum.

### **ADDRESSING NEEDS**

#### **3. Education**

Curtis will continue to attend his course. He will attend regularly with no unexplained absences.

Curtis's whānau will support him to attend.

#### **4. Health and wellbeing**

There are no concerns for Curtis's general health.

Curtis has issues with cannabis use. Curtis has agreed for the social worker Donna Simmons, to make a referral to CADS (Community Alcohol and Drug Service) Auckland South, to receive support with stopping cannabis use.

Curtis agrees not to consume alcohol or drugs unless prescribed by a doctor.

Curtis would like to improve his fitness, so will attend Jetts Manukau gym, and this will be financially supported by Oranga Tamariki.

## **5. Living arrangement**

Curtis will continue to live at 2 Clist Crescent, Manukau, Auckland, with his mother and brother.

## **6. Non-association**

Curtis will not associate with any of his co-offenders: Julian Howard, George Crawford, or Dean Walker for the duration of this plan.

## **COMPLETING THE PLAN**

## **7. Monitoring**

This plan will be monitored by Donna Simmons who will report to the coordinator and the youth aid officer.

## **8. Time frame**

This plan will be for three months starting on 17<sup>th</sup> April 2019 and ending on 17<sup>th</sup> July 2019.

## **9. Recommendation**

The Conference agreed that if Curtis successfully completes his plan, the Police agree to take No Further Action and the file will be closed.

---

I certify that the above is a true and correct record of the decisions, recommendations and plans of the family group conference.

Date:	17 April 2019
Signature of Youth Justice Co-ordinator:	
Name of co-ordinator:	Matt Heke
Oranga Tamariki office:	Otahuhu YJ
Phone:	<number>
Cell-phone:	<number>
Free-phone:	<number>
Email:	<email address>

