

NZ Justice International Network

PĀNUI 2, FEBRUARY 2020



Dr Ian Lambie, New Zealand Chief Science Advisor (Justice)

Kia ora,

Welcome to the second edition of the New Zealand Justice International Network's Pānui, a

brief insight into our work that helps inform New Zealand's ongoing reform of its criminal justice system.

Well, not long had a very busy and productive 2019 concluded when 2020 began! And for me, the year started with quite a roar with the release of what I call 'part 4 of a trilogy' in my work with the Office of the Prime Minister's Chief Science Advisor, which made a few national headlines in January.

In this Panui we'll summarise my latest paper, we'll get some first-hand comments from an organisation which works to support people with brain issues navigate the justice system and I'll provide my brief views on what I've been reading lately on the issue of justice reform.

I'd also like to thank all of you who took the time to provide your thoughts on the Justice International Network as we develop it. We want to ensure Pānui provides a vehicle for two-way discussion on justice reform and welcome your thoughts and contributions to safeandeffective@justice.govt.nz

What were they thinking?

In New Zealand in 2015, a man named Teina Pora had his murder conviction finally quashed, after 21 years in prison for admitting to a crime he didn't commit. It drew a lot of public discussion on the impact of fetal alcohol spectrum disorder, identified as a major factor in his initial 'confession' and begged the question – did he know what he was thinking?

What were they thinking? A discussion paper on brain and behaviour in relation to the justice system in New Zealand was released in January by Professor Ian Lambie, examining the research on the over-representation of people in the criminal justice system who have had brain injuries or other neurodevelopmental issues.

The research shows that a range of brain and behaviour differences, disorders and injuries are prevalent in both youth and adult justice populations, and potentially keep them in that system and hamper rehabilitation.



TVNZ's John Campbell speaks with Dr Ian Lambie about his latest report, 'What Were They Thinking?'

"A common perception of people in court is that they look 'shifty', can't look you in the eye, mumble a lot and show no remorse or emotion about the harm they've been accused of committing.

"Yet many of those 'in the dock' suffer from brain injuries that mean they have trouble remembering things, can't process their situation or even have a basic understanding of the words being used in court," says Dr Lambie.

The discussion paper *What were they thinking?* examined the research on brain and behaviour in relation to the justice system in New Zealand and follows the three previous parts of the 'trilogy': *Using evidence to build a better justice system: The challenge of rising prison costs* (March 2018), *It's never too early, never too late: A discussion paper on preventing youth offending in New Zealand* (June 2018) and *Every 4 minutes: A discussion paper on preventing family violence in New Zealand* (November 2018).

Read the report at safeandeffectivejustice.govt.nz

Talking Trouble at the Front Line

Sally Kedge is the director of Talking Trouble, an organisation that addresses the speech, language and communication needs of children, youth and adults involved with justice, care and protection, mental health and behaviour services. She tells us what they do:

As Communication Assistants, our role is to provide information about a person's speech, language and communication skills and consider how to adapt the linguistic demands that they will be involved in.

We do this with complainants, witnesses and defendants. Sometimes our role involves sitting next to individuals to explain information in ways that fit their language profile, or intervene when communication issues arise.



Talking Trouble's Sally Kedge and Dr Clare McCann speak with TVNZ's John Campbell about communication issues in the justice system.

In a recent trial, a young person who has a range of difficulties turned to me during a lengthy legal argument and said, 'what the F*** are they going on about?'. I was glad he asked.

Not everyone realises that they might be missing key information or feel confident enough to say there is an issue. I was given time to explain simply what was going on so he could give his views to his lawyer. His difficulties with language might not be very obvious to those without a highly tuned radar, but it is no surprise to me that school will have been a very challenging experience for this young person. His education had been very short.

I meet many young people and older ones who have been on a similar journey and it is essential that difficulties with language and learning and picked up early in life. We are talking early – preschool ideally.

Many children who require behaviour services or who disengage from education have underlying difficulties with language. Early effective support for language, literacy and learning needs is needed.

The linguistic demands involved in justice systems are heavy and systemic changes to simplify unnecessarily complex language would benefit all who need to participate in justice.

Visit talkingtroublenz.org to learn more.

Burnout, social bonds and effective justice reform: Three topics I've been reading about

Preventing Vicarious Trauma (VT), Compassion Fatigue (CF), and Burnout (BO) in Forensic Mental Health: Forensic Psychology as Exemplar. I was fascinated by the title focusing on concepts of vicarious trauma, compassion fatigue, and burnout. These are related, albeit distinct, concepts that can describe patterns of negative emotional outcomes that affect people at work, especially those at the front line in justice and health systems.

Pirelli G, Formon DL, Maloney K. *Preventing Vicarious Trauma (VT), Compassion Fatigue (CF), and Burnout (BO) in Forensic Mental Health: Forensic Psychology as Exemplar.* Professional Psychology: Research and Practice 2020.

In *The Challenge of Criminal Justice Reform* (2019) author Bruce Western from Columbia University's Justice Lab proposes a framework for the future direction of criminal justice reform. The punishing effects of American criminal justice have become pervasive in communities challenged by racial inequality, poverty, and violence. To meet this challenge, he argues that America must develop socially integrative responses to violence that draw victims and offenders back into the social compact. It is a short paper that makes compelling reading.

Western B. *The challenge of criminal justice reform.* The Square One Project. www.squareonejustice.org; 2019

The final paper to note is the *Kentucky Juvenile Justice Reform Evaluation Report 2019* about "The Juvenile Justice System Improvement initiative", which had these goals: adopting developmentally appropriate evidence-based practices; eliminating racial and ethnic disparities; maximising cost savings while holding youth accountable; and improving youth outcomes. Recommendations include identifying champions to lead reform, fund partnerships with technical and training assistants, develop a stakeholder engagement plan to manage state-wide transitions, implement diverse and comprehensive trainings for staff directly involved in reforms, establish a multi-agency oversight council and improve data tracking before, during, and after implementation of the reform. I found this interesting in considering what's needed to transform the criminal justice system in New Zealand.

Kaasa SO, Vidal S, Meadows K, Foster M, Lowe N. *Kentucky Juvenile Justice Reform Evaluation: Implementation Evaluation Report.* Washington DC: National Institute of Justice; 2019