

Pre-court diversion in the Northern Territory: impact on juvenile reoffending

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A juvenile pre-court diversion scheme was introduced in the Northern Territory in 2000. Administered by police, it uses warnings and conferences to divert selected juveniles from the court process. This paper reports on an analysis of Northern Territory police records on 3,597 apprehended juveniles over a 5 year period. Findings showed that the great majority of juveniles (76%) did not reoffend within the first year after their initial diversion or court appearance. However, there were significant differences between juveniles who attended court and those who were diverted, both in terms of risk of reoffending and time to reoffending. Those who were diverted reoffended less than those who attended court and those who went to court reoffended more quickly. Property offenders who attended court were 30 percent more at risk of reoffending than violent offenders. Further work is required to see if the different effects for court versus diversion remain if prior offending history is taken into account. The significant differences in offending related to age, gender, Indigenous status and location confirm the need for specific responses to particular groups of juveniles.

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The NT juvenile pre-court diversion scheme

The juvenile pre-court diversion scheme was introduced in the Northern Territory (NT) in 2000. Mandatory sentencing was in place in the NT at that time, and the scheme was a response to both federal and international concerns that juvenile offenders in the NT were unfairly treated by the criminal justice system.

The scheme provided pre-court diversion for juveniles from 10 to 18 years of age (after implementation, this was lowered to 17 years of age) and the aims of the scheme were to:

- provide and maintain an effective alternative to the prosecution and sentencing of young offenders in the formal justice system
- encourage young offenders to be responsible members of the community by providing opportunities for positive behavioural change and improvement in life skills through diversion activities (Waite 2003: 3).

The following set of principles was also developed:

- treat young people fairly
- support and involve victims
- take account of the impact on the victim

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- encourage parental responsibility
- foster closer police and community interaction
- foster positive social change (Waite 2003: 4).

The scheme gave police powers to divert offenders with either a verbal or written warning or require that they attend a family or victim–offender conference. Offences were classified as minor, serious or excluded. A verbal warning was for minor property offences. A written warning was also given for minor offences, but where the behaviour of the offender was perceived to cause a greater risk to the community than offences which received a verbal warning. Family conferences and victim–offender conferences were selected for more serious offences. Certain offences such as murder, manslaughter and serious physical assault, were excluded from diversion. Additionally, the offender had the option to decline diversion and go to court.

The NT setting

The demographic and geographic setting of the NT was an important determinant of the way in which the juvenile pre-court diversion scheme was structured. The NT has the youngest median age population in Australia at 30.9 years, the highest proportion of children under 15 years (25%) and the highest proportion of people aged 15 to 44 (49%; ABS 2005). A younger population can significantly affect the rate of offending as offender populations are skewed towards younger age groups (Broadhurst & Loh 1995). The NT also has the largest percentage of Indigenous people in its population, at 29 percent compared with less than four percent in other states (ABS 2003). Indigenous status has been linked to a higher percentage of offending in a population and Indigenous juveniles have been consistently over-represented in the criminal justice system in Australia (Snowball & Weatherburn 2006).

Geographically, 60 percent of the NT population lives in the Darwin region and the remaining 40 percent in regional or remote areas. In fact, only two centres in the NT – Darwin and Alice Springs – have populations of more than 10,000 people (ABS 2002). Remoteness of location and consequent lack of access to services can affect the ability of a community to provide adequate resources for its young people that could prevent initial offending or reoffending.

Method

The data were taken from the Police Realtime Online Management System (PROMIS) for the five year period August 2000 to August 2005. PROMIS is used by police to record all apprehension and case information. A total of 3,597 juveniles were apprehended by police over that period. The data taken from the system and used in the current research are shown in Box 1.

The analysis first examined the characteristics of juvenile offenders and those who reoffended. In order to take into account the fact that not all juveniles had a similar time to reoffend, only those juveniles 16 years of age or younger at the time of their first apprehension were included in the analysis. This gave that group of offenders at least one year in which to reoffend. Juveniles who were

17 years of age or older at the time of their first apprehension were excluded from the initial analysis.

Reoffending by demographic, geographic, offending and event type

As shown in Table 1, the majority of offenders were male (72%), Indigenous (59%), 14 years or older (71%) and lived in an Indigenous community or regional centre (54%). The largest percentage of juveniles had committed a property crime (63%) and had received a warning or attended a conference (78%).

The percentage of Indigenous juveniles apprehended over the study period indicates the extent of over-representation of Indigenous juveniles in the NT criminal justice system, where they make up only 38 percent of 10–17 year olds in the general population (ABS 2001).

The great majority of offenders (76%) did not reoffend within 12 months of their initial diversion or court appearance. Of those who did, males reoffended to a significantly greater extent than females (28% and 13%, $\chi^2=69$, $df=1$, $p<.01$) and Indigenous juveniles to a significantly greater extent than non-Indigenous juveniles (31% and 15%, $\chi^2=91$, $df=1$, $p<.01$).

Box 1	
Gender	Male/Female
Indigenous status	Indigenous/Non-Indigenous as noted by police
Age	As at first event
Location of offender	Darwin region/Regional (Alice Springs, Katherine, Tennant Creek, Nhulunbuy)/Community (Indigenous communities)
Offence	Serious and minor property/Person/Other (includes drugs, traffic and justice offences)
Event	Court (declined or denied)/Conference (victim–offender or family)/Warning (written or verbal)
Time to reoffend	Days between completion of first event and commencement of second event

In relation to age, there were no significant differences between the groups in the extent of their reoffending for the first 12 months, with only around one-quarter of each group reoffending within that time. The fact that these differences are insignificant is of interest as other research has found that the earlier the age of onset of offending, the more persistent offending behaviour becomes (Luke & Lind 2002), and it may well be that the younger offenders in this study would have reoffended to a greater extent over a longer period. This issue will be further examined in the survival analysis.

Differences in reoffending between locations were not large but were significant ($\chi^2=10$, $df=2$, $p<.01$), with

juveniles from Darwin reoffending less than those from regional centres or communities (21%, 26% and 28% respectively).

Juveniles who committed serious property offences reoffended slightly more (28%) than those who had committed offences against the person (25%) and other offences (24%). However, those juveniles who committed minor offences reoffended significantly less than other groups (14%; $\chi^2=38$, $df=3$, $p<.00$). Juveniles who committed a minor property offence were half as likely to reoffend as those who committed a serious property offence. It would seem that diverting the former from court is an appropriate way of responding to their offending behaviour, as a court

appearance could be an unnecessarily stigmatising and traumatic experience for the offender and a costly and unnecessary use of legal system resources for this type of offence.

Over one-third of juveniles (39%) who appeared in court reoffended within the first 12 months, significantly different from only 21 percent of juveniles who had undertaken a conference and 19 percent who received a warning ($\chi^2=39.3$, $df=2$, $p<.00$). These findings support those of Wilczynski et al. (2004) who, in a study of the first two years of the scheme, found that the majority of juveniles did not reoffend and that, of those who did, reoffending was more common for those who went to court. This finding also concurs with a study in Queensland which found that significantly more juveniles had recontact with police following a court appearance than after other interventions (Dennison, Stewart & Hurren 2006).

Time to second apprehension

Survival analyses were conducted to examine the length of time to second apprehension by demographic, offending and event characteristics. This analysis is suitable for including censored cases in the analysis (Broadhurst & Loh 1995). In this case, all of the 17 year old offenders were therefore included in the survival models. The significance of the model was measured using the logrank method and the hazard ratios were analysed using the Cox Mantel hazard ratio (CMHR) where for each group the diversion/court ratio was used.

Figure 1 shows the survival rate by gender and event type, that is whether the initial event was court or diversion. The hazard ratio indicated significant differences between groups, as males who received a diversion were 44 percent less likely to reoffend than those who went to court (CMHR =.56, $p<.01$). Females who have been diverted are more than twice as likely (57%) not to

Table 1: Juvenile reoffending within one year of completion of initial event

	n	%	Did not reoffend %	Reoffended within one year %
Male	1,965	72	72	28
Female	779	28	87	13
Indigenous	1,517	59	69	31
Non-indigenous	1,081	41	85	15
Age (years)				
10	68	3	77	23
11	134	5	76	24
12	200	7	74	26
13	399	14	78	22
14	555	20	76	24
15	621	23	74	26
16	767	28	76	24
10-13	801	29	76	24
14-16	1,943	71	75	25
Community	532	19	72	28
Darwin	1,255	46	79	21
Region	957	35	74	26
Person	299	11	75	25
Serious property	1,133	43	72	28
Minor property	522	20	86	14
Other	673	26	76	24
Court	595	22	61	39
Conference	917	33	79	21
Warning	1,232	45	81	19
(Total)	(2,744)	(100)	(76)	(24)

have reoffended as those who made a court appearance (CMHR=.43, $p<.01$).

The survival curves indicate that both males and females who had made a court appearance would have reoffended much more quickly than those who had received a diversion.

Within 600 days after the initial diversion only 49 percent of males who attended court would not have reoffended, compared with 67 percent of males who had received a diversion. The time to second apprehension was longer for females who received a diversion as 83 percent of this group would not have reoffended within 600 days, compared with 67 percent of females who had made a court appearance.

At the end of the 5 year period only 39 percent of males who attended court would not have reoffended, compared with 45 percent of those who received a diversion. A higher proportion of females who received diversion would not have reoffended when compared

with those who went to court (73% and 67% respectively).

As shown in Figure 2, at the end of the study period, a greater percentage of non-Indigenous offenders had not reoffended than Indigenous offenders.

The largest difference in the proportions reoffending was between Indigenous juveniles who had made a court appearance and non-Indigenous juveniles who had received a diversion (CMHR=.30, $p<.000$). The hazard ratio of .30 indicated that non-Indigenous juveniles who received a diversion had a probability of reoffending which was 70 percent lower (1-.30) than for Indigenous offenders who had been to court.

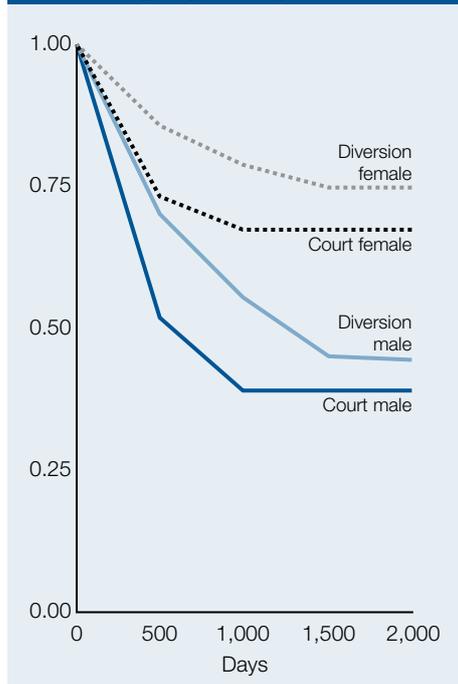
Within 500 days of their first apprehension half of the Indigenous juveniles who had a court appearance would not have reoffended, compared with two-thirds (67%) of Indigenous juveniles who received a diversion. In comparison, 83 percent of non-

Indigenous juveniles who had a diversion would not have offended by this time, compared with 70 percent of those who went to court.

At end of the five year period, only one-third (34%) of Indigenous juveniles who had been to court would not have reoffended, compared with 44 percent of those who had been diverted. A much higher proportion of non-Indigenous juveniles, both those who went to court and those who were diverted, would not have reoffended (66% and 65% respectively).

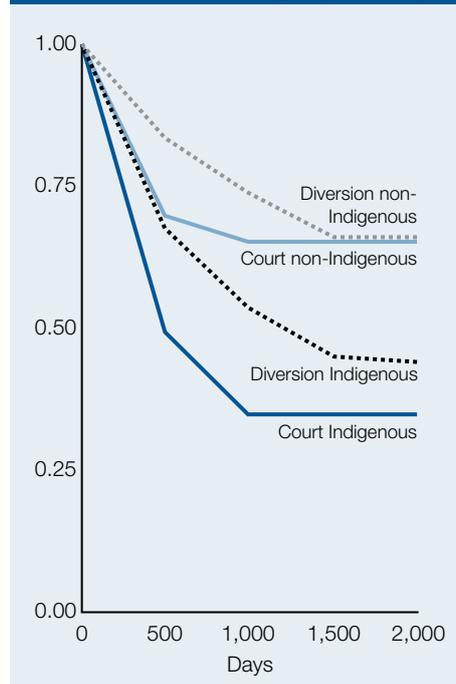
As shown in Figure 3, for each age group there were significant differences in the rates of reoffending between the group who received a diversion and those who went to court. The 10–13 year old and 14–15 year old offenders who were diverted were nearly three times less likely to reoffend than those who went to court (CMHR=.37, $p<.00$ and CMHR=.40, $p<.00$ respectively). Although the gap was not as great for the 16–17 year olds

Figure 1: Survival time to second apprehension by gender and first event (proportion)



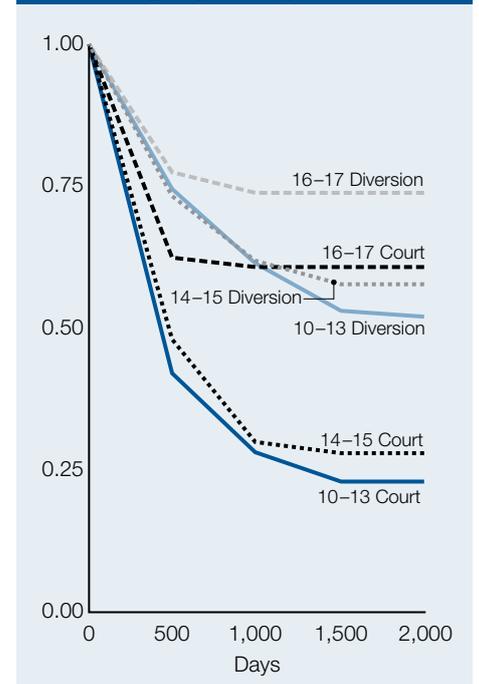
Significance of model logrank $\chi^2=214$, $df=3$, $p<.000$

Figure 2: Survival time to second apprehension by Indigenous status and first event (proportion)



Significance of model logrank $\chi^2=235$, $df=3$, $p<.000$

Figure 3: Survival time to second apprehension by age group and first event (proportion)



Significance of model logrank $\chi^2=163$, $df=5$, $p<.000$

the findings were also significantly different, as those who had a diversion were about half as likely to reoffend (CMHR=.52, $p<.00$) as those who attended court.

Only around 50 percent of the 10–13 and 14–15 year old court groups would not have reoffended by 400 days compared with nearly 80 percent of the same age groups who were diverted. In relation to the 16–17 year olds, by 400 days 68 percent of the court group would not have reoffended compared with 80 percent of those who had a diversion.

At the end of the five years, 28–30 percent of both 10–13 and 14–15 year olds who went to court would not have reoffended compared with just over half (55%) of those who were diverted. Again, the 16–17 year olds who were diverted were at least risk of reoffending (77%) in that age group, and in fact, of all age groups.

Figure 4 provides survival rates in relation to location of the juvenile. The risk of reoffending was greatest for juveniles

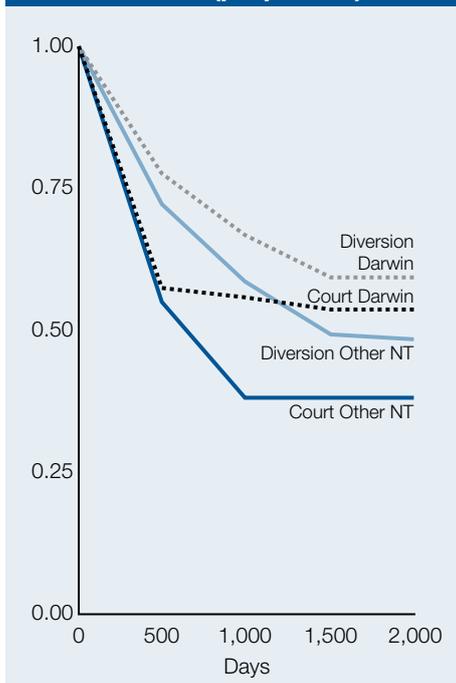
in Other NT who had attended court. They were slightly more than twice as likely to reoffend as juveniles who had been diverted (CMHR=.53, $p<.000$). The result was similar for juveniles from Darwin who had been to court. They were twice as likely to reoffend as those who had been diverted (CMHR=.50, $p<.000$).

The length of time taken to reoffend was also least for the Other NT group. At 600 days 50 percent of this group would not have reoffended compared with 70–75 percent of those either in Darwin or Other NT who had been diverted. At the end of the five years, results were similar for the juveniles from Darwin who had been to court and those in Other NT who had been diverted, as around 50 percent would not have reoffended. This is compared with only 38 percent of juveniles in Other NT who had been to court. The juveniles in Darwin who had been diverted reoffended least – 59 percent at the end of the five year period.

Figure 5 provides survival times by offence type. The two offence types included in the analysis were crimes against the person and property crime. Differences have been found when comparing property crime and crimes against the person with regard to event type – court or conferencing (Hayes 2005).

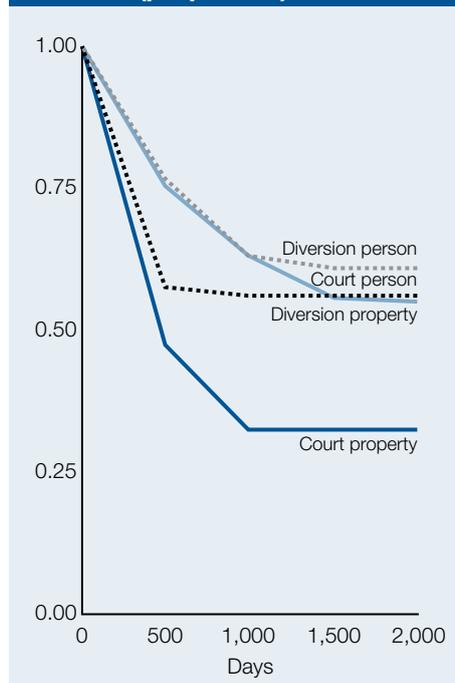
There was little difference in the risk of reoffending or the length of time to reoffend for the two groups who had received diversion (CMHR=.NS). There were, however, significant differences between the two court groups. Property offenders were just over 30 percent more at risk of reoffending than those who had committed a violent crime (CMHR=.69, $p<.000$). At 400 days just over half (53%) of the juveniles who had attended court for committing a property offence would have reoffended, compared with 63 percent of those who had attended court for committing an offence against the person. In relation to those who received a diversion, the extent of reoffending at 400 days was similar for both offence groups, in that around 80 percent of juveniles would not have reoffended within that period (81% person offences and 79% property offences). At the end of the reporting period, however, the percentage of juveniles who had committed a violent crime and gone to court was similar to that of the group who committed property offences and had been diverted. Only 32 percent of those who had committed a property offence and had appeared in court would not have reoffended.

Figure 4: Survival time to second apprehension by location and first event (proportion)



Significance of model logrank $\chi^2=129.4$, $df=3$, $p<.000$

Figure 5: Survival time to second apprehension by offence group and first event (proportion)



Significance model logrank, $\chi^2=155.7$, $df=3$, $p<.000$

Discussion

This analysis of juvenile offenders and their reoffending behaviour in relation to the juvenile pre-court diversion scheme in the NT provided several key findings for the development of policy in relation to juvenile offenders.

First, most juveniles did not reoffend during the first year after completion of

the initial event. The implication of this is that making these juveniles go through the court process exposes them to an unnecessary and possibly damaging experience for them, and is an unnecessary use of time and resources for the criminal justice system. It could be argued that 'the finding of apparent desistance suggested that it was neither necessary nor desirable to respond harshly or intrusively to young offenders who have not committed serious offences or shown any tendency to persist in crime' (Vignaendra & Fitzgerald 2006).

Second, the majority of offenders were Indigenous males, indicating the level of over-representation of this group of juveniles in the criminal justice system in the NT. This supports findings elsewhere in Australia (e.g. Hayes & Daly 2004, 2003; Snowball & Weatherburn 2006). While this is a complex issue, it points to providing more support at individual, family and community levels for these groups of juveniles at risk.

Third, there were significant differences in the outcomes at the end of the five year period in gender and Indigenous status of those who would have reoffended. There were also significant differences in age groups, with the younger groups who had a court appearance as their first event reoffending to a much greater extent – up to two times more – than offenders of the same age who have been diverted.

The majority of juveniles committed property offences and those who did so and who attended court reoffended to a much greater extent than other groups.

This group of juveniles had committed more serious property offences or were persistent offenders, but it would appear that the court process does not deter them from reoffending. This points to the need to develop alternatives to provide better responses to offending behaviour for these groups of juveniles. Alternatives to court attendance may require the development of different types of diversions, conferencing or programs, and better adapting the existing interventions to introduce more flexibility.

To further develop interventions to deter offending and persistent offending, it is important that future research examine other factors that impact on the offending behaviour of juveniles in the NT. These should include family and cultural background, education, other socioeconomic factors and the persistence of offending into adulthood. However, even given the limitations of the present research which did not address these factors, the findings provide some evidence that pre-court diversion had a positive impact on reducing reoffending. Policy should focus on better identifying children at an early age, who are at risk of developing antisocial behaviour. Given the level of over-representation of young Indigenous males in the criminal justice system, particular care should be taken to address the needs of this group. Because of the multitude of factors which can lead to offending behaviour, policies should involve not just the criminal justice system but a wide range of relevant government and nongovernment sectors, including the wider community, as the responsibility

to address the needs of Australian children lies with society as a whole.

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