

Diverting Young Indigenous People from the Queensland Youth Justice System: The Use and Impact of Police Diversionary Practices and Alternatives for Reducing Indigenous Over-representation

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for reducing Indigenous over-representation**

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Executive Summary

This project was conducted by Justice Modelling @ Griffith (JMAG) as part of the *Indigenous Criminal Justice Research Agenda* (ICJRA) for Queensland Government. While several practices are used in Queensland to reduce young people's penetration into the youth justice system, this project focused on the two most frequently used police practices which divert young offenders from having contact with the court process. Five research questions were addressed:

- RQ1. *Do police divert different proportions of Indigenous and non-Indigenous youth to cautioning or conferencing compared to court?*
- RQ2. *What factors impact on the likelihood that Indigenous youth would be diverted by police to cautioning and conferencing?*
- RQ3. *Are police cautioning and conferencing effective practices for reducing offending by Indigenous young people?*
- RQ4. *Are there any additional factors which impact on the likelihood that Indigenous youth would be diverted by police to cautioning or conferencing?*
 - a. *What factors do police identify as impacting on the decision to divert?*
 - b. *Do police and stakeholders believe that Indigenous youth are less likely to plead guilty than non-Indigenous youth?*
 - c. *What factors do police and stakeholders believe influence whether Indigenous youth plead guilty?*
- RQ5. *Are there any alternative front-end diversionary practices which could more successfully divert Indigenous youth from the justice system?*

Addressing these questions is important given the recommendations of the *Evaluation of the Queensland Aboriginal and Torres Strait Islander Justice Agreement* (Cunneen, Collings, & Ralph, 2005). This evaluation proposed that diversionary practices could be used more extensively with Indigenous young offenders to reduce Indigenous over-representation in the criminal justice system. The current project will identify whether there is disparity in the proportions of Indigenous and non-Indigenous youth diverted to cautioning and conferencing and factors which policy could focus on or address to increase the number of Indigenous youth diverted by police. Findings will also enable an assessment to be made about how effective diversionary practices are for reducing offending by Indigenous young people and whether alternative front-end diversionary practices may be more beneficial.

Previous Research Findings

Prior research has explored whether there is disparity in the use of diversion with Indigenous and non-Indigenous youth in four Australian jurisdictions. Allard, Stewart, Chrzanowski, Ogilvie, Birks and Little's (2009) research was based on the 1990 Queensland offender cohort and focused on first contacts which offenders aged between 10 and 16 had with the youth justice system. After controlling for the impact of age, number of offences, offence type and gender, Indigenous offenders were 2.9 times less likely than non-Indigenous offenders to be cautioned compared to going to court, 2 times less likely to be conferenced compared to going to court and 1.5 times less likely to be cautioned compared to conferenced by police. These findings are consistent with those of Snowball (2008a, 2008b), who found that young Indigenous offenders were 0.4 times (Western Australia), 0.5 times (New South Wales) and 0.6 times (South Australia) as likely to be diverted to either cautioning or conferencing, even after controlling for the effects of age, gender, offence type and prior history.

Several Australian studies have also explored whether youth who are cautioned or conferenced have reduced recontact with the youth justice system when compared to youth who appear in court. One weakness of much of this research is sample selection bias, or an inability to assess the 'treatment' effect because youth who are diverted to cautioning or conferencing may have different offending profiles and demographic characteristics than youth who appear in court. Nevertheless, research has attempted to explore the impact of diversion on recontact with the justice system, with some statistically controlling for sample differences. Findings indicate that cautioning and conferencing of low-risk first-time youthful offenders can reduce recontact, with young people appearing in court (39-61%) being more likely to have additional contact with the system than young people diverted through cautioning (19-42%) or conferencing (21-58%) (Allard, Stewart, Chrzanowski, Ogilvie, Birks & Little, 2009; Cunningham, 2007; Dennison, Stewart & Hurren, 2006; Vignaendra & Fitzgerald, 2006). Unfortunately, most research has not assessed the impact of diversion based on Indigenous status because data were unavailable or concerns about data quality.

There is some evidence from Australia indicating that conferencing is no more effective than court for reducing reoffending by property and shoplifting offenders, that conferencing is less effective for Indigenous than non-Indigenous youth, and that conferencing may be criminogenic for Indigenous youth (Luke & Lind, 2002; Sherman, Strang, Barnes & Woods, 2006 cited in Sherman & Strang, 2007; Sherman, Strang & Woods, 2000). However, the international evidence suggests that restorative justice techniques such as conferencing and Victim Offender Mediation (VOM) tend to result in reductions in reoffending among general populations (Drake, Aos & Miller, 2009; Latimer, Dowden & Muise, 2005; Nugent, Williams & Umbreit, 2003;

Sherman & Strang, 2007). Additionally, evidence suggests that conferencing may result in a range of more positive outcomes when compared to traditional justice system approaches, including the potential to result in cost-savings, higher levels of victim satisfaction and compliance rates for restitution agreements, as well as reduced rates of post-traumatic stress among victims and reduced desire for revenge (Latimer, Dowden & Muise, 2005; Sherman & Strang, 2007).

Research Methods

Both quantitative and qualitative methods were used to address the research questions. The first three research questions were addressed by constructing and undertaking analyses of a longitudinal offender cohort. The cohort included 8,236 young people born in 1990 who had 17,242 contacts with the youth justice system between the ages 10 and 16 for a caution, police referred conference which was held or finalised youth court appearance. Whether there was disparity in the proportions diverted by police based on Indigenous status was explored by focusing on all contacts offenders had with the system (i.e. not a unique offender count), distinct offenders who were ever subject to a particular process in their offending career, and based on whether it was youth's first, second, third or fourth contact with the system to control for the impact of offending history.

Factors impacting on whether Indigenous and non-Indigenous youth were diverted to cautioning, police referred conferences which were held, or had a finalised youth court appearance were investigated based on all contacts youth had with the system because there were no differences when controlling for offending history. Multinomial logistic regression models were conducted to explore the impact of a range of factors on the likelihood that youth were cautioned, conferenced or appeared in court. Factors examined included demographic characteristics (gender, age at first contact and age at contact), the nature of offending (number of offences, offence seriousness and offence type) and the nature of previous contact (whether previously cautioned, conferenced or appearing in court). Eight models were initially constructed, for Indigenous and non-Indigenous youth separately for each of their first four contacts. As similar factors were found to impact on whether youth were cautioned, conferenced or appeared in court regardless of contact number, two models for Indigenous or non-Indigenous youth were constructed which included all contacts with the system.

The effectiveness of diversion for reducing reoffending was assessed by focusing on the first contacts which youth had with each process, regardless of when the process was used in the youth's offending career. The date of first contact was the earliest date, based on the date the caution was actioned, the date the police referred conference was held or the date the youth

court appearance was finalised. The date of recontact was based on the date any subsequent caution was actioned, the date when police referred a matter to conferencing, or the earliest court appearance date for a subsequent offence. Recidivism measures explored included the proportion of youth that had recontact, and for youth who had recontact, the frequency of recontact and seriousness of recontact. Because these recidivism measures may reflect differences between those youth diverted and appearing in court, multivariate analyses were also conducted using Cox regression survival analysis which explored time-to-recontact. This analysis takes into account the fact that no data were available for offenders when they turned 17 and became subject to the adult justice system as well as the effects of confounding factors or differences between the groups subject to each process. Factors that were controlled for in the models included: gender, offence type, age at event, offence seriousness, number of offences and number of prior appearances.

The fourth research question was addressed based on analyses of interviews that were conducted with police officers (n=29) and stakeholders (n=12), including legal practitioners, coordinators of the Coordinated Response to Young People at Risk (CRYPAR) program, Indigenous elders and a social worker. The final research question was addressed by conducting a literature review focused on alternative front-end diversionary programs operating in Australia and overseas. Findings relating to the five research questions are summarised below and policy implications discussed.

Research Findings

RQ1: Disparity in Proportions Diverted by Police based on Indigenous Status

Analyses of the 1990 offender cohort were conducted exploring the proportions of Indigenous and non-Indigenous offenders diverted by police to cautioning and conferencing. The research considered the proportion of Indigenous offenders dealt with by way of caution, police referred conference or court and found:

- When all contacts with the youth justice system were counted (i.e.: not a unique offender count):
 - 35.2% of Indigenous offenders received cautions compared to 60.0% of non-Indigenous offenders.
 - 3.6% of Indigenous offenders were referred to a youth justice conference which was held compared to 5.8% of non-Indigenous offenders.
 - 61.2% of Indigenous offenders had a finalised court appearance compared to 34.3% of non-Indigenous offenders.
- When counting if unique offenders in the cohort had ever been subject to a particular process in their offending history before turning 17:

- 79.9% of all Indigenous offenders had been cautioned compared to 86.5% of non-Indigenous offenders.
- 12.7% of Indigenous offenders had been referred to a youth justice conference which was held compared to 9.9% of non-Indigenous offenders.
- 81.8% of Indigenous offenders had been diverted by police to either cautioning or conferencing compared to 89.0% of non-Indigenous offenders.

The proportions diverted were also examined controlling for number of prior contacts by exploring proportions diverted based on whether it was youth's first, second, third or fourth contact with the system. This approach was adopted because research findings indicate that prior contact with the system is related to whether young people are diverted (Allard et al., 2009; Snowball, 2008a, 2008b) and Indigenous youth in the cohort had more frequent contact ($M=3.95$, $SD=4.33$) than non-Indigenous youth ($M=1.90$, $SD=1.91$). Findings indicated that:

- Indigenous youth were less likely than non-Indigenous youth to be diverted to cautioning for their first contact (75.9% and 84.8%, respectively), but similar proportions were cautioned for second (50.6% and 52.6%), third (28.6% and 28.7%) and fourth (20.1% and 19.5%) contacts.
- Similar proportions of Indigenous and non-Indigenous youth were referred to a conference by police for their first contact (2.8% and 2.6%, respectively), but Indigenous youth were less likely to be conferenced by police for second (5.8% and 11.5%), third (6.4% and 12.2%) and fourth (5.8% and 9.5%) contacts.
- Indigenous youth were more likely than non-Indigenous youth to have a court appearance for their first (21.3% and 12.6%, respectively), second (43.7% and 35.9%) and third (65.0% and 59.1%) contacts, but similar proportions had a court appearance for their fourth contact (74.1% and 71.0%).

In sum, the research shows both Indigenous and non-Indigenous youth were commonly being cautioned by police. Indigenous youth appeared more likely than non-Indigenous youth to have ever been referred to a youth justice conference which was held, perhaps because they were slightly more likely to be conferenced for their first contact with the youth justice system. There was a small disparity found between the proportions of Indigenous and non-Indigenous youth diverted to cautioning or conferencing. For cautioning, Indigenous youth were 10% less likely to be cautioned for their first contact while they were about half as likely to be referred to a conference by police for their second, third, and fourth contacts. Indigenous offenders were more likely to be dealt with by way of court for their first, second and third contacts.

RQ2: Factors Impacting on the Use of Police Diversion

While controlling for prior contact with the youth justice system, the exploration of proportions of the 1990 cohort diverted did not take into account differences which may exist between Indigenous and non-Indigenous offender populations which may impact on whether they are diverted by police to cautioning or conferencing. Findings from two multinomial logistic regression models focusing on all contacts which youth had with the justice system indicated that similar factors were related to whether Indigenous and non-Indigenous people were cautioned, conferenced or appeared in court. All things held constant, youth were more likely to be cautioned or conferenced than appear in court if they did not have a prior court appearance, had fewer prior contacts with the justice system, and had not previously been cautioned. Youth were more likely to be cautioned than conferenced or appear in court if they were aged younger when they had contact with the justice system. Cautioned youth were also more likely to have fewer offences than youth who appeared in court. Therefore, findings from analyses of the 1990 offender cohort suggest that similar factors impacted on whether youth were diverted and that police were diverting youth to cautioning and conferencing in a manner that was consistent with legislation.

RQ3: Effectiveness of Police Diversion for Preventing Recontact

The effectiveness of diversion was explored by comparing outcomes for youth in the 1990 cohort after they first had contact with police cautioning, conferencing or youth court. Outcomes assessed included proportions that had additional recontact and for those who had additional contact, frequency of recontact and seriousness of further offending. Findings indicated that:

- Indigenous and non-Indigenous youth were less likely to have recontact after their first contact with cautioning (63.8% and 37.9%, respectively) or conferencing (65.9% and 46.0%) than court (71.0% and 48.1%).
- Indigenous youth were more likely to have more frequent recontact (3+ recontacts) after their first contact with court (64.5%) than after their first contact with cautioning (57.1%) or police referred conferencing (49.1%); Non-Indigenous youth were more likely to have more frequent recontact (2+) after their first contact with court (57.5%) than after their first contact with cautioning (49.0%) or conferencing (53.4%).
- Fewer Indigenous and non-Indigenous youth had recontact for more serious offending after their first contact with cautioning (64.2% and 57.4%, respectively) or police referred conferencing (59.6% and 49.4%) than court (71.5% and 62.7%).

Because these findings may reflect differences between youth cautioned, conferenced or appearing in court, multivariate analyses were conducted exploring time-to-recontact and which controlled for confounding factors. After controlling for the effects of gender, offence type, age at

event, offence seriousness, number of offences and number of prior appearances, findings indicated that:

- Youth who were cautioned for the first time had longer periods of time elapse before they had additional contact with the youth justice system than youth who had a police referred conference or court appearance for the first time, for both Indigenous and non-Indigenous youth.
- Youth who had a court appearance for the first time had longer periods of time elapse before they had additional contact with the system than youth who had a police referred conference.
- Indigenous youth had longer periods of time elapse before they had additional contact with the system if they had an offence against the person as their most serious offence, were younger when they first had contact with the system, or had a smaller number of offences or prior contacts with the system.
- Non-Indigenous youth had longer periods of time elapse before they had additional contact with the system if they were female, not convicted of a public order offence or had a smaller number of prior contacts with the system.

In sum, the evidence indicated that fewer youth who were cautioned or conferenced for the first time had recontact with the youth justice system when compared to those who appeared in court for the first time. Furthermore, diverted youth had recontact less frequently and for less serious offending. However, after controlling for differences between youth diverted and appearing in court, **cautioning was most effective** as it resulted in longer periods of time elapsing before youth had recontact. **Court was found to be more effective in terms of youth having longer periods of time-to-recontact than police referred conferencing.** These findings contrast with recent findings from analysis of the same cohort which focused only on the first contact that youth had with the entire system (Allard et al., 2009). Findings indicated that youth who were conferenced or had a caution for their first contact with the system were less likely to have recontact and had longer periods of time elapse before they had recontact than for youth who appeared in court. This may reflect differences in research design, with the previous project focusing on *first contacts with the youth justice system* while the current project focused on *first contacts with each process*. The findings from the current project are potentially more useful, because more youth are conferenced for their second or subsequent contact with the youth justice system than for their first contact with the system.

RQ4: Other Factors Impacting on Police Officer's Decisions to Divert

Interviews were conducted with 29 police officers to explore whether there were any additional factors not contained in the 1990 cohort dataset that impacted on their recent decisions

concerning whether youth should be diverted. Police officer interviews were supplemented with interviews conducted with 12 stakeholders to explore beliefs about whether Indigenous youth were less likely to plead guilty than non-Indigenous youth and factors which were believed to impact on whether Indigenous youth pled guilty and were therefore eligible for diversion. Consistent with findings from analyses of the 1990 cohort, factors identified as impacting on whether young people were diverted included: whether the youth had a prior history of offending and the age of the young person. Additional factors which were identified as influencing whether youth were diverted included their most serious offence, whether they participated in an interview and could thus access diversion, the demeanour of the young person and the officer's assessment about the youth's needs.

When asked about recent decisions concerning whether youth should be diverted, one-fifth of Indigenous and non-Indigenous youth were said to have pled not guilty or were ineligible for diversion because they refused to participate in an interview. Factors which were identified as impacting on whether Indigenous youth pled guilty included whether they had legal representation and the attitude of the youth towards police. However, only 15% of youth who police had recent contact with were said to have received legal advice and there were no differences identified by officers or stakeholders based on Indigenous status. Nevertheless, police believed that legal representation resulted in many Indigenous youth refusing to participate in interviews thereby preventing the use of diversion. Legal practitioners refuted this indicating that advice was dependant on multiple factors related to specific cases such as whether the youth protests their innocence and whether the police officer is considering diversion. Both police and legal representatives believed that Indigenous youth may refuse to participate in interviews because of unfavourable attitudes towards the police, thereby affecting their access to diversion.

In sum, police officers and stakeholders suggested that similar proportions of Indigenous and non-Indigenous youth plead not guilty or were ineligible for diversion. The qualitative information obtained highlighted the role of the youth's attitude towards the police and the possible role of legal representation. Interviewees suggested that few (around 15%) youth received legal advice and that no differences were apparent based on Indigenous status. Because a convenient sample was used in this research, **interview findings should be treated with some caution and further robust independent research focused on the role of legal representation on eligibility for diversion should be conducted.**

RQ5: Alternative Front-End Diversionary Practices

The final research question required a literature review to be undertaken focused on whether there were any alternative front-end options which could be implemented to more successfully reduce offending by Indigenous youth. Several strategies have been used in other jurisdictions aimed at increasing Indigenous participation in existing diversionary processes, including:

- Improving the quality of relationships among police, young people and legal representatives by encouraging police to indicate to legal representation if they would use diversion should a guilty plea be forthcoming.
- Employing youth justice workers to formulate cultural support plans, provide practical support to offenders and their families and coordinate with other service providers.
- Assisting young people reengage with school or engage in other vocational or employment training opportunities.
- Inclusion of sport and recreational activities.

There is no publically available evidence concerning whether these strategies increase Indigenous participation in diversion. Additionally, there are a range of other programs which have proven to be effective for reducing reoffending by international studies, including diversion to services, mentoring, family-based interventions and multi-modular programs based on Multi-Systemic Therapy (Drake, Aos & Miller, 2009; Farrington & Welsh, 1999, 2003). Many of these programs are operating in limited geographical locations within Queensland and would appear suitable for reducing offending by Indigenous people given their offending profiles. However, there is a lack of Australian evidence and the impact of these programs on Indigenous populations is not known. Further research may support the argument that these strategies aimed at improving access to diversion and reducing reoffending should be considered to reduce offending by Indigenous peoples.

Policy Implications and Directions for Future Research

There are several implications for policy, practice and future research arising from the findings of the current project. Taken together, current evidence indicates that **cautioning is the most effective response at reducing recontact** when controlling for the impact of a range of factors including offence seriousness, age, gender, number of offences and number of prior contacts with the system. Police referred conferencing may be viewed as more effective than court for youth who have not previously had contact with the youth justice system. However, the effectiveness of police referred conferencing in comparison to court is questionable when all youth's first contacts with this process are considered and statistical controls are included to account for differences between Indigenous and non-Indigenous youth in demographic and offence profiles. This is of some concern given that officers tend to view cautioning,

conferencing and court as successive responses and conferences do not typically occur when youth have contact with the system for the first time.

The current research highlights the **need for additional robust independent research to examine the impact of conferencing on reoffending**. This research should consider whether effectiveness at reducing reoffending varies based on type of conference (i.e., police referred and court referred including indefinite and pre-sentence), offence type (person, property or other), when the conference occurs in the youth's offending history and whether there is a cumulative effect of the same or different processes on reoffending, the geographic location of conferences and based on specific conference characteristics (i.e., whether a victim was present and the undertakings of youth whose conference resulted in an agreement). Other potential benefits of conferencing could also be explored, including whether it results in cost savings, higher levels of victim satisfaction and compliance rates for restitution agreements, as well as whether it reduces rates of post-traumatic stress among victims and the desire for revenge. **Such research should be viewed as essential given the findings of the current project, recent findings suggesting that conferencing may be criminogenic for Indigenous youth and because conferencing is extensively used in Queensland.**

Examination of offending profiles indicates that Indigenous offenders are younger than non-Indigenous offenders, have their first contact with the justice system at a younger age and are more likely to have repeat contact. Given this offending profile, it is essential that programs which target offender risks/needs to reduce offending are introduced. Such targeting requires the introduction of **streamlined processes for assessing risk when youth have their first or second contact with the system using actuarial risk assessment tools**. Such assessment tools may be more effective at predicting reoffending than clinical decision making, result in greater consistency in decision making and result in higher levels of low risk offenders being identified and hence a reduced level of net widening (Schwalbe, Fraser, Day & Arnold, 2004; Upperton & Thompson, 2005). Few actuarial risk assessment tools have been developed in Australia and exploration of publically available literature indicates that few tools developed overseas have been validated with Australian populations. **Development and validation of these tools is likely to result in more accurate assessments about risk of reoffending and better allocation of resources towards youth who would most benefit.**

While a range of programs appear suitable for high-risk offenders and have been implemented in specific geographic locations within Queensland, the effect of these programs on offending by Indigenous youth has not been assessed. **There is an urgent need to rigorously evaluate the impact of programs which divert youth to services** (i.e. Coordinated Response to Young

People at Risk), **mentoring programs and multi-modular programs based on a Multi-Systemic Therapy framework** (i.e. Youth Opportunity Program). **Family-based interventions may also prove effective for reducing Indigenous offending, such as the *Collaborative Family Problem Solving* program operating in New South Wales.** It is essential that rigorous independent scientific evaluations are conducted such as randomised controlled experiments to ensure that programs are achieving their intended aims and are not having detrimental effects. Evaluations should also include an economic component, to ensure that decision makers can weigh the cost effectiveness of programs. Programs that are demonstrated to be beneficial should be rolled-out targeting the risks/needs of youth in specific geographical locations and implemented with appropriate recognition of the needs of Indigenous youth.

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Chapter 1. Introduction

This report presents the findings of a project by Justice Modelling @ Griffith (JMAG) as part of Queensland Government's *Indigenous Criminal Justice Research Agenda* (ICJRA). Within this report Aboriginal and Torres Strait Islander peoples, which includes over 600 different cultures and tribal groups, are referred to as Indigenous people. The researchers addressed five research questions:

- RQ1. *Do police divert different proportions of Indigenous and non-Indigenous youth to cautioning or conferencing compared to court?*
- RQ2. *What factors impact on the likelihood that Indigenous youth would be diverted by police to cautioning and conferencing?*
- RQ3. *Are police cautioning and conferencing effective practices for reducing offending by Indigenous young people?*
- RQ4. *Are there any additional factors which impact on the likelihood that Indigenous youth would be diverted by police to cautioning or conferencing?*
 - a. *What factors do police identify as impacting on the decision to divert?*
 - b. *Do police and stakeholders believe that Indigenous youth are less likely to plead guilty than non-Indigenous youth?*
 - c. *What factors do police and stakeholders believe influence whether Indigenous youth plead guilty?*
- RQ5. *Are there any alternative front-end diversionary practices which could more successfully divert Indigenous youth from the justice system?*

1.1. Research Context

1.1.1. Background and Focus of Project

In 2000, the *Queensland Aboriginal and Torres Strait Islander Justice Agreement* (*Justice Agreement*) was signed between the Queensland Government and the Aboriginal and Torres Strait Islander Advisory Board. The overarching aim of the *Justice Agreement* was to achieve a reduction in the number of Indigenous people having contact with the criminal justice system in Queensland, to equal their non-Indigenous counterparts by 2011. The *Evaluation of the Queensland Aboriginal and Torres Strait Islander Justice Agreement* proposed the development of an *Indigenous Criminal Justice Research Agenda* (ICJRA) to improve understanding of the risk factors associated with Indigenous offending and provide a mechanism for evidence-based policy initiatives aimed at addressing these factors (Cunneen, Collings, & Ralph, 2005).

One primary area for research identified in the ICJRA was the high level of involvement by Indigenous youth in the Queensland criminal justice system. The evaluation noted that programs had not been adequately used to divert young Indigenous offenders from formal court processing (Cunneen, Collings, & Ralph, 2005). Diversion can be broadly defined as any practice that diverts or channels out individuals from entering or continuing in the formal justice system, thereby reducing the volume of individuals that come into contact with various stages of the system (Chapin & Griffin, 2005; Hedderman & Hough, 2006).

The focus of the current project was on police diversion through the use of formal cautioning and referral to Youth Justice Conferencing (YJC) which was held. A caution involves youth being formally warned by police or a respected community member and involves an interview session with the youth and their parents, guardian/s or other support person (Polk, Adler, Muller & Rechtman, 2003; Wundersitz, 1997). Cautions are administered by an officer who has received training, such as an officer from the Child Protection Investigation Unit (CPIU), and acts as a diversion out of the system. Unlike several jurisdictions (South Australia, Northern Territory and Tasmania), cautioning in Queensland does not require youth to agree to additional undertakings or conditions such as restitution, performing community service or work for the victim, apologising to the victim, agreeing not to associate with certain peers, agreeing to a curfew or other family agreed conditions.

Police referral to YJC involves police referring youth to the Conference Coordinator within the Queensland Department of Communities who assesses suitability and assigns youth to a Conference Convenor. The Conference Convenor facilitates the conference which may include the offender and their support people, the victim and their support people and a police officer. In Queensland, conferences can be conducted without the victim being present. The conference process is formal but flexible and involves three phases (Daly & Hayes, 2001, 2002). First, after general introductions, establishing ground rules and the reading of the official account of the crime, offenders are asked to outline details of the offence. Second, victims are asked to describe how the offence has affected them and discuss any emotional harm and/or material losses they have incurred. Offender and victim supporters are also asked to describe how the offence has affected them and their families. Third, all parties are asked to suggest ways that the offender can make up for the offence and an outcome is negotiated. Successful conferences result in an Agreement, which may involve the offender apologising, making restitution or agreeing to undertake community service or work for the victim.

Police cautioning and conferencing processes are advocated because they are viewed as economically efficient responses for non-serious and first-time offenders (Harrison, 1992; Potas,

Vining, & Wilson, 1990; Wundersitz, 1997). The average cost of responding to offending using cautioning has been assessed as AUS\$772 compared with police referred conferencing which has been assessed as AUS\$4,762 (DoC, 2009; QPS, 2005). In comparison, the cost of youth having a finalised court appearance has been assessed as AUS\$3,048 plus the cost of administering any penalty imposed such as community based supervision (AUS\$35/day) or detention (AUS\$567/day) (CAIR, 2008; Productivity Commission, 2009). Cautioning and conferencing are also advocated because diverted youth may have lower recidivism levels than those formally processed through the courts. Diversion may reduce recidivism because practices are swift, less formal and more relevant for youth, involve active participation by youth and because diversion reduces the negative labelling and stigmatisation associated with being processed through the formal youth justice system (Bernburg & Krohn, 2003; Dodge, Lansford, Burks et al., 2003; Leve & Chamberlain, 2005; Wundersitz, 1997). An additional justification for conferencing stems from the restorative ideals of such practices or their ability to 'repair the harm' caused by the offender and their offending behaviour (Daly & Hayes, 2001; Polk et al., 2003). Evidence suggests that conferencing results in higher victim satisfaction, higher compliance rates of restitution agreements, reduced rates of post-traumatic stress among victims, and reduces the desire for revenge when compared to traditional criminal justice approaches (Latimer, Dowden & Muise, 2005 ; Sherman & Strang, 2007).

Police use cautioning and conferencing practices extensively. During 2008-2009, almost half of all offences committed by youth in Queensland were diverted by police to cautioning (40.3%) or referred by police to YJC (7.8%; QPS, 2009). However, it is acknowledged that a range of alternative diversionary practices are used within Queensland. Police may refer an offender to alcohol diversion, drug diversion or volatile substance misuse (VSM) diversion (Allard, Ogilvie & Stewart, 2007). Few (less than 3%) offences are diverted by police using these practices. Within the court setting, youth can be diverted from remand in custody to the conditional bail program, diverted to a drug assessment and education session or be diverted to YJC either indefinitely where the court does not wish to see the offender again if they are conferenced or prior to sentencing where the court will sentence the offender after they have participated in a conference. During 2005-2006, the conditional bail program had 394 active participants and 114 youth were diverted by the courts to a drug assessment and education session delivered by Queensland Health (Allard, Ogilvie & Stewart, 2007). Of the 2,846 referrals received by the YJC Program during 2008-2009, most (47.0%) were police referred rather than referred by courts on an indefinite basis (37.0%) or prior to sentencing (16.0%) (JAG, 2009).

While recognising the range of alternative diversionary practices used in Queensland, the current project limited its focus to the two main front-end practices used by police to divert

young people from having contact with court. Within Queensland, evidence indicates that police are less likely to divert offences committed by Indigenous than non-Indigenous young offenders using cautions and referral to YJC. During 2008-2009, cleared offences committed by Indigenous young people were 1.8 times less likely to be cautioned, 2.0 times less likely to be referred to YJC and 1.7 times more likely to be progressed to court (Figure 1; QPS, 2009). It is essential to understand how these front end diversionary practices are used differently with Indigenous and non-Indigenous youth and factors impacting on the likelihood that Indigenous young offenders will be diverted. It is also essential to determine whether police diversion of young Indigenous offenders to cautioning and conferencing reduces recontact with the system and whether alternative practices may have more impact.

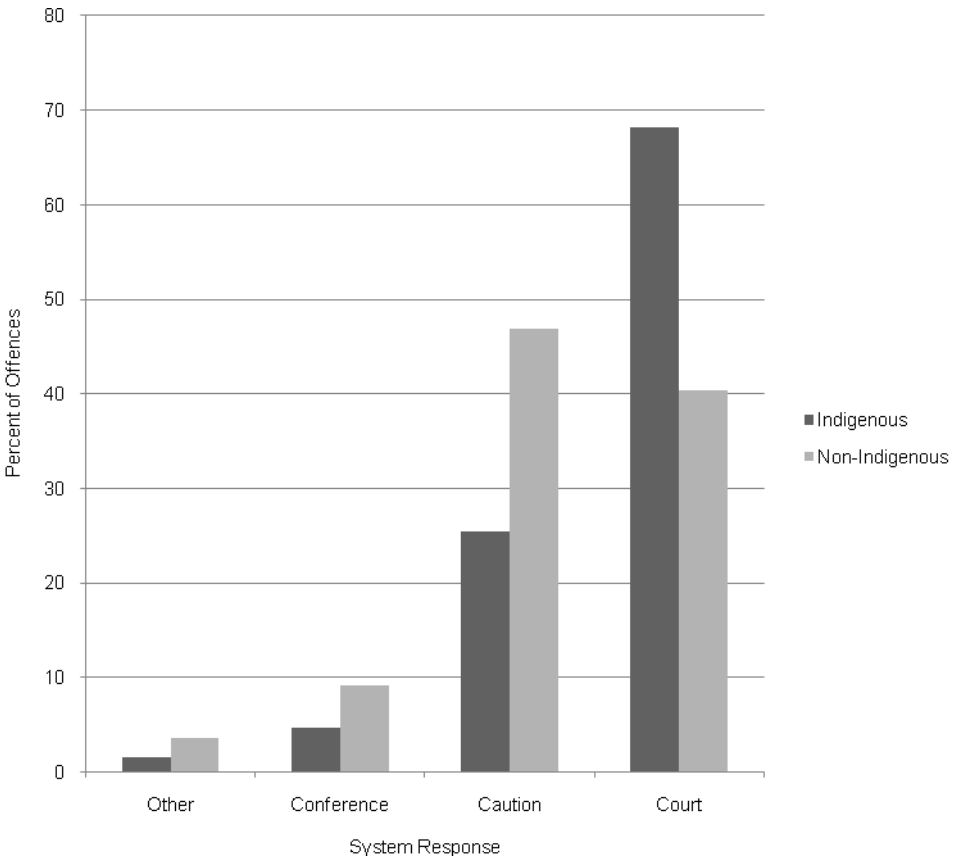


Figure 1: Proportion of offences cleared by Queensland Police Service involving youth (aged 10 to 16 years old) by process used to respond to offending, 2008-2009

1.1.2. Legislative Framework for Police Diversion in Queensland

The legislative framework for police diversion of young people aged 10 to 16 in Queensland is provided in the *Youth Justice Act 1992*. Division 1, Section 11 of the Act requires police officers to consider alternatives to proceeding against the child:

- (1) *Unless otherwise provided under this division, a police officer, before starting a proceeding against a child for an offence other than a serious offence, must first consider whether in all the circumstances it would be more appropriate to do 1 of the following—*
- (a) *to take no action;*
 - (b) *to administer a caution to the child;*
 - (c) *to refer the offence to a conference;*
 - (d) *if the offence is a minor drugs offence within the meaning of the Police Powers and Responsibilities Act 2000 and the child may be offered an opportunity to attend a drug diversion assessment program under section 379 of that Act—to offer the child that opportunity in accordance with that section.*
- (2) *The circumstances to which the police officer must have regard include—*
- (a) *the circumstances of the alleged offence; and*
 - (b) *the child’s criminal history, any previous cautions administered to the child for an offence and, if the child has been in any other way dealt with for an offence under any Act, the other dealings.*
- (5) *If, on complying with subsections (1) and (2), the police officer considers it would not be more appropriate to act as mentioned in subsection (1)(a), (b), (c) or (d), the police officer may start a proceeding against the child for the offence.*
- (6) *The police officer may take the action mentioned in subsection (1)(a), (b) or (c) even though—*
- (a) *action of that kind has been taken in relation to the child on a previous occasion; or*
 - (b) *a proceeding against the child for another offence has already been started or has ended.*
- (7) *Subsection (1) does not prevent a police officer from taking the action mentioned in subsection (1)(a) to (c) for a serious offence.*

The legislative basis for cautioning is provided in Division 2 of the *Youth Justice Act 1992*. Section 14 of the Act provides: “*The purpose of this division is to set up a way of diverting a child who commits an offence from the courts’ criminal justice system by allowing a police officer to administer a caution to the child instead of bringing the child before a court for the offence*”. The effect of administering a caution is outlined in Section 15, including the child is “*not liable to be prosecuted for the offence*” (s.2) and the “*caution is not part of the child’s criminal history*” (s.3). Section 16 outlines the conditions for police cautions: “(1) *A police officer may administer a caution to a child for an offence only if the child - (a) admits committing the offence to the police officer; and (b) consents to being cautioned; (2) A police officer who administers a caution, or who requests the administration of a caution under section 17, must, if practicable, arrange to be present at the administration of the caution - (a) an adult chosen by the child; or*

(b) *a parent of the child or a person chosen by a parent of the child*". Section 17 enables cautions to be administered by respected Aboriginal and Torres Strait Islander persons. Section 18 requires police to ensure that the child and person present under section 16(2) "*understand the purpose, nature and effect of the caution*". Section 19 provides that the "*caution procedure may involve apology to victim*". Section 20 requires that the "*child must be given a notice of caution*".

Division 3 provides the legislative basis for Conferencing. Section 22 provides when a police officer may refer an offence for a conference: "(1) *A police officer may refer an offence, for a conference, to a coordinator, instead of bringing the child before a court for the offence, if - (a) the child admits committing the offence to the police officer; and (b) having regard to the matters in section 30(5), the police officer considers - (i) a caution is inappropriate; and (ii) a proceeding for the offence would be appropriate if a reference were not made; and (iii) the referral is a more appropriate way of dealing with the offence than starting a proceeding; and (iv) a convenor will be available for the conference*". Section 23 provides that "*If a conference agreement is made on the referral by the police officer, the child is then not liable to be prosecuted for the offence unless otherwise expressly provided under this Act*".

1.2. Prior Research

Recently, it has been suggested that diversion could be used more frequently to reduce Indigenous over-representation in the youth justice system (Cunneen, Collings & Ralph, 2005; Gale, Bailey-Harris & Wundersitz, 1990; Luke & Cunneen, 1995). Whether increased use of diversion could be used to reduce Indigenous over-representation requires an understanding about whether there is disparity in the use of diversion based on Indigenous status and whether diversionary practices are effective for reducing offending by Indigenous youth. Unfortunately, few studies have explored these questions, although available evidence indicates that Indigenous youth are less likely to be diverted than non-Indigenous youth and diversion may be less effective for Indigenous than non-Indigenous youth.

1.2.1. Disparity in Police Diversionary Practices

Whether there is disparity in the use of criminal justice practices such as diversion is frequently investigated because of concerns about racial bias or racial discrimination (Cunneen, 2006). Both racial bias and racial discrimination involve adverse affects to a person or group because they share a common race and may occur in specific instances or be more widespread (i.e.: systemic bias or institutional racism). While bias is the result of individual decision making, racial discrimination involves broader social practices which either directly or indirectly have an

adverse impact on a particular race. Despite concerns about bias and discrimination, few studies have explored whether Indigenous young offenders are less likely to be diverted than non-Indigenous young offenders.

Research has explored whether there is disparity in rates of diversion based on Indigenous status in four Australian jurisdictions. Snowball (2008a, 2008b) conducted a comparative analysis of rates of diversion among Indigenous and non-Indigenous youth in Western Australia (WA), New South Wales (NSW) and South Australia (SA) based on two cohorts which included all youth born in 1985 or 1988 who had contact with the justice system between the ages 12 and 17. After controlling for the effects of age, gender, offence type and prior offending history, Indigenous youth were 0.4 times (WA), 0.5 times (NSW) and 0.6 times (SA) as likely to be diverted to either cautioning or conferencing as non-Indigenous youth. There was a reduced likelihood of diversion among males and older offenders, offenders who had a greater number of prior recorded contacts and those who had received a custodial sentence. In all jurisdictions, offences against the person and traffic offences reduced the likelihood of diversion. Offence types that increased the likelihood of diversion included drug offences in WA, public order offences in SA, and property and drug offences in NSW. Examination of the characteristics of Indigenous offenders indicated that as a group they were more likely to have a larger number of prior recorded contacts with the criminal justice system and have a prior custodial sentence compared to non-Indigenous offenders.

Within Queensland, Allard et al. (2009) explored whether there was disparity in rates of diversion based on Indigenous status by focusing on first contacts which people born in 1990 had with the youth justice system between the ages of 10 and 16. Offence seriousness was controlled for by excluding all finalised court appearances which resulted in a supervised order and traffic offences were excluded because they were not eligible for diversion. After controlling for the impacts of age, gender, number of offences and offence type, Indigenous offenders were 2.9 times less likely than non-Indigenous offenders to be cautioned compared to going to court, 2 times less likely to be conferenced by police compared to going to court, and 1.5 times less likely to be cautioned compared to being conferenced by police. Offenders were more likely to be cautioned than conferenced by police or appear in court if they were younger and had fewer offences.

The discrepancy in rates of youth diversion between Indigenous and non-Indigenous offenders is likely to result from several factors. One of the more prominent hypotheses in the Australian criminological literature is the possibility of racial bias in the operation of criminal justice processes. Institutional bias in the criminal justice system may be reflected in a number of

practices, including the willingness of police to use alternatives to arrest, limited community-based alternatives to prison in rural communities, poor funding for Aboriginal legal aid and excessively punitive sentences (Snowball & Weatherburn, 2007). Cunneen (2006) argues that racial bias is manifested in the criminal justice system at early stages of processing, where Indigenous youth are more likely to be arrested by police as a result of more extensive criminal histories. More extensive criminal records have the effect of increasing the risk that the young person will receive more serious penalties, including detention or imprisonment.

There are several competing explanations for the disparity in the rates of Indigenous and non-Indigenous youth who are diverted. Most notably, it is possible that Indigenous offenders are less likely to be diverted because of legal factors, including that they do not meet the legal standards for diversion (Snowball, 2008a). Rather than being a result of racial bias, it is possible that exclusionary and legal factors considered by police when exercising discretion may account for differences in Indigenous and non-Indigenous rates of diversion, including: requirement of admission of guilt, offence seriousness, number of current charges, number of prior convictions and prior incarceration (Joudo, 2008). Accessibility to diversion programs may further be limited by geographical isolation (particularly in remote Indigenous communities), the lack of involvement of guardians in justice processes and limited cultural relevance and sensitivity of programs (Joudo, 2008; Wilczynski, Wallace, Nicholson & Rintoul, 2004). Snowball and Weatherburn (2007) argued that for the discrepancy in rates of diversion to be the result of racial bias, differences in the treatment of Indigenous and non-Indigenous offenders should persist after taking legal factors into account. Current evidence regarding the role of racial bias and legal factors in the over-representation of Indigenous offenders indicates that both explanations are viable.

1.2.2. Effectiveness of Police Diversionary Practices for Reducing Recontact with the System

Few Australian studies have explored the impact of cautioning or conferencing on recidivism. Research in this field has compared recidivism rates among youth who were cautioned or conferenced with rates among youth who appeared in court based on officially recorded contacts they had with the justice system. Only one Australian study has adopted a Randomised Controlled Trial (RCT) design, with most comparing recidivism rates using offender cohorts or cross-sectional data covering a specified time-frame. Therefore, much of the research in this field is subject to self-selection bias or an inability to assess the 'treatment effect' because youth who are diverted may have different offending profiles and demographic characteristics than youth who appear in court. Nevertheless, findings indicate that diversion of

low-risk first-time offenders can reduce recontact with the youth justice system. Young people who appear in court (39-61%) are more likely to have additional contact with the system than young people diverted through cautioning (19-42%) or conferencing (21-58%) (Allard, et al., 2009; Cunningham, 2007; Dennison, Stewart & Hurren, 2006; Vignaendra & Fitzgerald, 2006). Unfortunately, much of the research has not been able to control for Indigenous status or explore the impact of diversion on recidivism among Indigenous peoples because these data were unavailable or concerns about data quality.

Allard et al. (2009) compared recidivism among offenders born in 1990 who were cautioned or had a police referred conference with youth who had a finalised court appearance. The study controlled for the impact of offending history by limiting analyses to first contacts which youth had with the system and controlled for offence seriousness by excluding court appearances which resulted in a supervised order. Additionally, traffic offences were excluded because these were not eligible for diversion and people aged 16 or over were excluded to ensure that all youth had at least a one year follow-up timeframe. Young people in the court comparison group were more likely to have recontact (61.3%) than young people who had a police referred conference (36.8%) or police caution (41.9%). Statistical controls were then used to take into account potential differences between the cautioning, conferencing and court groups which may impact on the different recidivism levels, including age, gender, Indigenous status, number of offences and offence type. Findings indicated that there was no statistically significant difference in recontact status based on whether a young person was cautioned or referred to a conference by police. Young people who were cautioned for their first contact with the justice system were 1.7 times less likely to have recontact and young people who were referred to a conference by police for their first contact with the justice system were 2.0 times less likely to have recontact than young people who appeared in court. Indigenous people were 2.1 times more likely than non-Indigenous people to have recontact.

Cunningham (2007) compared the impact of cautioning, conferencing and court on recidivism in the Northern Territory. The study included the 3,597 young people aged 10 to 18 who were apprehended by police over a five year period between 2000 and 2005. Youth were only included if they were aged 16 years or younger at the time of their first apprehension to give all youth a 12 month follow-up timeframe. Factors related to increased risk of reoffending included being male, Indigenous, living in regional centres or communities rather than city centres and committing serious property offences rather than offences against the person or other offences. While noting these risk factors, no statistical controls were introduced when exploring the impact of cautioning, conferencing or court on recontact. Youth who were cautioned (19%) or conferenced (21%) were found to be less likely to be re-apprehended by police within 12

months than youth who appeared in court (39%). Survival analyses were conducted exploring time-to-recontact for youth diverted to cautioning or conferencing versus court separately based on gender, Indigenous status, age group, location and offence group. Diversion was found to increase time-to-recontact and be beneficial regardless of gender, Indigenous status, age group and location. However, while diversion increased time-to-recontact for property offences it had minimal impact on offences against the person.

Dennison, Stewart and Hurren (2006) explored the impact of cautioning and court appearance on recidivism using a longitudinal offender cohort which included all contacts that youth born in Queensland during 1983 and 1984 had with these systems. Offence history was controlled for by focusing only on first contacts which youth had with the system. The court comparison group excluded youth who had a traffic offence and those found not guilty because these youth were ineligible for diversion. Additionally, offence seriousness was controlled for by removing youth who received a supervised order from the court comparison group. Findings indicated that 31% of youth who were cautioned for their first contact had additional contact with the justice system to age 17 compared with 42% of youth in the court comparison group. Risk factors which increased the likelihood that cautioned youth would have recontact included being male, younger when they first had contact with the system, and having contact with the child protection system for maltreatment. Because the data were censored at age 17, survival analysis was also conducted with age and gender included as covariates. Findings indicated that 50% of youth cautioned compared to 80% of youth who appeared in court would have had additional contact by the time 300 weeks had passed.

Luke and Lind (2002) compared reoffending among youth who participated in a conference or had a court appearance in New South Wales (NSW) over 12 months during 1998/1999 using a 27 to 39 month follow-up timeframe. Offending history was controlled for by only including youth who had no previous contact with the system. Bivariate analyses indicated that there were no differences between youth conferenced and appearing in court based on gender or area of residence, but the conferencing group was younger and more likely to have committed a theft offence than the court group. After controlling for rival causal factors, the reoffending rate was 16% lower among youth who were conferenced than youth who appeared in court. Because Indigenous status was not recorded for many court appearances, its impact on reoffending was only explored for youth who were conferenced. Findings indicated that 52% of Indigenous people conferenced compared with 38% of non-Indigenous people conferenced reoffended within two years.

Vignaendra and Fitzgerald (2006) compared the impact of police cautioning and youth justice conferencing on the proportion of young offenders in NSW who had a guilty court finding for a further offence within five years. Participants included youth who were cautioned or conferenced during 1999, with cautioning participants having no previous contact with the justice system and conferencing participants having no previous contact with the courts. Differences which may impact on the level of recontact were noted between the groups, with the caution group more likely than the conference group to be female (30% versus 17%), younger, and less likely to be charged with serious offences such as offences against the person (13% versus 18%) or property damage (11% versus 17%). Findings indicated that 42% of cautioned youth and 58% of youth who had a conference had additional contact with the justice system within five years. For cautioned youth, risk factors increasing the risk of recontact included being male, aged older when they first had contact and having committed a property damage offence rather than offence against the person. For conferenced youth, risk factors increasing the risk of recontact included being male, Indigenous, aged 10-13 rather than in the oldest age group and having committed a property damage offence. On average, youth who were cautioned had 1.3 court appearances in the subsequent five year period while youth who were conferenced had 2.5 court appearances.

Only one RCT has explored the impact of conferencing on recidivism within Australia. The Reintegrative Shaming Experiments (RISE) was conducted in Canberra and involved the random assignment of cases to participate in conferencing or court treatments. Two offence types involved youth aged under 18, juvenile property offending with personal victims (135 youth) and juvenile shoplifting offences (238 youth). After a one-year follow-up period, no statistically significant differences were found in the recidivism rates between those youth conferenced and those who appeared in court (Sherman, Strang, & Woods, 2000). In their follow-up analysis exploring rates of arrest frequency two years after youth who had committed property offences were conferenced or appeared in court, Sherman, Strang, Barnes and Woods (2006 cited in Sherman & Strang, 2007) found no differences for non-Aboriginal youth. However, conferencing was found to be criminogenic for a small sample of Aboriginal youth (n=23) resulting in an annual increase of 228 arrests per 100 offenders compared with an annual reduction of 66 arrests per 100 offenders for Aboriginal youth who appeared in court.

Despite this concerning finding from the Australian RCT, several international meta-analyses or reviews of the evidence have been conducted which indicate that restorative justice techniques such as conferencing and Victim Offender Mediation (VOM) reduces recidivism when compared to criminal justice practices. Latimer, Dowden and Muise's (2005) meta-analysis included 35 programs targeting mainly male (94%) and young (74%) offenders. Nearly three-quarters of the

32 restorative justice programs resulted in reduced recidivism, with a significant reduction in recidivism overall when compared to non-restorative approaches to criminal justice. Nugent, Williams and Umbreit's (2003) meta-analysis of fifteen studies indicated that youth who participated in VOM had lower recidivism rates than non-participants in seven studies and higher recidivism rates than non-VOM in one study. Overall, results indicated that VOM participants reoffended at a rate of about two-thirds (67%) that of non-participants. Drake, Aos and Miller (2009) included 21 studies in their meta-analysis and found that restorative justice resulted in an 8% decrease in recidivism when compared to criminal justice practices. In their review of the evidence, Sherman and Strang (2007) found that restorative justice was more effective for reducing violent than property crime, although five studies indicated that conferencing resulted in significant reductions in property offending.

1.3. Research Design and Analyses

Unlike previous research, the current project used both quantitative and qualitative methods. The quantitative method involved construction and analyses of an offender cohort to address the first three research questions. The cohort included 8,236 youth who were born in 1990 and their 17,242 contacts with the Queensland youth justice system for a formal police caution, police referred youth justice conference which was held or finalised youth court appearance. RQ1 was addressed by exploring the proportions of Indigenous and non-Indigenous contacts (i.e. not a unique offender count) and distinct individuals who were ever cautioned, referred to a youth justice conference by police that was held or had a finalised court appearance. Additionally, proportions processed through each option was examined based on whether it was their first, second, third or fourth contact with the system. This approach was adopted because Indigenous and non-Indigenous youth have different levels of contact with the system and, as previous research indicates, the number of prior contacts is related to the system used to respond to offending (Dennison, Stewart & Hurren, 2006; Stewart, Allard, Gray & Ogilvie, 2007).

Two multinomial logistic regression models were performed to address RQ2 and explore the impact of factors on whether Indigenous or non-Indigenous youth were cautioned, referred by police to a youth justice conference which was held or had a finalised court appearance. All contacts which young people in the cohort had with youth justice system were included in the models because similar factors were found to be related to the process used to respond to offending for first, second, third and fourth contacts. Factors included in the models were limited by information collected by agencies and which were in the dataset, including demographic characteristics (gender, age at first contact, and age at contact), the nature of offending (number of offences, offence seriousness, offence type) and the nature of previous contact (whether previously cautioned, conferenced or appearing in court).

To explore the effectiveness of cautioning and police referred conferencing on recontact, several recidivism measures were compared for Indigenous and non-Indigenous youth after they had their first contact with cautioning, conferencing and/or youth court. That is, the focus was on the first time youth were subject to each process, regardless of when the process was used in the youth's offending history. Recidivism measures explored included the proportion of youth that had recontact, and for youth who had recontact, the frequency of recontact and seriousness of recontact. Survival analyses were conducted exploring time-to-recontact to control for the different characteristics of youth processed through the three options (i.e.: age) and to determine factors impacting on time-to-recontact for Indigenous and non-Indigenous youth.

RQ4 required investigation of whether there were any additional factors not included in the administrative datasets which impacted on police officers' decisions to divert. A qualitative method was used, involving interviews with 29 police officers and 12 stakeholders. Interviews with police officers focused on factors which they identified as impacting on their decisions to divert (RQ4a). Interviews with police officers and stakeholders focused on whether they believed Indigenous youth were less likely to plead guilty than non-Indigenous youth (RQ4b) and factors which they believed influenced whether Indigenous youth plead guilty (RQ4c).

RQ5 focused on whether there were any alternative front-end diversionary practices which could more successfully divert Indigenous youth from the justice system. This research question was addressed by conducting a literature review focused on front-end diversionary programs operating in Australia and internationally. Where a practice or program was identified, the literature was explored to determine whether the program had been evaluated and its effectiveness for reducing recidivism.

1.4. Report Outline

In Chapter Two, an overview of the quantitative and qualitative methods used to address the first three research questions will be provided, including a description of the 1990 offender cohort and sample characteristics of police officers and stakeholders who participated in interviews. In Chapter Three, the quantitative results relating to the first three research questions will be presented based on analyses of the longitudinal offender cohort. In Chapter Four, the qualitative results based on analyses of interviews conducted with police officers and stakeholders to address RQ4 will be presented. In Chapter Five, a review of the literature undertaken to address RQ5 will be presented, focused on alternative front-end strategies that could be used to divert Indigenous offenders and evidence concerning their effectiveness. The

final chapter will present a summary of the research findings, highlight the limitations of the research, outline policy implications and suggest possible directions for future research.

Chapter 2. Methods

In this chapter, an overview of the two methods used to address the first four research questions is presented. In the first section, how the longitudinal offender cohort was created is outlined and the resulting sample described. In the second section, how the semi-structured interviews which were conducted with police officers and stakeholders are described and the samples are outlined.

2.1. Longitudinal Offender Cohort

The longitudinal offender cohort was created by obtaining data relating to all contacts that people born in 1990 had with cautioning (Queensland Police Service), Youth Justice Conferencing (Department of Communities) and youth court (Department of Communities) between the ages 10 and 16. Identifying information was used to link within and between the datasets and the data were cleaned using the processes outlined in Attachment A. After data linkage and cleaning, sex was missing for 38 individuals (0.5% of the cohort) and Indigenous status was missing for 1,413 individuals (17.2% of the cohort). A description of the missing data is provided in Attachment B, including the number of youth with missing information based on which process was used to respond to offending and the offence type involved.

There were 8,236 distinct individuals born in 1990 who had contact with the Queensland youth justice system. While the proportion of those who were born in Queensland is not known, there were 44,868 individuals born in Queensland during 1990, 52,091 individuals aged 10 years old in Queensland during 2000, and 57,954 individuals aged 16 years old in Queensland during 2006 (ABS, 2000, 2008a). Table 2-1 presents the contacts that individuals had across the three systems. Of the 8,236 individuals, 7,169 were cautioned by police at least once, 762 were referred by police to at least one youth justice conference which was held, and 2,419 had a finalised juvenile court appearance. Police referral of youth to conferences which were not held (n=99) and youth who had a court appearance which resulted in a not guilty finding (n=80) were not included in the offender cohort, and these youth represented an additional 60 distinct individuals.

Table 2-1: Distinct young people attending a caution, referred to a police YJC, and/or finalised juvenile court appearance

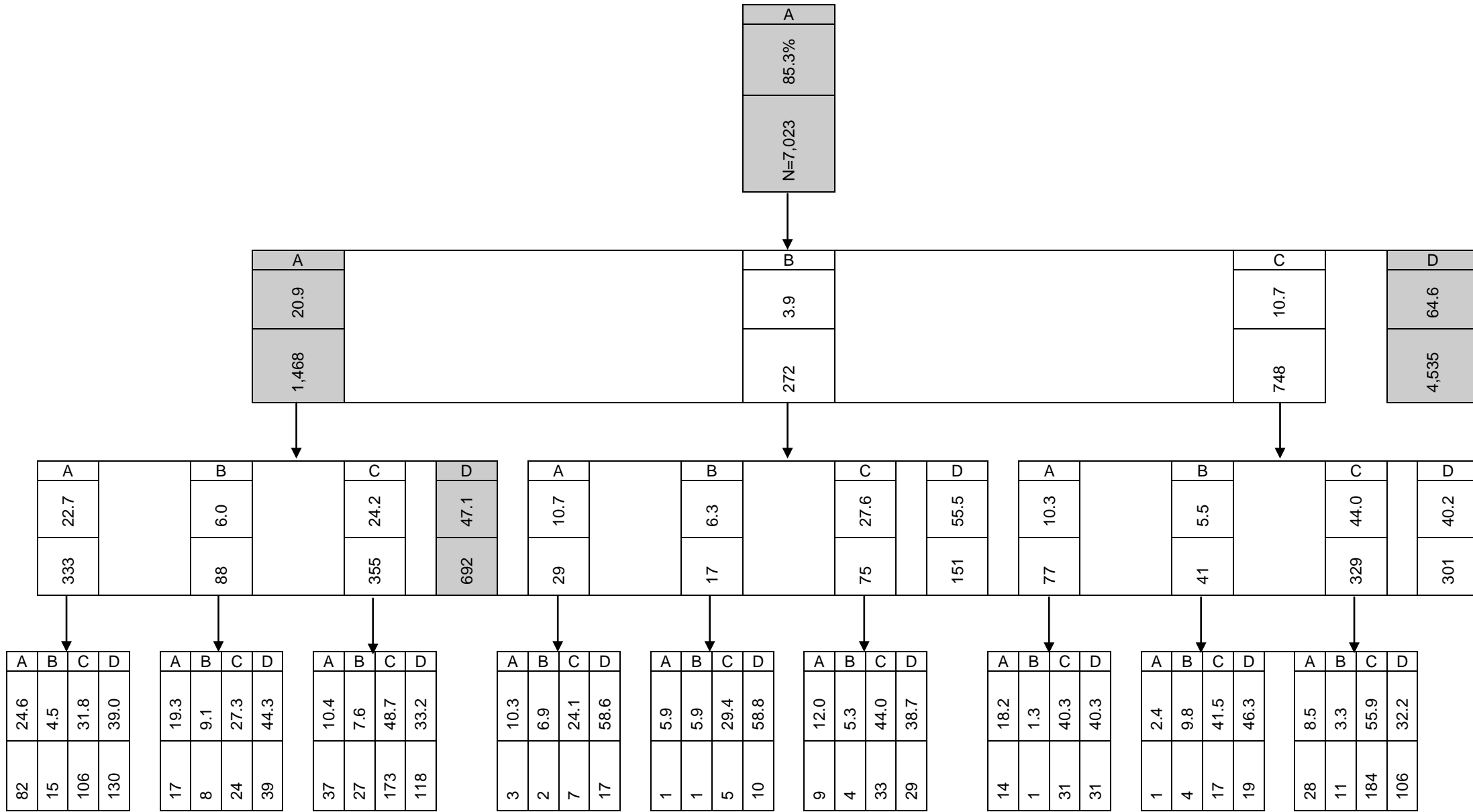
Police cautioned (n=7,169)			Police YJC (n=762)			Juvenile court appearance (n=2,419) ^a		
	<i>N</i>	%		<i>N</i>	%	<i>N</i>	%	
Yes	7,169	87.04	Yes	564	6.85	Yes	296	3.59
			No	6,605	80.20	No	268	3.25
No	1,067	12.96	Yes	198	2.40	Yes	1,212	14.72
			No	869	10.55	No	5,393	65.48
Total						Yes	42	0.51
						No	156	1.89
						Yes	869	10.55
Total						8,236 100.00		

^a Includes court referred conferences

In formulating the approach adopted to address the research questions, it is important to understand the contact which youth in the cohort had with each process and when contact occurred. Most youth had one contact (n=5,244, 63.7%), rather than two (n=1,370, 16.6%), three (n=590, 7.2%), four (n=278, 3.4%), or five plus (n=754, 9.2%) contacts. Ordering of the process used to respond to offending by youth was undertaken based on the date when the caution was actioned, the date the police referred conference was held, and the date when the youth court appearance was finalised. Table 2-2 to Table 2-4 presents flow-diagrams of the contact that youth had with cautioning, conferencing and youth court for their first four contacts. Focusing on the first four contacts includes all offending by 90.9% of youth in the cohort and 70.5% of contacts that youth in the cohort had with the system.

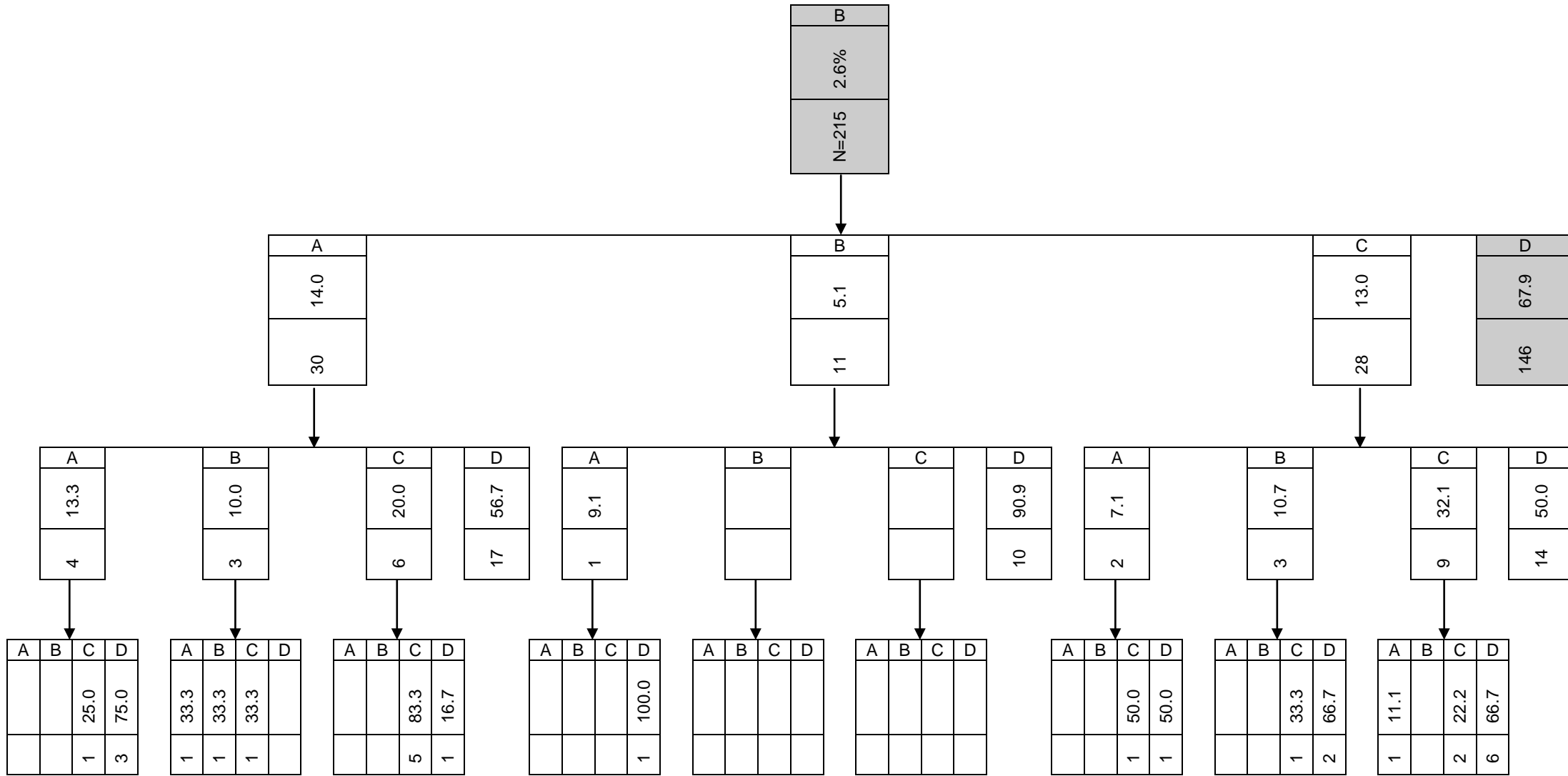
Most (85.3%) youth were cautioned for their first contact. Of youth cautioned for their first contact, 20.9% were also cautioned for their second contact and 64.6% did not have further contact with the youth justice system. Fewer youth (n=215) were conferenced for their first contact than second contact (n=272). Of youth conferenced for their first contact or second contact, most (67.9%; 55.5%) did not have further contact. About one-eighth (12.1%) of youth had a court appearance for their first contact. Of youth who had a court appearance for their first contact, 56.4% did not have further contact and 33.7% had a court appearance for their second contact. After youth appear in court, they were more likely to have a court appearance than be cautioned or conferenced for subsequent contacts.

Table 2-2: Percentage flow through the system based on first four contacts: Caution - N=7,023 (85.3%)



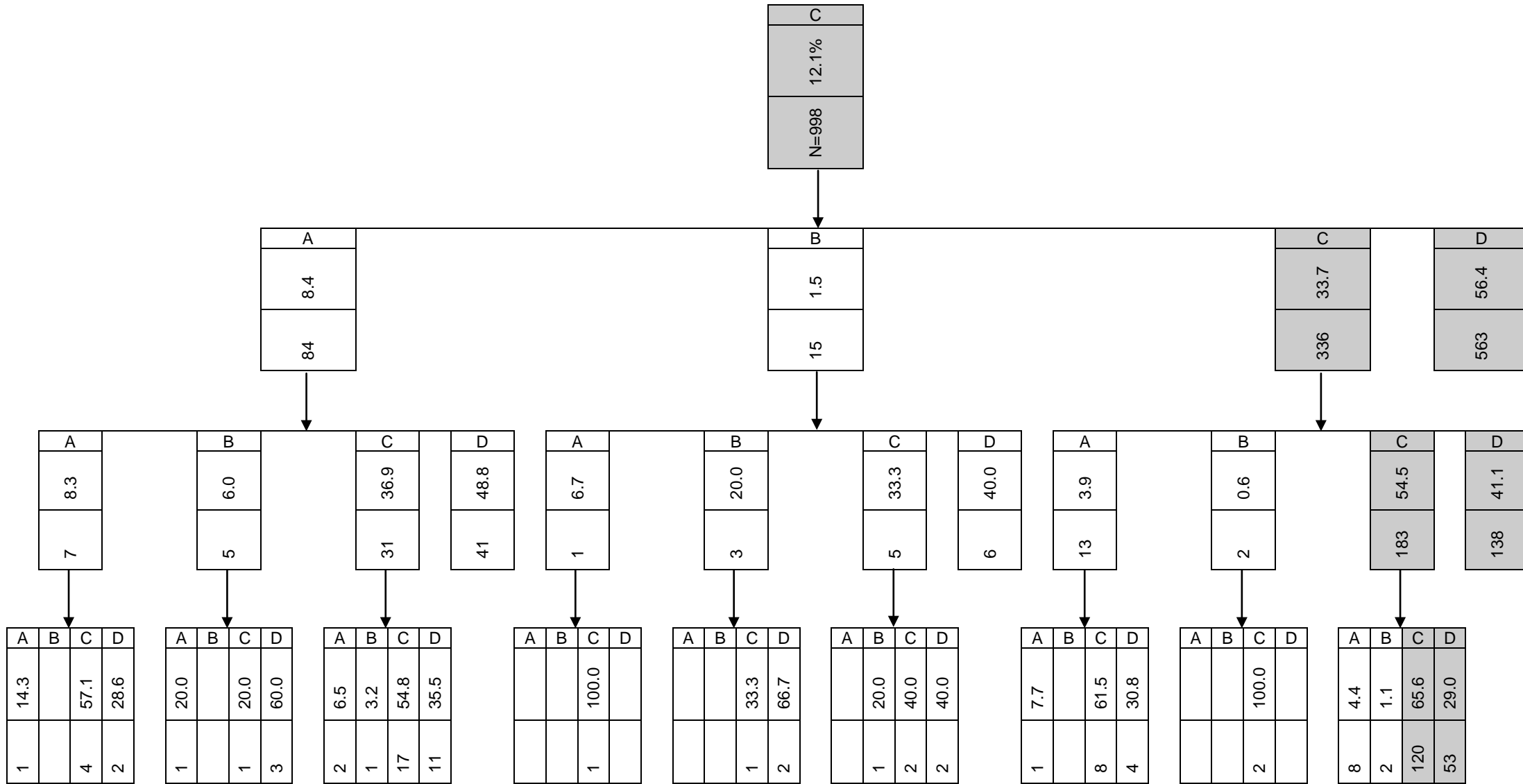
A = Caution, B = Conference, C = Court, D= Exit

Table 2-3: Percentage flow through the system based on first four contacts: Conference - N=215 (2.6%)



A = Caution, B = Conference, C = Court, D= Exit

Table 2-4: Percentage flow through the system based on first four contacts: Court - N=998 (12.1%)



A = Caution, B = Conference, C = Court, D= Exit

2.2. Interviews with Police Officers and Stakeholders

2.2.1. Police Officer Interviews

Semi-structured interviews were conducted with 29 police officers from six stations and 12 stakeholders to address RQ4 using the procedure described in Attachment C. Police Officer interviews (PO1 – PO29) focused on officers' recent contact with young people for alleged offending behaviour during the last seven days and factors which influenced their decisions about how young people would be processed (i.e.: cautioned, referred to conference or progressed to court). Most recent decisions were examined first and the number of decisions examined with each officer was limited to five. For each decision, officers were asked four broad questions and these were followed-up with prompts. Attachment D provides the semi-structured interview schedule that was used with police. The four broad questions were:

- (i) *Could you describe what happened that lead to you having contact with this young person?*
- (ii) *Could you please provide a brief description of the young person?*
- (iii) *What decision did you decide to take in response to this?*
- (iv) *Why did you decide to take this action?*

There were a similar number of male and female officers who were interviewed, although officers had different ranks, education levels and years of service (Table 2-5). One officer interviewed identified as Indigenous. Almost all officers were currently within the Child Protection and Investigation Unit (CPIU) rather than general duties officers. In some locations, the CPIU investigate more serious offending by youth including sexual offending.

2.2.2. Stakeholder Interviews

Interviews with stakeholders aimed to provide context and improve understanding about the diversion process, including how diversionary options operated in practice and the role that stakeholders had in the process. Stakeholder interviews also focused on the barriers to diverting young people that were identified by police officers, such as the refusal to admit guilt and whether this was due to legal advice the young person received. The 12 stakeholders who participated in the research included representatives from several agencies. Participants included:

- Six legal practitioners from Legal Aid Queensland (LAQ), Aboriginal and Torres Strait Islander Legal Service (ATSILS), and Community Legal Centre (SH1 to SH6);
- One social worker from Aboriginal and Torres Strait Islander Service (ATSILS) (SH7);

- Three coordinators from Coordinated Response to Young People at Risk (CRYPAR) (SH8 to SH10); and
- Two Indigenous elders (SH11 to SH12).

Table 2-5: Characteristics of police officer participants ($N = 29$)

Officer characteristic	N	%
Sex		
Male	16	55.2
Female	13	44.8
Age		
20-29 years	4	13.8
30-39 years	19	65.5
40-49 years	6	20.7
Rank		
Constable	6	20.7
Senior Constable	15	51.7
Sergeant	7	24.1
Senior Sergeant	1	3.4
Highest Education Qualification		
Secondary school	1	3.4
Certificate/Diploma	12	41.4
Degree	16	55.2
Years service as officer		
1-4 years	3	10.3
5-9 years	8	27.6
10-14 years	11	37.9
15-19 years	4	13.8
20+ years	3	10.3
Area of work		
General duties	1	3.4
Child Protection and Investigation Unit (CPIU)	28	96.6
Officers identifying as Indigenous (ATSI only)	1	3.4
	<i>M</i>	<i>SD</i>
Mean age of participants	35.55	5.23
Mean years of service	10.98	5.29

2.3. Conclusions

In this Chapter, the longitudinal offender cohort and interviews which were conducted with police officers and stakeholders were described. The longitudinal cohort was used to address the first three research questions focused on whether there was disparity in the use of diversion, factors impacting on the use of diversion with Indigenous youth and the effectiveness of diversion. These research questions are answered in Chapter Three. The interviews with police officers and stakeholders were used to address the fourth research question focused on whether there were any additional factors which influenced police officers' decisions about whether to divert young people. This research question is answered in Chapter Four. It is acknowledged that the police officer and stakeholder samples are small and may not be representative of the views of these populations. A purposive or convenient sample was used and the researchers attempted to increase sample size. While caution must be exercised generalising interview findings, this component of the research is important because it enables exploration of factors which may impact on whether youth are diverted which are not collected in administrative datasets.

Chapter 3. Results from Analyses of Longitudinal Offender Cohort

In this chapter, the findings of analyses undertaken to address the first three research questions are presented. The first section addresses RQ1 by providing a description of the proportions of Indigenous and non-Indigenous youth who were diverted or appeared in court (i.e. not a distinct offender count), diverted or appeared in court at least once in their offending career, and controlling for the level of contact which youth had with the justice system by exploring proportions based on whether it was their first, second, third or fourth contact with the justice system. While number of prior contacts was controlled for, there are a range of other factors which may account for differences in proportions diverted. In the second section, RQ2 is addressed by examining factors which impacted on the likelihood that Indigenous and non-Indigenous youth were cautioned, conferenced or appeared in court. The third section addresses RQ3 by providing a description of how effective diversion is compared to court for Indigenous and non-Indigenous youth. Effectiveness was examined by focusing on all first contacts that youth had with cautioning, conferencing and/or court and examining the proportion who had additional contact and for those who had additional contact, frequency of recontact and seriousness of recontact. Multivariate analyses were also conducted to control for the impact of factors on and examine the effectiveness of cautioning, conferencing and court on time-to-recontact.

3.1. Do police divert different proportions of Indigenous and non-Indigenous youth to cautioning or conferencing compared to court?

When all contacts that individuals had with the youth justice system were examined (n=17,242), Indigenous offenders were less likely to be cautioned or conferenced by police and were more likely to be processed through the courts than non-Indigenous offenders (Table 3-1; $\chi^2=1048.07$, (df=1), $p<.001$). Indigenous youth were 0.6 times as likely as non-Indigenous youth to be cautioned (35.2% v 60.0%) or conferenced (3.6% v 5.8%) and were 1.8 times as likely as non-Indigenous youth to have had a court appearance (61.2% v 34.3%). When the proportion of individuals who were ever processed through the available options were examined, Indigenous youth appeared more likely than non-Indigenous youth to have ever had a police referred conference (12.7% v 9.9%) or youth court appearance (56.4% v 29.8%) and appeared less likely to have ever been cautioned (79.9% v 86.5%) or diverted by police through cautioning or conferencing (81.8% v 89.0%).

Table 3-1: Processes used to respond to offending for all contacts offenders had with the justice system and distinct young people ever subject to a process by Indigenous status

Process	Indigenous		Non-Indigenous		Indigenous v Non-Indigenous Rate	Total ^a	
	N	%	N	%		N	%
All Contacts^b							
Caution	1,899	35.2	6,204	60.0	0.6	9,535	55.3
Police referred conference	192	3.6	598	5.8	0.6	840	4.9
Court	3,300	61.2	3,544	34.3	1.8	6,867	39.8
Total	5,391	100.0	10,346	100.0		17,242	100.0
Distinct Youth with Contact							
Ever cautioned	1,090	79.9	4,722	86.5	0.9	7,169	87.0
Ever police referred conference	173	12.7	541	9.9	1.3	762	9.3
Ever diverted by police	1,116	81.8	4,860	89.0	0.9	7,374	89.5
Court	770	56.4	1,628	29.8	1.9	2,419	29.4

a Includes missing Indigenous status and sex

b Includes multiple contacts by individuals

While exploration of all contacts that Indigenous and non-Indigenous youth had with each process indicated that there was disparity in the proportions diverted and appearing in court, this did not control for the number of prior contacts that Individuals had with the system. Table 3-2 presents the number of contacts youth had with the justice system based on Indigenous status. Indigenous offenders were more likely to have a greater number of contacts with the system. On average, Indigenous youth had 2.1 times as many contacts with the system, with Indigenous youth averaging 3.95 contacts and non-Indigenous youth averaging 1.90 contacts ($t(1,499) = 17.12, p < .001$).

Table 3-2: All offending contacts Indigenous and non-Indigenous youth had with the system

Contact #	Indigenous		Non-Indigenous		Total ^a	
	N	%	N	%	N	%
1	513	37.6	3,403	62.3	5,244	63.7
2	227	16.6	1,064	19.5	1,370	16.6
3	142	10.4	443	8.1	590	7.2
4	92	6.7	185	3.4	278	3.4
5+	391	28.6	363	6.7	754	9.2
Total	1,365	100	5,458	100	8,236	100
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>
# of Contacts	3.95	4.33	1.90	1.91	2.09	2.51

^a Includes missing Indigenous status and sex

Given differences between Indigenous and non-Indigenous youth in the number of contacts they had with the system, RQ1 was addressed by exploring proportions that were cautioned, conferenced and appeared in court controlling for number of prior contacts. Proportions processed through cautioning, police referred conferencing and youth court were examined based on whether it was the youth's first, second, third or fourth contact with the system. Analysis was limited to the first four contacts because the average number of contacts that Indigenous youth had with the system was four. Focusing on the first four contacts included 80.5% of contacts that youth in the cohort had with the system, 61.7% of all Indigenous contacts and 87.5% of all non-Indigenous contacts.

While Indigenous youth appeared less likely to be cautioned than non-Indigenous youth for their first contact with the system (75.9% v 84.8%), similar proportions were cautioned for second, third and fourth contacts (Table 2-3). Similar proportions of Indigenous and non-Indigenous youth had a police referred conference for their first contact, but Indigenous youth appeared less likely to be referred to a conference by police for subsequent contacts. Indigenous youth appeared more likely than non-Indigenous youth to have a court appearance for their first, second and third contacts while similar proportions had a court appearance for their fourth contact.

Table 3-3: Youth subject to each process based on contact number and Indigenous status

Contact #	Process	Indigenous		Non-Indigenous		Total ^a	
		N	%	N	%	N	%
1	Caution	1,036	75.9	4,630	84.8	7,023	85.3
	Police Conference	38	2.8	140	2.6	215	2.6
	Court	291	21.3	688	12.6	998	12.1
	Total	1,365	100.0	5,458	100.0	8,236	100.0
2	Caution	431	50.6	1,081	52.6	1,582	52.9
	Police Conference	49	5.8	237	11.5	298	10.0
	Court	372	43.7	737	35.9	1,112	37.2
	Total	852	100.0	2,055	100.0	2,992	100.0
3	Caution	179	28.6	284	28.7	467	28.8
	Police Conference	40	6.4	121	12.2	162	10.0
	Court	406	65.0	586	59.1	993	61.2
	Total	625	100.0	991	100.0	1,622	100.0
4	Caution	97	20.1	107	19.5	205	19.9
	Police Conference	28	5.8	52	9.5	80	7.8
	Court	358	74.1	389	71.0	747	72.4
	Total	483	100.0	548	100.0	1,032	100.0

^a Includes missing Indigenous status

3.2. What factors impacted on the likelihood that Indigenous young offenders would be diverted by police to cautioning and conferencing?

It is important to note that exploration of disparity in the previous section did not take into account differences which may exist between Indigenous and non-Indigenous offenders. To understand the different proportions diverted and appearing in court, it is necessary to explore the impact of demographic characteristics and the nature of offending on the process used to respond to offending by Indigenous and non-Indigenous people.

Descriptive statistics exploring the relationships between demographic characteristics (gender and age) and the nature of offending (number of offences, offence seriousness and offence type) on the process used to respond to offending by Indigenous and non-Indigenous youth for

their first four contacts with the youth justice system are presented in Attachment E. As many of these demographic and offence characteristics are inter-related, their unique impact needed to be assessed using multivariate analyses which control for the influence of confounding factors. Additionally, it was necessary to control for the more serious offending in the court group. Offence seriousness was controlled for by excluding court appearances that resulted in a supervised order. These orders included: Community Service Order, Probation Order, Probation/Community Service Order, Detention/Probation Order, Detention Order and Conditional Release.

The impact of demographic and offence characteristics on the likelihood of the three outcomes (being cautioned, conferenced or appearing in court) was assessed using multinomial logistic regression analyses. Initially, eight separate analyses were performed, with separate models constructed for Indigenous and non-Indigenous offenders for each contact (first, second, third and fourth). This approach was adopted to determine whether similar factors were important for Indigenous and non-Indigenous offenders. The following factors were included in the models:

- Gender (male/female)
- Age at contact (continuous, number of years between the individuals date of birth and the date when youth had a caution, had a police referred conference or had a finalised youth court appearance)
- Number of offences cleared or finalised at process (continuous)
- Seriousness of most serious offence (continuous, based on the National Offence Index (ABS, 2009) with higher numbers indicative of less serious offending)
- Whether most serious offence type was personal, property, drug, public order or other (yes/no). Traffic offences were excluded because they appeared ineligible for diversion.

Additional factors included in models assessing second, third and fourth outcomes were:

- Age at first contact
- Previous caution (yes/no)
- Previous conference (yes/no)
- Previous court appearance (yes/no)

Because the findings of these eight analyses indicated that similar factors impacted on whether young people were cautioned, had a police referred conference or appeared in court regardless of whether it was their first, second, third or fourth contacts (Attachment F), Indigenous and non-Indigenous models were constructed which included all contacts that youth had with the system. Gender was excluded from both models as it had limited impact on the likelihood of outcome in the eight models. Table 3-4 presents the main effects for the Indigenous and non-Indigenous

models which included all contacts that youth had with the justice system. All factors were significant in both models.

Table 3-4: Main effects of multinomial logistic regression models exploring impact of factors on whether cautioned, conferenced or appearing in court for all contacts

Factors	Indigenous		Non-Indigenous	
	χ^2	df	χ^2	df
Overall Model Fit	1738.54	22	3816.72	22
Age at contact	70.74	2	143.29	2
Number of offences	37.90	2	184.58	2
Seriousness of MSO (NOI)	28.66	2	115.57	2
Offence against Person	40.42	2	31.98	2
Property Offence	88.56	2	184.73	2
Drug Offence	160.68	2	195.65	2
Public Order Offence	75.57	2	138.94	2
Previous caution	53.73	2	283.71	2
Previous conference	6.65	2	15.25	2
Previous court appearance	292.28	2	261.75	2
Number of Prior Contacts	40.55	2	64.02	2

p<.01

To interpret these results, Table 3-5 presents the results of the bivariate comparisons (cautioned rather than appeared in court, had a police referred conference rather than appeared in court, or had a police referred conference rather than caution) from the two multinomial models. In this table, the base case is a person with average age, number of offences and offence seriousness and where all factors are held constant. Where an expected value is one, it neither increases nor decreases the odds of a particular outcome. Values less than one decrease the odds that a particular outcome will occur while values greater than one increase the odds of the outcome. Where an expected value is less than or greater than one, its impact is only significant if the confidence intervals do not cross over one.

Table 3-5: Impact of factors on outcomes for Indigenous and non-Indigenous models

Model	Factor	Indigenous			Non-Indigenous		
		Exp(B)	Lower Bound	Upper Bound	Exp(B)	Lower Bound	Upper Bound
Caution v Court	Age at Event	0.83	0.79	0.88	0.78	0.74	0.81
	Number of Offences	0.87	0.84	0.91	0.82	0.79	0.84
	Seriousness	0.99	0.99	1.00	0.99	0.99	1.00
	Number of Priors	0.90	0.86	0.94	0.80	0.74	0.86
	Person v Other	4.74	2.89	7.77	2.38	1.76	3.23
	Property v Other	4.80	3.35	6.87	4.01	3.25	4.96
	Drug v Other	29.61	16.89	51.93	8.93	6.44	12.39
	Public v Other	5.66	3.74	8.57	4.65	3.59	6.03
	No prior caution	1.58	1.32	1.90	2.93	2.49	3.45
	No prior conference	1.38	0.94	2.04	1.65	1.23	2.22
	No prior court	7.17	5.69	9.04	6.40	5.11	8.03
Police Conf v Court	Age at Event	1.13	1.02	1.26	1.01	0.94	1.09
	Number of Offences	0.92	0.85	1.00	1.01	1.00	1.03
	Seriousness	0.99	0.98	0.99	0.98	0.98	0.99
	Number of Priors	0.84	0.77	0.92	0.79	0.72	0.87
	Person v Other	3.10	1.14	8.43	2.00	1.19	3.37
	Property v Other	4.05	1.82	9.00	5.14	3.30	8.01
	Drug v Other	1.35	0.16	11.41	2.01	0.93	4.35
	Public v Other	3.07	1.19	7.92	2.48	1.32	4.67
	No prior caution	0.47	0.32	0.69	0.43	0.34	0.56
	No prior conference	0.64	0.37	1.10	0.83	0.59	1.18
	No prior court	2.37	1.56	3.60	2.02	1.49	2.74
Police Conf v Caution	Age at Event	1.36	1.22	1.51	1.30	1.21	1.40
	Number of Offences	1.05	0.97	1.14	1.24	1.20	1.29
	Seriousness	1.00	0.99	1.00	0.99	0.98	0.99
	Number of Priors	0.93	0.84	1.03	0.99	0.89	1.11
	Person v Other	0.66	0.24	1.82	0.84	0.50	1.41
	Property v Other	0.85	0.37	1.95	1.28	0.82	2.01
	Drug v Other	0.05	0.01	0.39	0.23	0.11	0.48
	Public v Other	0.54	0.20	1.45	0.53	0.28	1.00
	No prior caution	0.30	0.20	0.43	0.15	0.12	0.19
	No prior conference	0.46	0.26	0.83	0.51	0.34	0.75
	No prior court	0.33	0.21	0.51	0.32	0.23	0.44

p<.05

Similar factors were related to whether Indigenous and non-Indigenous youth were cautioned rather than processed through the courts. All factors were significantly related to whether youth would be cautioned rather than appear in court, with the exception of offence seriousness (for Indigenous and non-Indigenous youth) and whether youth had no prior conference (for Indigenous youth) (Table 3-5). Factors which increased the odds that Indigenous and non-Indigenous youth would be cautioned rather than appearing in court included having: a drug offence rather than other offence (increasing changes by 29.6 times for Indigenous youth and by 8.9 times for non-Indigenous youth), no prior court appearances (7.2 and 6.4 times respectively), a public order offence rather than other offence (5.7 and 4.7), a property offence rather than other offence (4.8 and 4.0), an offence against the person rather than other offence (4.7 and 2.4) and no prior cautions (1.6 and 2.9). Additionally, non-Indigenous youth who did not have a prior conference were 1.7 times more likely to be cautioned than have a court appearance. Factors which decreased the odds that Indigenous and non-Indigenous youth would be cautioned rather than processed through the courts included: being aged older when they had contact (0.8 times less likely for both Indigenous and non-Indigenous youth for each year older they were), having a greater number of offences (0.9 and 0.8 times as likely for each additional prior contact), and more prior contacts (0.9 and 0.8 as likely for each prior contact).

Similar factors were also found to influence whether Indigenous and non-Indigenous youth were conferenced rather than had a finalised court appearance (Table 3-5). Factors increasing the odds that Indigenous and non-Indigenous youth would be referred to a conference which was held included: having a property offence rather than other offence (4.1 and 5.1), offence against the person rather than other offence (3.1 and 2.0), public order offence rather than other offence (3.1 and 2.5) and having no prior court contact (2.4 and 2.0). Additionally, the odds of Indigenous youth being conferenced by police rather than appearing in court increased slightly with age (increasing 1.1 times for each additional year of age). Factors decreasing the odds that Indigenous and non-Indigenous youth would be conferenced rather than have a court appearance included: not having a prior caution (0.5 and 0.4), and having more prior contacts (both 0.8 times for each prior contact).

While similar factors also influenced whether Indigenous and non-Indigenous youth would be referred by police to a conference which was held rather than have a caution, fewer factors were found to be significant (Table 3-5). Factors which were significant in both the Indigenous and non-Indigenous models were age, drug offences, and having no prior contact with the system involving a caution, conference or court appearance. Number of offences was also significant for non-Indigenous youth. The odds that Indigenous and non-Indigenous youth would

be conferenced rather than cautioned increased with age (increasing 1.4 times for each additional year of age for Indigenous youth and 1.3 times for non-Indigenous youth). The odds that non-Indigenous youth would be conferenced rather than cautioned also increased as number of offences increased (by 1.2 times for each additional offence). Factors decreasing the odds that Indigenous and non-Indigenous youth would be conferenced rather than cautioned included: having a drug offence rather than other offence (0.1 times for Indigenous youth and 0.2 times for non-Indigenous youth), no prior caution (0.3 and 0.2), no prior court (0.3 and 0.3) and having no prior conference (0.5 and 0.5).

3.3. Are police cautioning and conferencing effective practices for reducing offending by Indigenous youth?

In this section, the findings of analyses conducted to explore whether police cautioning and conferencing were effective practices for reducing offending by Indigenous youth are presented. The approach adopted involved determining whether there were differences between youth on a range of recidivism measures after they had contact with each process for the first time, regardless of the number of previous contacts youth had had with the system. Therefore, the three groups were not independent, as youth could have contact with more than one process. Firstly, descriptive statistics relating to the first contact/s that youth had with each process are presented based on Indigenous status. Secondly, descriptive statistics focused on whether there were differences in recontact, frequency of recontact, and seriousness of offending after contact are presented. Thirdly, the findings of multivariate analyses conducted to explore the unique impact of factors on time-to-recontact are presented, including whether youth were cautioned, conferenced or appeared in court.

3.3.1. Youth's First Contact/s with Each Process

Youth's first contact/s with each process were determined based on the date when youth had a caution actioned, the date when a police referred conference was held, or the date when a court matter was finalised. Where youth were subject to the processes used to respond to offending on more than one occasion, the earliest date was used for each process. There were 7,169 youth who had contact with cautioning, 762 who had a police referred conference that was held and 2,419 who had a finalised court appearance (Table 3-6). Non-Indigenous youth appeared more likely to have contact with cautioning at least once, while Indigenous youth appeared more likely to have contact with police referred conferencing which was held and to have a finalised court appearance. Of first contacts that people born in 1990 had with each process, Indigenous status was missing for 13.8% and these related primarily to cautions. Descriptive statistics exploring the relationships between Indigenous and non-Indigenous youth's first contact with

each process and gender, average age, number of offences, offence seriousness and offence type are presented in Attachment G.

Table 3-6: Number of youth with at least one contact with cautioning, conferencing, and/or finalised court appearance

Process ^a	Indigenous		Non-Indigenous		Total ^b	
	N	%	N	%	N	%
First Caution	1,089	53.6	4,723	68.5	7,169	69.3
First Police Conference	173	8.5	541	7.8	762	7.4
First Court	770	37.9	1,628	23.6	2,419	23.4
Total First Contacts with Processes	2,032	100.0	6,892	100.0	10,350	100.0

^a regardless of when process occurred in offender's pathway

^b includes missing Indigenous status

3.3.1. Descriptive Statistics Exploring Effectiveness of Diversion for Preventing Recontact

This section will report the findings of analyses conducted to explore the effectiveness of cautioning and conferencing based on several recidivism measures, including recontact, frequency of recontact and seriousness of offending after contact. Within each section, findings are presented focused on youth's first contact/s with each process, regardless of when the contact occurred. It is important to note that people aged 17 and over were not included in the data as they were no longer processed through the youth justice system and that the resulting follow-up period varies based on demographic profiles. Therefore, descriptive statistics should be interpreted with some caution.

Recontact Status

Table 3-7 presents the proportions of Indigenous and non-Indigenous youth who had recontact after the first contact that they had with each process. Each young person would have had contact with at least one process and may have had contact with all three processes. Indigenous youth were less likely to have recontact after cautioning (63.8%) or conferencing (65.9%) than court (71.0%). Indigenous youth were more likely than non-Indigenous youth to have recontact, regardless of process. Descriptive statistics exploring the relationships between whether Indigenous and non-Indigenous youth had additional contact after their first contact with each process and gender, average age, number of offences, offence seriousness and offence type are provided in Attachment H.

Table 3-7: Proportion with recontact by Indigenous status

Process ^a	Indigenous		Non-Indigenous		Total ^b	
	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
First Caution	695	63.8	1,790	37.9	2,567	35.8
First Police Conference	114	65.9	249	46.0	365	47.9
First Court	547	71.0	783	48.1	1,332	55.1

a regardless of when process occurred in offender's pathway

b includes missing Indigenous status

Frequency of Recontact

Table 3-8 presents the frequency of recontact for youth who had additional contact after their first contact with each process based on Indigenous status. Indigenous youth were more likely to have three or more contacts after they first appeared in court rather than after they were first cautioned or had a youth justice conference. Indigenous youth were less likely than non-Indigenous youth to have one additional contact and were more likely to have three or more contacts, regardless of process. Additionally, non-Indigenous youth were more likely than Indigenous youth to have two contacts after their first court appearance. These findings highlight the possible criminogenic effects of court processing on frequency of contact. The relationships between frequency of recontact for Indigenous and non-Indigenous offenders and gender, average age, number of offences, offence seriousness and offence type are provided in Attachment H.

Table 3-8: Impact of youth justice processes on frequency of recontact by Indigenous status

Process ^a	Frequency	Indigenous		Non-Indigenous		Total ^b	
		<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
First Caution	1	178	25.6	913	51.0	1,167	45.5
	2	120	17.3	385	21.5	510	19.9
	3+	397	57.1	492	27.5	890	34.7
First Police Conference	1	34	29.8	116	46.6	152	41.6
	2	24	21.1	51	20.5	75	20.5
	3+	56	49.1	82	32.9	138	37.8
First Court	1	126	23.0	333	42.5	461	34.6
	2	68	12.4	155	19.8	223	16.7
	3+	353	64.5	295	37.7	648	48.6

a regardless of when process occurred in offender's pathway

b includes missing Indigenous status

Offence Seriousness of Recontacts

In addition to whether or not youth had additional recontact and the frequency of recontact, another measure of effectiveness is whether there was a reduction in the seriousness of offending after youth had contact with a particular process. Seriousness was assessed based on the National Offence Index (NOI) and the proportions of youth subject to each process who had more serious subsequent offending were determined. Table 3-9 presents the proportions of youth who had additional contact for more serious offending after having their first caution, police referred conference and/or court appearance. Overall, youth tended to have additional contact for more serious offending after they were cautioned, had a police referred conference or had a court appearance. While it is beyond the scope of this project to examine seriousness in any depth, lower proportions of youth who had a police referred conference for the first time had recontact for more serious offending than youth who had a caution or court appearance for the first time.

Table 3-9: Impact of youth justice processes on proportion of youth who had more serious offending after contact by Indigenous status

Process ^a	Indigenous		Non-Indigenous		Total ^b	
	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
First Caution	446	64.2	1,028	57.4	1,501	58.5
First Police Conference	68	59.6	123	49.4	192	52.6
First Court	391	71.5	491	62.7	883	66.3

^a regardless of when process occurred in offender's pathway

^b includes missing Indigenous status

3.3.2. Multivariate Analyses Exploring Impact of Cautioning, Conferencing and Court on Time-to-recontact

Because the data were right censored at age 17 when youth were no longer eligible to be processed through the youth justice system, multivariate analyses were conducted using survival analyses which adjusts for right censoring and accounts for the impact of and interactions between factors. Two Cox regression survival analyses were conducted focused on factors which impacted on time-to-recontact, with analyses conducted separately for Indigenous and non-Indigenous youth. Youth's first contact/s with each process were determined based on the date when youth had a caution actioned, the date when a police referred conference was held, or the date when a court matter was finalised. Once again, where youth were subject to the processes used to respond to offending on more than one occasion, the earliest date was used for each process. The date of recontact was based on the date when any subsequent

caution was actioned, the date when police referred a matter to conferencing, or the earliest appearance date for a subsequent offence.

As presented in Table 3-10, cautioning was most effective with a longer period of time elapsing before youth who were cautioned for the first time had recontact compared to youth who had a court appearance or police referred conference for the first time. Youth who had a court appearance for the first time had longer periods of time elapse before they had recontact compared to youth who had a police referred conference. For Indigenous youth, a longer period of time elapsed before they had additional contact if they had an offence against the person as their most serious offence, were younger when they first had contact with the system, or had a smaller number of offences and number of prior contacts with the system. Longer periods of time elapsed before non-Indigenous youth had additional contact if they were female, not convicted of a public order offence or had a smaller number of prior appearances.

Table 3-10: Factors impacting on time-to-recontact for Indigenous and non-Indigenous youth

Covariate	Indigenous				Non-Indigenous			
	Sig.	Exp(B)	Lower	Upper	Sig.	Exp(B)	Lower	Upper
Caution v Court	0.00	0.76	0.66	0.87	0.00	0.58	0.52	0.64
Police Conference v Court	0.00	1.46	1.18	1.81	0.00	1.54	1.32	1.79
Police Conference v Caution	0.00	1.92	1.54	2.40	0.00	2.67	2.30	3.10
Gender	0.13	1.11	0.97	1.26	0.00	1.63	1.48	1.79
Offence against the person	0.03	0.69	0.49	0.96	0.07	0.82	0.67	1.02
Property Offence	0.11	0.82	0.65	1.04	0.29	1.09	0.93	1.29
Drug Offence	0.12	0.72	0.48	1.09	0.35	1.11	0.89	1.39
Public Order Offence	0.26	0.85	0.63	1.13	0.04	1.25	1.01	1.53
Age at event	0.01	0.95	0.92	0.99	0.59	0.99	0.96	1.02
Seriousness	1.00	1.00	1.00	1.00	0.00	1.00	1.00	1.00
Number of Offences	0.04	1.03	1.00	1.06	0.77	1.00	0.99	1.01
Number of Prior Appearances	0.00	1.30	1.25	1.36	0.00	1.23	1.19	1.27

Exp B relates to impact of covariate on survival time. If below 1, increases time-to-reappear; If above, decreases time-to-reappear

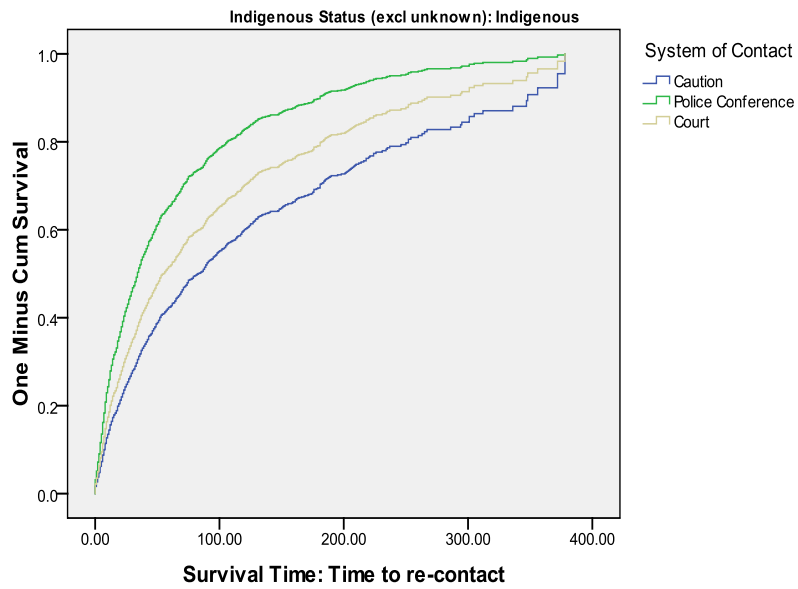
The survival curves created for Indigenous and non-Indigenous youth based on the typical characteristics of youth when they first had contact with the system are presented Figure 3-1. These characteristics were that the young person was male, aged 14, had a property offence for their most serious offence, an NOI seriousness score of 94, two offences and zero prior

contacts with the system. As presented in Figure 3-1, cautioning was most effective for Indigenous and non-Indigenous youth in terms of longer periods of time elapsing before recontact followed by court and police conferencing. After first having contact with cautioning, 55% of Indigenous and 40% of non-Indigenous youth had additional contact within 100 weeks. After first having contact with court, 65% of Indigenous and 60% of non-Indigenous youth had additional contact within 100 weeks. After first having contact with police referred conferencing, 78% of Indigenous and 75% of non-Indigenous youth had additional contact within 100 weeks.

3.4. Conclusions

In this chapter, findings from analyses conducted to address the first three research questions were reported. The first research question focused on whether there was disparity in the proportions of youth diverted based on Indigenous status. Prior contact was controlled for by examining proportions diverted on their first, second, third and fourth contacts with the system. Findings indicated that Indigenous youth were 10% less likely to be cautioned on their first contact and were about half as likely to be conferenced for their second, third and fourth contacts. The second research question focused on factors which impacted on the likelihood that Indigenous and non-Indigenous youth would be diverted. Similar factors were found to impact on the likelihood that Indigenous and non-Indigenous youth would be diverted. Youth were more likely to be diverted to cautioning or conferencing than appear in court if they had no previous court appearance, less serious offending, or fewer prior contacts with the youth justice system. The third research question focused on how effective diversion was when compared to court. Findings indicated that both cautioning and conferencing were more effective than court at reducing the proportion that had recontact, frequency of recontact and seriousness of additional contact when controls were not included to account for potential differences between the groups. However, multivariate analyses focused on time-to-recontact and controlling for confounding factors indicated that cautioning was most effective at extending the length of time before youth had additional contact, followed by court and then conferencing.

One Minus Survival Function for patterns 1 - 3



One Minus Survival Function for patterns 1 - 3

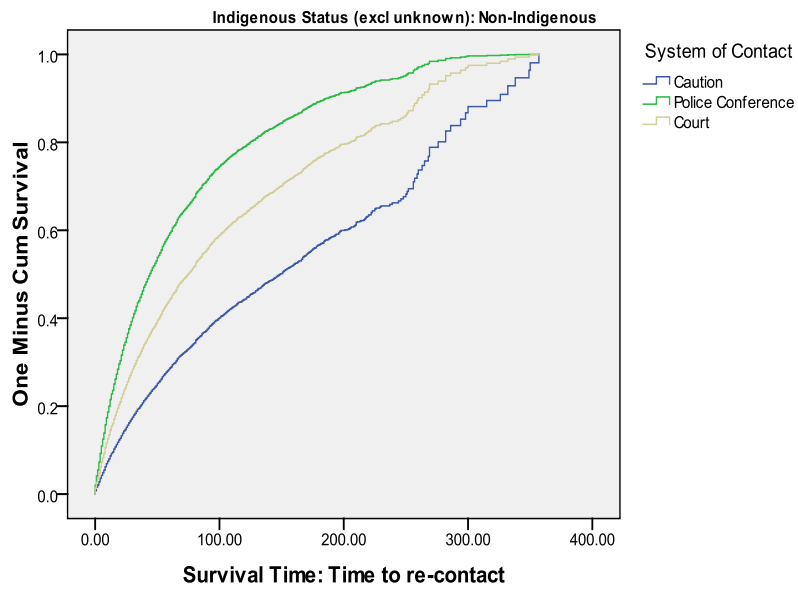


Figure 3-1: Survival curves examining time-to-recontact for the average offender

Chapter 4. Results from Interviews with Police Officers and Stakeholders

In this chapter, the findings from qualitative interviews which were conducted to address the fourth research question are presented. The fourth research question focused on whether there were any additional factors which impacted on the likelihood that Indigenous youth would be diverted by police to cautioning or conferencing. Specifically, the question required exploration of factors identified by police as impacting on their decisions to divert, whether police and stakeholders believed that Indigenous youth were less likely to plead guilty than non-Indigenous youth and what factors police and stakeholders believed influenced whether Indigenous youth plead guilty. In the first section, factors identified by police as influencing recent decisions they had made concerning whether youth should be diverted using the method outlined in Section 2.2 are presented. Second, police (PO1-PO29) and stakeholder (SH1-SH12) beliefs about whether Indigenous youth are less likely to plead guilty are presented. Third, factors which police and stakeholders identified as influencing whether Indigenous youth plead guilty are explored.

4.1. What factors do police identify as impacting on the decision to divert?

Police identified five main factors which impacted on their decision making concerning whether youth they recently had contact with should be diverted to cautioning or conferencing rather than processed through the courts. These factors were whether youth had a prior offending history (Section 4.1.1), their most serious offence (Section 4.1.2), eligibility for diversion (Section 4.1.3), the age and demeanour of the youth (Section 4.1.4) and officer's assessment about the youth's needs (Section 4.1.5). Each of these factors is discussed in more detail below and the influence of Indigenous status and legislation considered.

4.1.1. Prior Offending History

The prior formal offending history of youth was identified by police officers as one of the most influential factors impacting on their decisions about whether youth should be diverted from court. This is consistent with Section 11 (2) (b) of the *Youth Justice Act 1992* which states that officers must have regard to circumstances including "the child's criminal history". Officers indicated that they were less likely to divert youth who had prior contact and that Indigenous youth were more likely to have had prior contact.

Several officers indicated that there was an unofficial policy whereby youth were likely to receive each of the main diversionary options once before court processing was initiated against them. As officers from three different regions commented:

I mean ordinarily, my rule of thumb is, if you've had a caution I don't care what it was for, you're not getting another one.

PO 3

Unfortunately they've already been cautioned, if you know what I'm saying. So you still have the option of giving them another caution I guess, but you probably wouldn't do that, you probably would have the conference I'd say.

PO 28

But one caution, one conference and basically off to court you go. That's always been our policy.¹

PO 22

This viewpoint is inconsistent with Section 11(6) (a) of the *Youth Justice Act 1992* which states that officers may divert a young person even though "action of that kind has been taken in relation to the child on a previous occasion". However, this viewpoint was not shared by all officers. Other officers discussed the discretion they had when making their decisions and that having previously been dealt with by caution did not necessarily prevent them from issuing a caution again:

It depends on the offences that have been committed so if you're looking at complete opposite ends of the scale, you might get someone for say, it depends on the type of offence and also it depends on the severity of the offence again, maybe time frames in between, when the last caution was administered and when this one is going to be administered.

PO 29

Yeah, me personally, I take into consideration a lot of factors before considering the caution again. I know some people are of the opinion that once they are cautioned, that's off the table, but I don't necessarily rule it out.

PO 20

¹ QPS advise that "our policy" does not reflect QPS policy nor is it likely to reflect a localised policy operating at a Regional, Divisional or District level. QPS considers that "our policy" in this context refers to the individual officer's preferred method of dealing with youth offenders.

But I know some people are of the thought, well if you hit them with a caution once, and that's the end of that which is not necessarily the case.

PO 9

4.1.2. Most Serious Offence

The most serious offence which the youth was charged with was also identified by officers as impacting on their decisions about whether youth should be diverted. The *Youth Justice Act 1992* suggests that officers should consider offence seriousness in their decision making. Section 11 (1) indicates that “a police officer, before starting a proceeding against a child for an offence other than a serious offence, must first consider whether in all the circumstances it would be more appropriate to” divert the youth. However, Section 11 (7) indicates that “subsection (1) does not prevent a police officer from taking [diversionary action] for a serious offence”. Officers indicated that Indigenous young people were more likely than non-Indigenous young people to be involved in offences against the person and that these offences are generally considered more serious than other forms of offending such as property offending.

4.1.3. Eligibility for Diversion

Whether youth were eligible for diversion was identified as an important factor impacting on whether officers diverted youth through cautioning or conferencing. Section 16 of the *Youth Justice Act 1992* outlines the conditions that must be met for young people to be eligible for diversion, including that they admit to the offence and consent to being diverted. In practice, police indicated that if a youth refused to participate in an interview, then that precluded them from formally admitting to the offence. One-fifth of youth who police had recently dealt with were ineligible for diversion, primarily because they refused to participate in an interview. There were no differences in the proportions of Indigenous and non-Indigenous youth who police had recently dealt with that were ineligible for diversion. The important role that interviews with young people had in determining eligibility is reflected in comments from three different officers:

Look it's frustrating – if a kid refuses to be interviewed we have no choice – they're not eligible to be diverted and have to go to court.

PO 7

It really is you know that you've got to utilise those [diversionary] options unless you can justify having to charge the kid and the most easiest way of getting around those are that they don't interview then you've got no other choice – you've got to make a decision – either take no action or charging them.

PO 22

It's harder when you would divert the kid, but for some reason refuse to talk to you. You can't say "Look, take part in an interview and admit to the offence and I will caution you and this will be all over and done with" because it is an inducement. All you can do is let them and their parents know what the available options are under the Act and hope they come to that decision themselves.

PO 18

4.1.4. Age and Demeanour of Youth

The age and demeanour of the young person was also identified by officers as influencing their decisions to divert. Officers were more likely to divert if offenders were younger, although younger youth also tended to not have a prior offending history. Officers indicated that they were more likely to divert youth if they were remorseful for their actions and respectful towards police. Some officers indicated that Indigenous youth were less remorseful and respectful than non-Indigenous youth, although this view was not held by the majority of officers. The importance of the demeanour of youth is apparent in one officer's remarks:

Because of her age being just turned 14, we thought we'd go with the caution. So that was the thing and when she came in she failed her attitude test something fierce. No remorse whatsoever and screaming obscenities ... so instead she's a notice to go to court.

PO 14

4.1.5. Youth's Needs

One final characteristic identified by officers as influencing their decision making about whether youth should be diverted was the officers' assessment about the young person's needs. Several officers indicated that some young people had multiple and complex needs which put them at greater risk of reoffending. Officers expressed frustration at the lack of options for dealing with, or difficulties obtaining services for, these 'at risk' young people. In some cases, officers indicated that they considered the needs of young people when making decisions:

It's not a one thing - it's just an octopus with a tentacle in every pie, you know, these kids a lot of them I mean they've got substance abuse, a lot of them have mental health issues. It's hard to refer based on multiple needs.

PO 22

It would be nice to have more services with the JJ system, especially those things like mental health, anger management, behavioural counselling.

PO 11

Depending on the offence, if a young person is homeless then I might consider more so arresting them and objecting to their bail. There's a lot of factors involved – it's not just black and white. But I'd rather arrest them and object to their bail rather than issuing a notice to appear ... at least that way I know they will be looked after.

PO 1

4.2. Do police and stakeholders believe that Indigenous youth are less likely to plead guilty than non-Indigenous youth?

One-fifth of youth who police had recently dealt with were said to be ineligible for diversion and similar proportions of Indigenous and non-Indigenous youth were said to be ineligible, frequently because they refused to participate in an interview or failed to make admissions about the offence. Legal practitioner stakeholders estimated that between 80% and 90% of youth plead guilty at their first court appearance and that similar proportions of Indigenous and non-Indigenous youth plead guilty (SH1-SH6).

While police and stakeholders believed that similar proportions of Indigenous and non-Indigenous youth plead guilty, the high proportion of offenders ineligible for diversion raises the possibility that some youth who appear in court may have benefited from diversion if they had met the criteria for eligibility. Consequently, it is important to understand the factors that influence the plea that a young person makes, or the decision to refuse participation in police interviews.

4.3. What factors do police and stakeholders believe influence whether Indigenous youth plead guilty?

Police and legal representatives identified two factors which they believed may influence decisions by Indigenous young people about whether to make admissions or enter a guilty plea. These were whether the youth received legal advice and the attitude of the young person towards the police.

4.3.1. Legal Advice

Few youth who police had recently dealt with had sought legal advice, with 15% said to have received legal advice or representation and no differences apparent in the proportions of Indigenous and non-Indigenous youth who had received advice. Nevertheless, a common perception among police officers was that Indigenous youth were often ineligible for diversion due to the legal advice they received from Legal Aid Queensland (LAQ) or Aboriginal and Torres Strait Islander Legal Service (ATSILS). Many officers believed that these legal services recommend Indigenous youth to refuse to participate in interviews with police, thereby

preventing the use of diversion as an option. The following comments from different officers reflect this perception:

I hate them with a passion. If the kids say 'I want you to contact ATSILS' or the parents jump on board and say 'I want you to contact ATSILS' you know it's going nowhere.

PO 22

Unfortunately I would have cautioned this young fellow, but Aboriginal Legal Aid told him to say nothing. End of story. This happens all the time, and it disadvantages the kids.

PO 25

Their standard response [from ATSILS] is don't interview; don't speak to the police, regardless of what the matter is.

PO 24

Section 420(2) of the *Police Powers and Responsibilities Act 2000* suggests that unless the person has arranged for a lawyer to be present during police questioning, a representative of a legal aid organisation should be present when questioning Aboriginal and Torres Strait Islander people. However, the findings from this research indicate that few Indigenous youth received legal advice. Section 420(1) states that this section applies if the police officer reasonably suspects that the person is an adult Aborigine or Torres Strait Islander. While the Act provides provisions for officers in questioning children, there is currently no provision in the Act for children of Aboriginal and Torres Strait Islander background. Unless a young Indigenous person or their support person was aware of their right to legal advice then ATSILS are rarely contacted. As two different officers commented:

You don't actually have to contact them for a child - it's basically if they're Indigenous and an adult. With kids because they have to have their own support person in an interview you don't have to then go and contact ATSILS as well.

PO 22

Because I think that's actually probably one of the loopholes in the legislation that we don't have to actually ring them. But I suppose it's a course of practice with the adults that even if they don't want Legal Aid, ATSILS, we still are obligated to ring them and let them know that at some stage. But I don't think the child one is actually covered to tell you the truth now that I think about it.

PO 24

While legal practitioners acknowledged that police had perceptions that they advised young people to decline interviews, these claims were refuted. Legal practitioners indicated that most young people did not receive legal advice and that any advice is dependent on multiple factors. The following comments made by different practitioners illustrate this point:

I disagree with that view that it's about the legal advice young people are getting because I know they're not getting legal advice before they give interviews.

SH 6

It's something that's really hard to, is hard to give unequivocal advice about. I would think it would be a rare occasion where you would give, I don't know unequivocal advice one way or another to do an interview or not to.

SH 1

If I'm talking to a young person who's trying to make a decision about whether to give an interview or not, then knowing whether the police officer's considering cautioning them or referring them to a conference is really important to me. I need to know that to give the client advice.

SH 6

But a big and critical factor in the decision about whether or not to do an interview because the fact is that your client says ... 'No I didn't do it' then there's absolutely no reason for them to do an interview. Certainly there are big disincentives to doing interviews just because of the consequences that can flow from them.

SH 2

Furthermore, most legal practitioners who were interviewed indicated that there was a need to provide young people with legal advice. They raised the concern that young people may not be aware of their rights, participating in an interview to expedite the process, even if it meant pleading guilty to an offence they did not commit. As legal representatives commented:

A lot of the time the questions are in terms of, 'if you like we can arrange to speak with a lawyer, do you want us to arrange for you to speak with a lawyer?' How many 15 years olds know a lawyer that they could contact and they I guess act on the assumption that they go, 'well I don't know a lawyer so I'm just not going to worry about it'.

SH 1

I expect that the police probably don't say 'Well Legal Aid gives free legal advice to young people about whether or not to do interviews. You might want to call them'. I can't imagine that that happens a lot ... I know they've had people call for advice where they've said, 'Look the police officer said I might want to get some legal advice whether or not to do an interview' but that's very much the exception rather than the rule.

SH 2

Often young people say to me that they thought it would take longer, that they would be stuck at the police station for hours and hours if they said 'yes, I want to see a lawyer'. So I think there's often that real feeling of I need to leave, I need to get out of here and the quickest way that gets me out is to say what this person wants to hear, which is 'I will give an interview and I don't want to talk to a lawyer'.

SH 6

I think that that is something that we should be really particularly worried about at a police station where interviews are happening at one o'clock in the morning – the young person's tired, they're cranky, they're hungry and they're scared and they're just thinking what do I have to say so that I can go home. Lots of young people talk about feeling that if they say they didn't do it, they're going to get arrested and get kept in custody and they're not going to be allowed to go home.

SH 6

Several legal representatives suggested that there should be a grant of Legal Aid for solicitors to support young people during police interviews. As one interviewee commented:

In my view and this is my personal opinion, it's a flaw in the system that there isn't a grant of aid for police interviews, particularly for young people because they are so vulnerable in that process.

SH 6

4.3.2. Attitude of Youth Towards Police

The other important factor which was identified as impacting on whether young Indigenous people plead guilty was the attitude they held towards police. Some officers indicated that young people who refused to participate in interviews were those known to the police because of their prior offending behaviour, or that of a family member or peer. One officer discussed how a young person refused an interview with the police on advice from his peer and family members who were formally known to the police:

Well he did not have any previous [history] but other family members did and this other friend that he was with did. He said 'They said I don't have to talk to you, I'm not going to okay?'

PO 2

Unfavourable attitudes held by some young people towards police are likely to have been formed within their family environment. Officers acknowledge that because of the role they occupy within the criminal justice system that some young people have an inherent fear or distrust of police. As some officers commented:

This fellow was extremely uncooperative and rude towards us. Having said that, as he has grown up I've dealt with his elder brothers and parents, and their attitudes haven't been much better. He would have been brought up hating us.

PO 20

This kid is known to us ... not for his actions, but I have arrested family members of his. You could see why he wasn't keen on us talking to him. He said we would just lock him up like we did to his dad.

PO 4

Similarly, legal practitioners indicated that the attitude of youth expressed during interactions with police can often be traced back to poor police-youth relations. Legal representatives suggested that police 'move-on' powers and the attitude of some officers towards young people in public places has resulted in young people being distrustful and disrespectful of police.

4.4. Conclusions

In this chapter, the results of interviews that were conducted with police and stakeholders to explore other factors impacting on officer's decisions to divert youth were presented. Consistent with findings from analyses of the 1990 offender cohort, police officers indicated that they were more likely to divert youth who had no prior history of offending and when youth were aged younger. Additional factors which were identified as influencing whether youth were diverted included their most serious offence, whether they participated in an interview and could thus access diversion, the demeanour of the young person and the officer's assessment about the youth's needs. Of youth who police had recent contact with, one-fifth of Indigenous and non-Indigenous youth plead not guilty or were not eligible for diversion because they did not participate in an interview and there were no differences based on Indigenous status. Nevertheless, police believed that legal advice provided to Indigenous youth reduced the proportion that pled guilty and hence were eligible for diversion. Both police and stakeholders

indicated that youth having unfavourable attitudes towards police resulted in youth not participating in an interview and therefore not being eligible for diversion.

Chapter 5. Alternative Front-End Diversionary Practices

This chapter will provide a review of the literature undertaken to address *RQ5: Are there any alternative front-end diversionary practices which could more successfully divert young Indigenous offenders from the youth justice system?* While addressing socio-economic disadvantage and community-level risk factors such as widespread alcohol/substance abuse and community/family violence is often beyond the scope of the justice system, these factors provide the context within which programs seeking to achieve change at the individual level must frequently be implemented. Evidence indicates that many Indigenous offenders have contact with the justice system at a young age, which may be viewed as an opportunity to intervene and attempt to address the problems they are experiencing.

In this chapter, alternative front-end diversionary practices will be examined followed by a review of some important program implementation issues. The purpose of the review is to assist identify any innovative programs that may be used to reduce offending by Indigenous people and those programs with the strongest evidence base. While the types of programs discussed are operating in limited geographical locations throughout Queensland, they have not been adequately evaluated within the Australian context to determine their impact on offending by Indigenous youth. Therefore, the findings of international studies exploring the impact of programs on reoffending are reported where results are available. Implementation issues discussed include the need to evaluate programs, to target effective programs and to address the needs of Indigenous youth.

5.1. Alternative Front-End Diversionary Practices

There are several front-end diversionary practices which could be used to divert offenders from formal court processing and reduce offending by Indigenous young people. These programs include Indigenous specific programs aimed at increasing Indigenous participation in existing programs, diversion programs with coordinated support services, mentoring, family intervention programs and multi-modular programs based on a Multi-Systemic Therapy framework. Alternatively, many of these programs could be used to reduce offending by young people on community based orders.

5.1.1. Indigenous Specific Programs

Four variations or additions to existing diversionary practices have been developed, which aim to increase the number of Indigenous people diverted and reducing reoffending. Unfortunately, none of these programs have been adequately evaluated. In remote regions of South Australia,

there is a policy initiative aimed at increasing the number of Indigenous people diverted and reducing reoffending (Blandford & Sarre, 2009). The initiative focuses on improving the quality of relationships between police, Indigenous young people and legal representatives. Under this policy initiative, officers were encouraged to liaise with the Aboriginal Legal Rights Movement (ALRM) and indicate prior to interview whether they intended to divert the alleged young offender if admissions of guilt were made. This initiative was aimed at reducing the number of young people who did not make admissions based on legal advice and were therefore ineligible for diversion. This initiative also allowed young offenders to engage in educational and other prevention strategies as part of a formal undertaking. There is a lack of evidence concerning the effectiveness of this initiative, although it has been reported anecdotally that the number of young Indigenous people diverted from court processing has increased and that the program has reduced recidivism (Blandford & Sarre, 2009).

In Victoria, two programs are administered by the Department of Human Services which aim to assist Indigenous offenders who have contact with the youth justice system. The *Koori Youth Justice Program* is a broad intervention aimed at providing support to Indigenous young people at risk of offending, those who have been diverted or cautioned and young people who are subject to orders from the Children's Court (AIHW, 2009). The program employs youth justice workers to formulate cultural support plans for their clients, provide practical support to clients and their families and coordinate with other service providers in assessing, planning and developing goals for Indigenous young people (AIHW, 2009). The program also incorporates sport and recreational activities. The *Koori School Leavers and Youth Employment Program* aims to divert young Indigenous people from the youth justice system by addressing some of the key risk factors for young offenders, such as truancy and lack of engagement with school (AIHW, 2009). The program assists young Indigenous offenders re-engage with school or engage in other vocational or employment training opportunities after contact with the youth justice system. This program targets young Indigenous people aged between 10 and 20 years. Referral to the program is typically from youth justice units and also from schools and other community organisations (AIHW, 2009). There is no publically available research focused on whether the Koori Youth Justice or Koori School Leavers and Youth Employment programs reduce reoffending.

In the Northern Territory, a *Multiple Component Diversion Scheme* was developed for Indigenous young offenders and aims to reduce recidivism (Clough, Lee, & Conigrave, 2008). Young offenders were assigned to one or more diversion components based on assessment by a case manager. The different components included counselling, community work and activities, training and education programs, and restitution. The components were developed to address

the risk factors of the young person, such as substance misuse, mental health disorders and family problems such as experiencing violence and substance misuse problems among parents and extended family. Again, there is no publically available research which has assessed the impact of the Multiple Component Diversion Scheme on reoffending.

5.1.2. Diversion Programs with Coordinated Support Services

Diversion programs with coordinated support services or 'wrap around' programs aim to reduce recidivism through the coordination and more effective use of existing multi-agency resources in the community and focusing these resources on youth. Within Australia, this approach has been adopted with police cautioning but programs tend to be localised within specific geographic locations. Programs include *Coordinated Response to Young People at Risk* (CRYPAR) (Queensland), *KNOXlink* (Victoria), *Youth Assist Program* (Victoria), *Targeted Programming* (New South Wales) and *Killara Youth Support Service* (Western Australia) (see Table 5-1; AIHW, 2009). While the programs target different age groups, a holistic approach is used with police targeting identified needs that are related to recidivism. Young people and their families are referred to specialised community agencies for support and services. Support services include accommodation services, drug and alcohol services, legal advice, counselling, parenting advice, vocational training and mental health specialists (Clancey & Borg, 2005). While there is no publically available evidence concerning the effectiveness of these programs within Australia, evidence from international studies indicates that programs which divert youth to programs which provide services results in a 3.1% reduction in reoffending when compared to youths that were processed through the courts (Drake, Aos & Miller, 2009).

Table 5-1: Characteristics of Australian diversion programs to services

Coordinated Response to Young People At Risk (CRYPAR)

- Community-policing partnership enables police to refer 'at risk' young people to community agencies who provide support and services to address identified risk factors such as substance misuse, mental health issues or family conflict and dysfunction.
 - Young person and family consent is required to participate.
 - Targets young people aged between 0 and 25 years, with most youths aged between 14 and 16 years old.
 - Referral is made by police to the service(s) required and representatives from these service agencies independently contact the candidate within 48 hours.
 - Initiated in selected northern Brisbane suburbs during 2004 and now implemented in Brisbane, Logan and Rockhampton.
 - Qualitative evaluation of the program found that there was support for the program from participants, police officers and service providers.
-

KNOXlink

- Partnership between Knox Youth Services and Knox police, aiming to coordinate community services to help address risk factors of young people.
 - Provided to young people aged 12 to 17 years who live in the city of Knox, Victoria and have been either formally cautioned by the police, charged, or are victims of crime.
 - The program offers services including accommodation, drug and alcohol services, legal advice, counselling, parenting advice, and vocational training.
 - The initiative also offers services to parents and refers them to other agencies who can assist them manage their child's behaviour.
-

Youth Assist Program

- Partnership between the Frankston Police and Mission Australia aims to prevent young people from engaging in criminal behaviour and to provide pathways to better education, health and employment opportunities.
 - Targets young people aged 8 to 17 years in the Frankston area of Victoria displaying anti-social behaviour and those who are socially and economically disadvantaged.
 - Interventions are tailored to the specific risks and needs of the young person. Community services coordinated include: mental health, accommodation, substance use, family conflict, and enhancing education and employment opportunities.
-

Targeted Programming Model

- Partnership between New South Wales Police and Police & Community Youth Clubs (PCYC).
 - Targets prevention of recidivism, although also aims to assist young people at risk of offending onset.
 - Referrals made from the Crime Management Unit of NSW police or other agencies.
 - Adopts an intelligence-led, case coordinated approach that uses programs and individual strategies to address risk factors associated with offending. These risk factors include truancy, alcohol and drug use, delinquent peers, family violence, and neglect and abuse (Clancey & Borg, 2005).
 - Incorporates sports, life skills and recreation programs to assist young people who are at risk of becoming involved in criminal behaviour.
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5.1.3. Mentoring Programs

Mentoring programs match youth with mentors, supporting this relationship over time (DuBois, Holloway, Valentine, & Cooper, 2002; Tolan, Henry, Schoeny, & Bass, 2008; Wilczynski, Culvenor, Cunneen, Schwartzkoff, & Reed-Gilbert, 2003). The mentoring relationship is viewed as being particularly effective for 'at risk' and disadvantaged youth, as it provides a pro-social and healthy role model (Arter, 2006; Spencer, 2006). However, there is substantial variation between programs in terms of basic goals, the participants they target, processes and philosophies (DuBois et al., 2002). Some programs focus broadly on promoting positive youth development while others focus on specific areas of functioning, such as education and employment (DuBois et al., 2002; Sipe, 1999). The characteristics of the mentor-youth relationship that have been shown to produce positive outcomes include: frequent contact, matching of youth to appropriate mentors, emotional closeness and longevity, the development of trust and effective communication, and respect and empathy for youth (DuBois et al., 2002; Sipe, 1999). Mentoring programs are argued to have wide ranging effects on multiple areas of functioning, including emotional and behavioural functioning, academic achievement, and employment or career development (DuBois et al., 2002). The findings of meta-analyses based on mentoring programs implemented overseas indicate that such programs result in reductions in recidivism of between 0% and 20% (Drake, Aos & Miller, 2009; Tolan et al., 2008).

5.1.4. Family Intervention Programs

Family intervention programs aim to improve parenting practices and promote development of solutions to problems within the family that may be causing or maintaining maladaptive behaviour (Farrington & Welsh, 1999, 2003). These programs acknowledge the large influence of family systems on adolescent development, targeting factors which operate as risk factors in the development and maintenance of antisocial behaviour (Diamond & Josephson, 2005; Sexton & Alexander, 2002). Most family-based programs focus on multiple domains of functioning to address problem behaviour. Additionally, most incorporate behavioural parent training (BPT) and education techniques which aim to modify social contingencies in the family environment to promote the development of pro-social behaviour (Farrington & Welsh, 2006; Hoge, 2001). Within the Western Region of New South Wales, *Collaborative Family Problem Solving* was piloted in May 2009 (DoHS, 2009). The program involves six to 10 sessions with at least two family members and aims to teach problem solving skills. The program is based on cognitive-behavioural principles, with participants learning how to clarify roles, set ground rules, identify family problems, set goals and implement strategies to achieve goals and emphasises the importance of pro-social modelling and reinforcement (Trotter, 2006). While this program has not been evaluated, the findings from meta-analyses indicate that family intervention

programs implemented overseas have reduced reoffending by between 13% and 52% (Aos, Phipps, Barnoski & Lieb, 2001; Drake, Aos & Miller, 2009; Latimer, 2001; Wilson & Lipsey, 2000; Woolfenden, Williams & Peat, 2002).

5.1.5. Multi-Modular Programs

Multi-modular programs target high-risk or serious repeat offenders and aim to reduce recidivism and are frequently based on the principles of *Multi-Systemic Therapy* (MST). As such, these programs adopt an ecological and holistic approach with broad ranging treatment objectives aiming to address problems experienced in multiple domains simultaneously (Lipsey & Cullen, 2007). The overarching principle is that individuals are situated within complex interconnected systems (i.e. individual, family, and extra-familial) that interact to shape behaviour. Treatment is tailored to address the developmental needs of individual young people and their families, focused on addressing risk factors related to antisocial behaviour in home, school and community settings (Henggeler, Melton & Smith, 1992).

Within Australia, programs adopting a MST framework include the Intensive Supervision Program (ISP) in Western Australia and New South Wales and the Youth Opportunity Program (YOP) in Queensland. These programs target high-risk youth on community based orders and have different target populations. ISP targets offenders aged between 10 and 17 in Western Australia and between 10 and 14 in the locations being trialled in New South Wales (DoCS, 2006; DoJJ, 2009). YOP targets offenders aged between 10 and 16 in Far North Queensland (DoC, 2009). ISP and YOP involve service delivery by trained clinicians, involvement of Aboriginal advisors and personnel to ensure cultural appropriateness and referral to services in the community to address criminogenic needs and the underlying problems offenders are experiencing within the family and wider community. These include substance abuse, financial problems, housing needs, poor school performance, family conflict and negative peer pressure (DoCS, 2006; DoJJ, 2009). While the impact of ISP and YOP on recidivism has not been determined, programs conducted overseas based on an MST framework have resulted in reductions of between 8% and 46% (Aos, et al., 2001; Curtis, Ronan & Borduin, 2004; Drake, Aos & Miller, 2009; Littell, Popa & Forsythe, 2005).

5.2. Implementation Issues

The previous section identified several programs which could potentially be used to divert Indigenous offenders from the justice system. While these types of programs are operating in limited geographical locations in Queensland, they have not been adequately evaluated to assess their impact on offending by Indigenous youth. This section will provide an overview of

several important implementation issues, including the need to evaluate programs, target effective programs and to consider the needs of Indigenous youth.

5.2.1. Evaluating Programs

It is essential that independent robust evaluation research is conducted to determine which programs effectively reduce offending by Indigenous youth. While programs have been evaluated overseas, whether these programs will have positive effects within Australia for Indigenous youth is unknown. This is particularly the case because of the additional community-level risk factors that many Indigenous youth face including violence and alcohol abuse (Allard, 2010). Such evaluations are necessary for programs which currently operate in limited geographic locations throughout Queensland to determine whether they are achieving their intended aims such as a reduction in offending. A range of appropriate evaluation designs are available, including the randomised controlled experiment, quasi-experiments and economic analyses.

The *randomised controlled experiment* provides the 'gold standard of evidence' and involves randomly assigning individuals to either receive the program or not to receive the program. As individuals are randomly assigned to treatment and control groups, the groups are viewed as being similar in all respects except that the treatment group receives the intervention. Therefore, any differences found between the groups in outcome measures can be interpreted as intervention effects (Greenwood, 2008; Lipsey, et al., 2005). While random assignment to treatment and control groups is frequently not used due to ethical or practical considerations, such research is justified because programs may have negative detrimental effects such as being criminogenic and their continued use may be facilitated by the absence of appropriate scientific evidence. Alternatively, evaluation research may adopt a *quasi-experimental design*. Quasi-experiments compare selected cases "receiving an intervention with selected cases not receiving it, but without random assignment" (Lipsey, et al., 2005, p. 36). There are three types of quasi-experiments. In the most common type, "an intervention group is compared with a control group that has been selected on the basis of similarity to the intervention group" (Lipsey, et al., 2005, p. 36). A second type of quasi-experiment involves a time-series design. Time-series designs compare a series of observations on an outcome measure before a program was implemented with the observations for a period of time after the program was implemented. The third type of quasi-experimental design combines non-randomised comparison groups with time-series observations and typically examines a series of outcome measures before and after program implementation and includes a control location (Lipsey, et al., 2005).

Regardless of which design is used, program evaluation should include *economic analyses* to determine whether programs pay for themselves over time and their return on investment. Two important issues that should be considered when examining such assessments are when they were undertaken and what benefits were included. The specific time when an assessment is conducted will impact on the final outcome as the greater length of time allowed between the program and cost-benefit analysis, the more likely it is that the program will be cost-effective (Karoly et al., 1998). One of the most common problems with cost-benefit analyses is determining where to draw the line when assessing the benefits derived from programs. It is common for evaluations to focus on tangible taxpayer savings resulting from programs such as reduced criminal justice system costs, while some also include victim cost savings. Economic analyses have indicated that many programs are cost-effective for non-Indigenous populations (Allard, Ogilvie & Stewart, 2007). Given the offending profiles of Indigenous offenders, programs which reduce offending among Indigenous people should also prove cost-effective.

5.2.2. Targeting Effective Programs

Programs which are initially demonstrated to reduce recidivism should be introduced in locations where offenders who would benefit from the programs reside and targeted to offenders who would benefit. This would involve firstly exploring the spatial patterns of where offenders reside, based on the number of cautions, conferences and court appearances that youth in particular locations have had over a given period of time. Short-term and long-term trends should be examined to ensure program sustainability. Hot-spots should be considered as potential locations where programs could be implemented. Examination of existing risks/needs of offenders in these locations should be examined where possible, to further determine the suitability of locations for specific programs.

The mechanism/s by which youth would be referred to programs would then need to be considered, such as on youth's second contact with police. A streamlined process for assessing risks/needs through the use of actuarial assessment tools should be used as part of the referral process, because such tools may be more effective at predicting reoffending than clinical decision making, result in greater consistency in decision making and result in higher levels of low risk offenders being identified and hence a reduced level of net widening (Schwalbe, Fraser, Day & Arnold, 2004; Upperton & Thompson, 2005). Such assessments determine the level of risk and types of interventions which are appropriate to address the offender's criminogenic needs. Criminogenic needs are individual characteristics related to offending behaviour and include a range of dynamic or changeable factors including substance abuse, poor impulse control, poor social and cognitive skills, conduct problems, and antisocial associations (Day, Howells & Rickwood, 2003). Diagram 1 displays the case management approach based on the

risks-needs-responsivity model of offender rehabilitation, where risk of reoffending guides intensity of rehabilitative responses (Day, Howells & Rickwood, 2003). Once implemented, programs should be continuously evaluated to ensure they are reducing offending and to refine program operation.

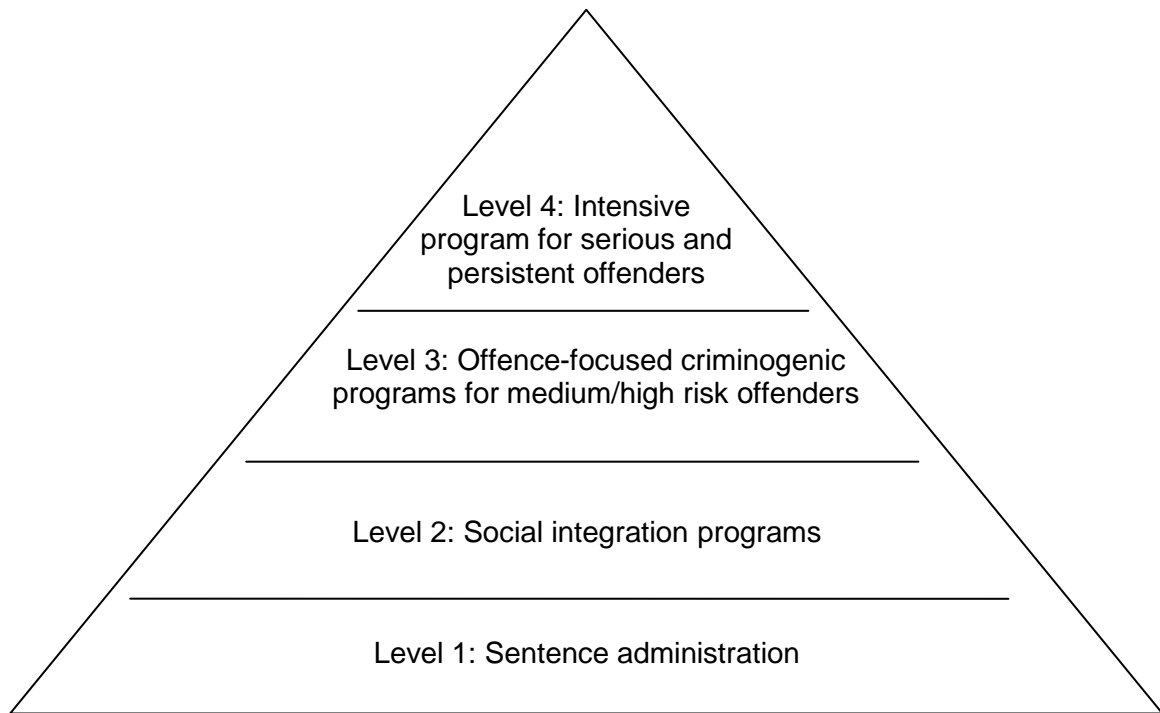


Diagram 1: Case management approach based on risk of reoffending

5.2.3. Addressing the Needs of Indigenous Youth

In addition to being appropriately targeted, it is essential that programs are responsive to factors which impact on offender's ability to engage in and respond to treatment (Andrews, Bonta, & Hoge, 1990; Bonta, 1995). Such factors interact with the treatment environment and impact on treatment outcomes, including age, gender, race and cultural factors, cognitive learning style and functioning, reasoning or communication skills, motivation for treatment, substance abuse, impulsivity, hyperactivity, psychopathology (e.g. depression or anxiety), anxiety level, intellectual impairment and staff characteristics. The principle of responsivity requires the style and mode of treatment to be matched to the developmental maturity, learning styles and abilities of individuals (Andrews & Bonta, 2006).

One important responsivity factor in the Australian context is culture. Good practice dictates that rehabilitation programs are appropriate and suitable for the circumstances and needs of young Indigenous offenders. This is essential because of differences in cultural belief systems, historical and socio-historical influences, expression of needs and the contexts where

interventions are implemented (Andrews, Bonta & Hoge, 1990; Bonta, 1995; Bonta, LaPrairie & Wallace-Capretta, 1997; Day, 2003; Gendrea & Andrews, 1996; Jones, Masters, Griffiths, & Moulday, 2002; Nakata, 1998; Spivakovsky, 2009). Programs for young Indigenous offenders should have four essential components: (i) adopt a holistic approach which incorporates multiple components to facilitate targeting multiple and extensive needs, (ii) involve significant others including the family and community, (iii) be culturally appropriate, and (iv) involve Indigenous people and organisations as well as other well trained and culturally sensitive staff (Bonta, LaPrairie & Wallace-Capretta, 1997; Day, 2003; Jones et al., 2002; Spivakovsky, 2009).

5.3. Conclusions

In this chapter, alternative front-end programs which may more successfully divert Indigenous youth from the justice system were examined. These included Indigenous specific programs which involved changing existing processes to increase the number of Indigenous youth diverted to existing programs and programs aimed at addressing criminogenic risks/needs such as diversion with coordinated support services, mentoring programs, family intervention programs and multi-modular programs based on Multi-Systemic Therapy. While many of these programs are operating in trial mode within limited geographical locations in Queensland, there is currently a lack of evidence concerning how effective these programs are at reducing offending by Indigenous youth. The need to evaluate these programs was highlighted and to target effective programs based on location and the risks/needs of youth and factors impacting on responsiveness. Programs should be subject to continued evaluation, to build the evidence base about which programs work and to refine programs.

Chapter 6. Discussion

In this chapter, a discussion of the research findings is presented. Firstly, the findings relating to the five research questions will be summarised. Secondly, the limitations of the quantitative and qualitative aspects of the research will be described. Thirdly, implications for policy, practice and directions for future research will be identified.

6.1. Research Findings

The first three research questions were addressed based on analyses of the 1990 offender cohort. Findings relating to the first research question indicated that Indigenous youth were 10% less likely to be diverted to cautioning for their first contact with the youth justice system (75.9% v 84.8%). Indigenous youth were half as likely as non-Indigenous youth to be diverted by police to conferencing for their second (5.8% v 11.5%), third (6.4% v 12.2%) and fourth (5.8% v 9.5%) contacts with the system. The second research question involved exploration of factors impacting on the likelihood that Indigenous and non-Indigenous youth would be diverted. Findings indicated that similar factors impacted on the likelihood of diversion for Indigenous and non-Indigenous youth, with youth more likely to be cautioned or conferenced than appear in court if they did not have a prior court appearance, had fewer prior contacts with the justice system, and had not previously been cautioned. Cautioned youth were younger when they first had contact with the justice system than youth who were conferenced or had a court appearance and also had fewer current offences than youth who were conferenced. The third research question focused on the effectiveness of diversion and findings indicated that those who were cautioned or referred to a conference by police for the first time were less likely to have recontact and to have less frequent and less serious recontact than those who appeared in court for the first time. However, findings from multivariate analyses which controlled for the impact of confounding factors indicated that cautioning was most effective as it had the longest period of time-to-recontact, followed by court and then conferencing.

The fourth research question involved exploring whether other factors impacted on police officer's decisions to divert and was addressed based on analyses of interviews which were conducted with police and stakeholders. Consistent with findings from analyses of the 1990 cohort, results indicated that youth were more likely to be diverted if they had no prior history of offending and were aged younger when they had contact. Additional factors identified by officers as impacting on whether youth are diverted included the youth's most serious offence, whether they participated in an interview and could thus access diversion, whether they had a positive attitude towards police and were remorseful, and the officer's assessment about the youth's needs. While no differences were found in the proportion of Indigenous and non-

Indigenous youth who police had recent contact with and were deemed not eligible for diversion, police believed that legal representation reduced the number of Indigenous youth who were eligible for diversion because it reduced the likelihood that youth would participate in a formal record of interview or admit guilt. Police and stakeholders emphasised the role that youth having unfavourable attitudes towards police had on their participation in interviews and hence eligibility for diversion.

The final research question focused on whether there were alternative front-end diversionary practices which could be used to more successfully divert Indigenous youth. A range of programs aimed at improving Indigenous participation in existing diversionary schemes were examined. Additionally, treatment orientated programs were examined, including diversion to services, mentoring, family-based interventions and multi-modular programs based on Multi-Systemic Therapy. Many of these programs are operating in limited geographical locations within Queensland and the need to rigorously evaluate programs to determine their impact on Indigenous offending was highlighted. Once evaluated, programs which are found to reduce offending should be implemented in additional locations based on the principles of best practice in offender rehabilitation.

6.2. Limitations of Research

The findings of the project should be interpreted in light of certain limitations which arise because of the research design which was employed. There are five limitations related to the use of the 1990 offender cohort. First, the cohort was based on officially recorded contacts which young people had with the system, which underestimates the extent of offending and reflects biases in agency activity (Brown, 1984; Fergusson, Horwood & Swain-Campbell, 2003; Widom, 1989). Second, about one-fifth (n=1,413, 17.2%) of young people did not have an Indigenous status indicator. Most young people who did not have an Indigenous status indicator were cautioned and only had one contact with the system, therefore representing less serious contacts and offenders. Third, while the research attempted to control for confounding factors, only tentative conclusions can be drawn about whether disparity reflects racial bias, factors impacting on officers' decisions to divert and the effectiveness of diversion. Attempts were made to control for confounding factors by exploring proportions diverted based on whether it was youths' first, second, third or fourth contact with the system and using multivariate statistics to control for factors impacting on police officers' decisions to divert and the impact of diversion on time-to-recontact. However, a randomised controlled experiment is necessary to accurately assess whether cautioning and conferencing are more effective than court for reducing subsequent offending. Fourth, the offender cohort reflects agency activity at the time when the young person had contact. For example, most young people had contact when they were aged

15 or 16 which relates to how the system operated during 2005 or 2006. Fifth, the study was limited to data which were available and was not able to explore variations in cautioning or conferencing processes and whether this impacted on how effective the processes were at reducing recontact. The impact of cautioning or conferencing on recontact is likely to vary based on how the caution or conference was administered and the particular circumstances. For example, the impact of conferencing on recontact may vary depending on whether a victim or support people were present at the conference or indeed whether agreement was reached or the conference agreement was successfully completed.

There are also several limitations related to the interviews that were conducted with police officers and stakeholders. Accidental or convenience sampling was used to select officers and stakeholders. Most officers and stakeholders were from south-east Queensland rather than rural or remote locations. Therefore, the representativeness of officer decisions and officer and stakeholder attitudes is unknown. Despite considerable efforts, the researchers were not able to obtain a larger sample size which results in analytical challenges resulting from small numbers. Given these limitations, findings from interviews are appropriately viewed as providing context and anecdotal evidence.

6.3. Policy Implications and Directions for Future Research

Despite the limitations of the current project, there are several important policy implications and directions for future research. There is a **need to ensure equitable access for Indigenous youth to cautioning on their first contact with the system and conferencing on second and subsequent contacts**. Similar factors were found to impact on whether Indigenous and non-Indigenous youth were diverted, although police indicated that the advice provided by legal representatives reduced Indigenous youth's eligibility for diversion. Both stakeholders and police indicated that negative attitudes which youth had towards police reduced their willingness to participate in interviews. This suggests that there is a need to improve the relationship between police, youth and legal representatives. However, given that these findings are based on convenience sampling, **further focused research is required to determine whether improving relationships will increase the proportion of Indigenous people who plead guilty and are thus eligible for diversion**. If findings from the current project are confirmed, strategies could be introduced such as encouraging police to indicate to legal representatives whether they intend to divert youth. The impact of other factors which could not be investigated in the current project could also be explored, such as whether eligibility for diversion differs based on geographic locations along with reasons for this.

Cautioning and conferencing appear to be used as initial responses to offending. The effectiveness of police referred conferencing in comparison to court appeared questionable. After controlling for gender, offence type, age at event, offence seriousness, number of offences and number of prior appearances, youth who were cautioned for the first time had longer periods of time elapse before they had additional contact than youth who appeared in court for the first time or had a police referred conference for the first time. Youth who had a finalised court appearance for the first time had longer periods of time elapse before they had additional contact than youth who had a police referred conference for the first time. These findings call into question the effectiveness of police referred conferencing for reducing recidivism and **additional research is required to examine the impact of conferencing on reoffending.** Such research should consider effectiveness for reducing reoffending based on the different types of conferencing, the different times when conferencing occurs in the youth's offending history, geographic location and specific characteristics of conferences such as whether the victim was present and whether the conference resulted in an Agreement. Additionally, it is important to consider alternative benefits which may result from conferencing such as cost-savings, higher levels of victim satisfaction and compliance rates for restitution agreements, as well as reduced rates of post-traumatic stress among victims and the desire for revenge (Dowden & Muise, 2005; Sherman & Strang, 2007).

The offending profile of Indigenous offenders suggests a **need for programs aimed at addressing offender risks/needs to reduce offending.** Programs which have proven effective with non-Indigenous populations internationally include diversion to services, mentoring programs, family-based interventions and multi-modular programs based on a Multi-Systemic Therapy framework. While versions of these programs are operating in limited geographical locations within Queensland, there is a **need to evaluate their impact on offending by Indigenous youth.** Programs that reduce offending should be implemented in additional locations where offenders who would benefit from these programs reside in accordance with the principles of best practice in offender rehabilitation.

References

- ABS (Australian Bureau of Statistics). (2000). *Births. Catalogue no: 3301.0*. Canberra: ABS.
- ABS (Australian Bureau of Statistics). (2008a). *Population by Age and Sex, Australian States and Territories. Catalogue no: 3301.0*. Canberra: ABS.
- ABS (Australian Bureau of Statistics). (2008b). Australian Standard Offence Classification (ASOC) (2nd ed). Catalogue no: 1234.0. Canberra: ABS.
- ABS (Australian Bureau of Statistics). (2009). National Offence Index. Catalogue no: 1234.0.55.001. Canberra: ABS.
- AIHW. (Australian Institute of Health and Welfare). (2009). *Juvenile Justice in Australia 2007-08 (Juvenile justice series no. 5)*. Canberra: Australian Institute of Health and Welfare.
- Allard, T. (2010). *Indigenous Offending Patterns*. Indigenous Justice Clearinghouse, National Justice CEOs Group.
- Allard, T., Ogilvie, J., & Stewart, A. (2007). *The Direct Costs of Processing Young People through the Juvenile Justice System*. Queensland: Griffith University.
- Allard, T., Stewart, A., Chrzanowski, A., Ogilvie, J., Birks, D., & Little, S. (2009). *The Use and Impact of Police Diversion for Reducing Indigenous Over-Representation*. Canberra: Australian Institute of Criminology.
- Andrews, D. A., & Bonta, J. (2006). *The psychology of criminal conduct* (4th ed.): LexisNexis.
- Andrews, D.A., Bonta, J., & Hoge, R.D (1990). Classification for effective rehabilitation: Rediscovering psychology. *Criminal Justice and Behaviour*, 17, 19-52.
- Aos, S., Phipps, P., Barnoski, R., & Lieb, R. (2001). *The Comparative Costs and Benefits of Programs to Reduce Crime: A Review of National Research Findings with Implications for Washington State*. Olympia: Washington State Institute for Public Policy.
- Arter, M. L. (2006). Police Mentoring: Moving Toward Police Legitimacy. *Criminal Justice Studies*, 19(1), 85-97.
- Bernburg, J. G., & Krohn, M. D. (2003). Labelling, life chances, and adult crime: The direct and indirect effects of official intervention in adolescence on crime in early adulthood. *Criminology*, 41(4), 1287-1318.
- Blandford, J., & Sarre, R. (2009). Policing in South Australia's remote and rural communities: preliminary observations from a novel police diversionary strategy for young Indigenous offenders. *Police Practice and Research*, 10(3), 187-197.
- Bonta, J. (1995). The responsivity principle and offender rehabilitation. *Forum on Corrections Research*, 7, 34-37.
- Bonta, J., LaPrairie, C., & Wallace-Capretta, S. (1997). Risk prediction and re-offending: Aboriginal and non-aboriginal offenders. *Canadian Journal of Criminology*, 39, 127-144.
- Brown, S. E. (1984). Social class, child maltreatment, and delinquent behavior. *Criminology*, 22(2), 259-278.
- CAIR (Coalition Against Inappropriate Remand). (2008). *Rethinking Youth Remand and Enhancing Community Safety*. Brisbane: CAIR.
- Chapin, D. A., & Griffin, P. A. (2005). Juvenile Diversion. In K. Heilbrun, N. E. S. Goldstein & R. E. Redding (Eds.), *Juvenile Delinquency: Prevention, Assessment, and Intervention* (pp. 161-178). New York: Oxford University Press.
- Clancey, G., & Borg, P. (2005, 21-22 November, 2005.). *Targeted Programming: Evidence and expectations*. Paper presented at the Delivering crime prevention: Making the evidence work, Carlton Crest Hotel, Sydney.
- Clough, A. R., Lee, K. K. S., & Conigrave, K. M. (2008). Promising Performance of a Juvenile Justice Diversion Programme in Remote Aboriginal Communities, Northern Territory, Australia. *Drug and Alcohol Review*, 27, 433-438.
- Cunneen, C. (2006). Racism, discrimination and the over-representation of Indigenous people in the criminal justice system: Some conceptual and explanatory issues. *Current Issues in Criminal Justice*, 17(3), 329-346.
- Cunneen, C., Collings, N., & Ralph, N. (2005). *Evaluation of the Queensland Aboriginal and Torres Strait Islander Justice Agreement* Brisbane: Queensland Government.

- Cunningham, T. (2007). *Pre-Court Diversion in the Northern Territory: Impact on Juvenile Reoffending* (Trends and Issues in Crime and Criminal Justice No. 339). Canberra: Australian Institute of Criminology.
- Curtis, N. M., Ronan, K. R., Borduin, C. M. (2004). Multisystemic treatment: a meta-analysis of outcome studies. *Journal of Family Psychology*, 18, 411–19.
- Daly, K., & Hayes, H. (2001). Restorative justice and conferencing in Australia. *Trends and Issues in Criminal Justice*, No. 186:1-6.
- Daly, K & Hayes, H. (2002). Restorative justice and conferencing. In A. Graycar and P. Grabosky (eds). *The Cambridge Handbook of Australian Criminology*. Cambridge: Cambridge University Press.
- Day, A. (2003). Reducing the risk of re-offending in Australian Indigenous offenders: What works for whom? *Journal of Offender Rehabilitation*, 37, 1-15.
- Day, A., Howells, K., & Rickwood, D. (2003). *The Victorian Juvenile Justice Rehabilitation Review*. Melbourne: Department of Human Services.
- Dennison, S., Stewart, A., & Hurren, E. (2006). *Police Cautioning in Queensland: The Impact on Juvenile Offending Pathways* (Trends and Issues in Crime and Criminal Justice No. 306). Canberra: Australian Institute of Criminology.
- Diamond, G., & Josephson, A. (2005). Family-based treatment research: A 10-year update. *Journal of the American Academy of Child and Adolescent Psychiatry*, 44(9), 872-887.
- DoC (Department of Communities). (2009). Annual Report 2008-2009. Queensland: DoC.
- DoCS (Department of Corrective Services). (2006). *Interim Intensive Supervision Program Evaluation Report*. Perth: Western Australia Department of Corrective Services.
- Dodge, K. A., Lansford, J. E., Burks, V. S., Bates, J. E., Pettit, G. S., Fontaine, R., et al. (2003). Peer Rejection and Social Information-Processing Factors in the Development of Aggressive Behavior Problems in Children *Child Development*, 74(2), 374-393.
- DoHS (Department of Human Services). (2009) Juvenile Justice Annual Report 2008-2009. NSW: DoHS.
- DoJJ (Department of Juvenile Justice). (2009). *Annual Report 2008-2009*. Sydney: New South Wales Department of Juvenile Justice.
- Drake, E., Aos, S., & Miller, M. (2009). Evidence-Based Public Policy Options to Reduce Crime and Criminal Justice Costs: Implications in Washington State. Olympia: Washington State Institute for Public Policy.
- DuBois, D. L., Holloway, B. E., Valentine, J. C., & Cooper, H. (2002). Effectiveness of mentoring programs for youth: A meta-analytic review. *American Journal of Community Psychology*, 30(2), 157-197.
- Farrington, D. P., & Welsh, B. C. (1999). Delinquency prevention using family-based interventions. *Children & Society*, 13, 287-303.
- Farrington, D. P., & Welsh, B. C. (2003). Family-based prevention of offending: A meta-analysis. *The Australian and New Zealand Journal of Criminology*, 36(2), 127-151.
- Farrington, D. P., & Welsh, B. C. (2006). Family-based crime prevention. In L. W. Sherman, D. P. Farrington, B. C. Welsh & D. L. MacKenzie (Eds.), *Evidence-based crime prevention* (Revised ed., pp. 22-55). London: Routledge.
- Fergusson, D.M., Horwood, L.J., & Swain-Campbell, N. (2003). Ethnicity and criminal convictions: Results of a 21-year longitudinal study. *Australian and New Zealand Journal of Criminology*, 36, 354-367.
- Gale, F., Bailey-Harris, R., & Wundersitz, J. (Eds.). (1990). *Aboriginal Youth and the Criminal Justice System*. Cambridge: Cambridge University Press.
- Gendrea, P., & Andrews, D.A. (1996). *The Correctional Program Assessment Inventory 6th Edition*. University of New Brunswick, Saint John NB.
- Greenwood, P. (2008). Prevention and intervention programs for juvenile offenders. *The Future of Children*, 18, 185-210.
- Harrison, B. (1992). Full-Time Delinquents. *Police Reviews*, 100, 51-56.
- Hedderman, C., & Hough, M. (2006). Diversion from Prosecution at Court and Effective Sentencing In A. E. Perry, C. McDougall & D. P. Farrington (Eds.), *Reducing Crime: The Effectiveness of Criminal Justice Interventions* West Sussex: John Wiley & Sons Ltd.

- Henggeler, S. W., Melton, G. B., & Smith, L. A. (1992). Family preservation using multisystemic therapy: An effective alternative to incarcerating serious juvenile offenders. *Journal of Consulting and Clinical Psychology, 60*(6), 953-961.
- Hoge, R. D. (2001). *The Juvenile Offender: Theory, Research and Applications* Boston: Kluwer Academic Publishers.
- JAG. (Justice and Attorney General). (2009). Annual Report 2008-2009. Brisbane: Queensland Government.
- Jones, R., Masters, M., Griffiths, A., & Moulday, N. (2002). Culturally relevant assessment for Indigenous offenders: A literature Review. *Australian Psychologist, 37*, 187-197.
- Karoly, L., Greenwood, P., Everingham, S., Hoube, J., Kilburn, M., Rydell, C., Sanders, M., & Chiesa, J. (1998). Investing in Our Children: What We Know and Don't Know about the Costs and Benefits of Early Childhood Interventions. US: RAND.
- Joudo, J. (2008). *Responding to substance abuse and offending in Indigenous communities: Review of diversion programs* (Research and Public Policy Series No. 88). Canberra: Australian Institute of Criminology.
- Latimer, J. (2001). A meta-analytic examination of youth delinquency, family treatment, and recidivism. *Canadian Journal of Criminology, 43*, 237-53.
- Latimer, J., Dowden, C., & Muise, D. (2005). The effectiveness of restorative justice practices: A meta-analysis. *The Prison Journal, 85*, 127-144.
- Leve, L. D., & Chamberlain, P. (2005). Association with delinquent peers: Intervention effects for youth in the juvenile justice system. *Journal of Abnormal Child Psychology, 33*(3), 339-347.
- Lipsey, M. W., & Cullen, F. T. (2007). The effectiveness of correctional rehabilitation: A review of systematic reviews. *Annual Review of Law and Social Science, 3*, 297-320.
- Lipsey, M., Adams, J., Gottfredson, D., Pepper, J., Weisburd, D., Petrie, C., & Patterson, R. (2005). *Improving Evaluation of Anticrime Programs*. Washington, DC: The National Academies Press.
- Littell, J. H., Popa, M., & Forsythe, B. (2005). *Multisystemic Therapy for Social, Emotional and Behavioral Problems in Youth Aged 10-17*. Campbell Collaborative Collection.
- Luke, G., & Cunneen, C. (1995). *Aboriginal Over-Representation and Discretionary Decisions in the NSW Juvenile Justice System*. Sydney: Juvenile Justice Advisory Council of New South Wales.
- Luke, G., & Lind, B. (2002). *Reducing Juvenile Crime: Conferencing versus Court* (Contemporary Issues in Crime and Justice No. 69). Sydney: NSW Bureau of Crime Statistics and Research.
- Nakata, M. (1998). Anthropological texts and Indigenous standpoints. *Australian Aboriginal Studies, 2*, 3-12.
- Nugent, W., Williams, M., & Umbreit, M. (2003). Participation in Victim-Offender Mediation and the prevalence and severity of subsequent delinquent behaviour: A meta-analysis. *Utah Law Review, 137*, 137-166.
- Polk, K., Adler, C., Muller, D., & Rechtman, K. (2003). *Early Intervention: Diversion and Youth Conferencing: A National Profile and Review of Current Approaches to Diverting Juveniles from the Justice System*. Canberra: National Crime Prevention, Australia.
- Potas, I., Vining, A., & Wilson, P. (1990). *Young People and Crime: Costs and Prevention* Canberra: Australian Institute of Criminology.
- Productivity Commission. (2009). *Report on Government Services 2008-2009*. Canberra: Productivity Commission.
- QPS (Queensland Police Service). (2005). *Survey of Activities and Time Taken in Processing Juveniles and Seventeen Year Old Offenders*. Brisbane: Queensland Government.
- QPS (Queensland Police Service). (2009). Annual Statistical Review 2008-2009. Brisbane: Queensland Government.
- Schwalbe, C., Fraser, M., Day, S., & Arnold, E. (2004). North Carolina Assessment of Risk (NCAR): Reliability and predictive validity with juvenile offenders. *Journal of Offender Rehabilitation, 40*(1/2), 1-22.

- Sexton, T. L., & Alexander, J. F. (2002). Family-based empirically supported interventions. *The Counseling Psychologist*, 30(2), 238-261.
- Sherman, L., & Strang, H. (2007). *Restorative Justice: The Evidence*. London: The Smith Institute.
- Sherman, L.W., Strang, H., Barnes, G., & Woods, D. (2006). *Preliminary Analysis of Race, Recidivism and Restorative Justice for Victimised Crimes in Canberra*. Unpublished Manuscript. Philadelphia, Pennsylvania, Lee Center of Criminology.
- Sherman, L. W., Strang, H., & Woods, D. J. (2000). *Recidivism Patterns in the Canberra Reintegrative Shaming Experiments (RISE)*. Canberra: Centre for Restorative Justice, Research School of Social Sciences, Australian National University.
- Sipe, C. L. (1999). Mentoring Adolescents: What Have We Learned. In J. B. Grossman (Ed.), *Contemporary Issues in Mentoring* (pp. 10-23): Public/Private Ventures.
- Snowball, L. (2008a). *Diversion of Indigeneous juvenile offenders* (Trends and Issues in Crime and Criminal Justice No. 355). Canberra: Australian Institute of Criminology.
- Snowball, L. (2008b). *Juvenile diversion of Indigenous offenders: A study examining juvenile offenders in Western Australia, South Australia and New South Wales*. Canberra: Criminology Research Council.
- Snowball, L., & Weatherburn, D. (2007). Does racial bias in sentencing contribute to Indigenous Overrepresentation in Prison? *The Australian and New Zealand Journal of Criminology*, 40(3), 272-290.
- Spencer, R. (2006). Understanding the Mentoring Process Between Adolescents and Adults. *Youth & Society*, 37(3), 287-315.
- Spivakovsky, C. (2009). The construction of the racially different Indigenous offender. *ANZ Critical Criminology Conference Proceedings 2009*. Melbourne: Monash University.
- Stewart, A., Allard, T., Gray, B., & Ogilvie, J. (2007). *Understanding Initiation of Offending and Recidivism across the Juvenile and Adult Justice Systems*. Queensland: Griffith University.
- Tolan, P., Henry, D., Schoeny, M., & Bass, A. (2008). Mentoring interventions to affect juvenile delinquency and associated problems. *Campbell Systematic Reviews*, 16.
- Trotter, C. (2006). *Working with Involuntary Clients: A Guide to Practice*. Australia: Allen & Unwin.
- Upperton, R. A., & Thompson, A. P. (2005). *Predicting recidivism: A risk assessment inventory versus juvenile justice officers*. Paper presented at the Australian Psychological Society Conference, Melbourne VIC.
- Vignaendra, S., & Fitzgerald, J. (2006). *Reoffending Among People Cautioned by Police or Who Participated in a Youth Justice Conference* (Contemporary Issues in Crime and Justice No. 103). Sydney: NSW Bureau of Crime Statistics and Research.
- Widom, C. S. (1989). Child abuse, neglect and violent criminal behavior. *Criminology*, 27(2), 251-271.
- Wilczynski, A., Culvenor, C., Cunneen, C., Schwartzkoff, J., & Reed-Gilbert, K. (2003). *Early Intervention: Youth Mentoring Programs - An Overview of Mentoring Programs for Young People at Risk of Offending*. Canberra: National Crime Prevention: Australian Government Attorney-General's Department.
- Wilczynski, A., Wallace, A., Nicholson, B., & Rintoul, D. (2004). *Evaluation of the Northern Territory Agreement* (Final Report Prepared for the Australian Government Attorney-General's Department). Canberra: Urbis Keys Young.
- Wilson, S.J., & Lipsey, M.W. (2000). Wilderness challenge programs for delinquent youth: A meta-analysis of outcome evaluations. *Evaluation and Program Planning*, 23, 1-12.
- Woolfenden, S. R., Williams, K., & Peat, J. (2002). *Family and Parenting Interventions in Children and Adolescents with Conduct Disorder and Delinquency Aged 10-17*.
- Wundersitz, J. (1997). Pre-Court Diversion: The Australian Experience. In A. Borowski & I. O'Connor (Eds.), *Juvenile Crime, Justice and Corrections*. South Melbourne: Longman.

Attachment A: How the longitudinal offender cohort was created and data cleaning Data Linkage, Verification and De-Identification

Approval to conduct research was obtained from the *Griffith University Human Research Ethics Committee* and appropriate approvals obtained from relevant government agencies. Data was released from Queensland Government under the *Youth Justice Act 1992*. Consistent with Queensland's *Privacy Act 2009*, all data linking and deidentification was carried out within the Office of Economic and Statistical Research (OESR), Queensland Treasury. Officers working within this government department are governed by the *Statistical Returns Act 1896*. Data were released from Department of Communities (DoC) and Queensland Police Service (QPS) to OESR governed by a series of Memorandums of Understanding (MOU's) between OESR and each individual government department. These MOU's also controlled the release of data to Griffith University.

The data analyses for this project required each individual to have a unique numeric identifier linked across all three data bases. Although the QPS and DoC Juvenile Court data had unique numeric identifiers, they were not the same across datasets and the DoC YJC data did not have a unique identifier. Consequently, the data were required to be linked on the basis of identifying name and date of birth. Data were linked using 'The Link King' which is an open source record linkage and consolidation software tool that enables linkage of records across datasets, in the absence of a unique identifier. The tool works with SAS, and provides a number of advanced features when linking on fields such as name and date of birth, incorporating a number of probabilistic and deterministic record linkage protocols. In particular, it allows for phonetic and approximate text string matching and spelling distance algorithms, to allow for subtle misspellings/typographical errors of names and dates. It also has a user interface that allows for simple manual review of the linking process. Three steps were required to ensure accurate linking of the data sources, validation of the data linking processes and de-identification of the data.

Step 1: Linking within and identifying unique individuals within each of the three data sets

The three datasets were examined separately using linking tools based on name and date of birth to remove within dataset duplication. For each dataset, all pairs of possible duplicates were manually explored using the Link King review interface. There were 176 pairs (2.4% duplications) identified in the QPS cautioning dataset, 472 duplicates (23%) in the YJC dataset, and 7 duplicates (0.3%) in the DoC Juvenile Court data. After removing duplicates from the datasets, all distinct individuals were assigned a unique numeric identifier, prefixed by a dataset identifier (QPS, YJC and Court).

Step 2: Linking across each of the three datasets

Data linkage was then undertaken to create a single unique identifier for each individual, regardless of which dataset they were in. One large dataset was created, that contained all three dataset identifiers and identifying particulars. Linking tools were used to identify possible between process duplication and all records that were identified and did not have an extremely high probability match were manually expected. A unique numeric identifier (JMAG ID) was assigned to the resulting dataset, which was applied to each individual within each of the three separate datasets.

Step 3: De-identification of the datasets

The third and final stage of the process was de-identification. All identifying information (names and aliases) were removed from each of the three individual datasets, and only the unique JMAG ID was allocated. The three de-identified datasets were then released from OESR to Griffith University for analyses.

Data Cleaning and Propagation of Missing Values

Data cleaning was performed within and between the datasets to ensure that individuals were consistently assigned the same three demographic characteristics: age (based on Date of Birth), sex, and Indigenous status. While the linking used *Date of Birth* as one of the variables to combine records, records could be grouped even when there were discrepancies, such as when the date and month were transposed. Within the QPS data, 0.5% of individuals had a discrepancy in their date of birth, while 1.8% of individuals had this discrepancy in the YJC data and 1.6% of individuals had this discrepancy in the Courts data. In addition, when comparing across processes there were 64 (0.8%) individuals where the date of birth varied across one or more processes. A globally defined date of birth was determined for each individual. Where there was a discrepancy, the most common date of birth was assigned and when they were equally distributed the earliest date was used, provided it was not 01/01/1990 because of the increased risk of error.

The second important demographic indicator considered was sex. The two issues that arose included missing values and inconsistent recording. There were 87 individuals (all appearing in the QPS data) that had an unknown sex assigned. However, after linking across processes it was possible to assign sex in 25 (28.7%) of these cases. There were an additional nine individuals that only appeared in the QPS data and 22 individuals that appeared in QPS, DoC and/or JAG data whose recorded sex was inconsistent either within or between processes. For each individual with an inconsistent sex recorded, a global sex was assigned based on the balance of probabilities.

With respect to *Indigenous status*, it was necessary to determine a consistent indicator as this demographic was documented differently across each process. The indicator coded young people as Indigenous, Non-Indigenous, or Unknown. The most common inconsistency involved young people having their Indigenous status known for some matters and unknown for others. In the QPS data, this occurred for 14.5% of individuals while in the YJC data this occurred in 5.1% of cases, although it was not an issue for the Court data. For these cases, the Indigenous status of the person was globally updated from unknown to the known state of Indigenous status. There were 1,657 young people (20.1%) whose Indigenous status identifier was propagated based on further contact they had with the justice system. One third (33%) of Indigenous young people and one fifth (22%) of non-Indigenous young people had their Indigenous status identifier propagated from additional contact, and Indigenous individuals who were propagated tended to be younger than non-Indigenous individuals (Table 1).

Table 1: Young people whose Indigenous status indicator was propagated by age at first contact

Age at first contact ^a	Indigenous		Non-Indigenous	
	N	%	N	%
10	72	15.8	74	6.2
11	94	20.6	111	9.2
12	78	17.1	177	14.7
13	70	15.4	203	16.9
14	68	14.9	246	20.5
15	50	11.0	232	19.3
16	23	5.0	148	12.3
17	1	0.2	10	0.8
Total	456	100.0	1201	100.0

^a At time of caution event, conference event, or finalised court appearance

Other matters involved inconsistencies between Indigenous and non-Indigenous or vice versa. There were 1.1% of individuals in the QPS data, 1.9% in the YJC data, and 0.3% in the Court data for who this occurred. These individuals were flagged and resolved by exploring differences across the datasets. The first process used involved setting a person’s Indigenous status to the known value if they had an unknown Indigenous status for one process and a known Indigenous status for another. Of greater concern were the 206 individuals (2.5%) whose recorded Indigenous status varied, either within or across processes, between Indigenous and non-Indigenous. Given the small percentage involved and consistent with practices adopted

within Queensland Government agencies, all individuals who had conflicting information recorded about the Indigenous status were considered Indigenous.

One final consideration in relation to Indigenous status was the high level of unknown values. To reduce the level of unknowns, all individuals with unknown Indigenous status were explored in relation to their SLA, and 42 individuals were identified that lived in remote Indigenous communities. Their global Indigenous status was therefore updated from unknown to Indigenous.

Attachment B: Missing data in the longitudinal offender cohort

After data cleaning and using existing information to propagate missing demographic values, sex was missing for 38 (0.5%) out of the 8,236 distinct young people that had contact with the juvenile justice system. All missing data for sex related to contacts that young people had with cautioning. Indigenous status was missing for 1,413 (17.2%) young people who had contact with the system. Most individuals who did not have an Indigenous status indicator had contact with cautioning (Table 1). While QPS did not begin recording Indigenous status until June 2004 when people born in 1990 were aged 14, the number of people with missing Indigenous status information was consistent over time including during 2006 when youth in the cohort were aged 16.

Table 1: Individuals with missing Indigenous status indicator by system and age at first contact

Age at first contact ^a	Caution		Police Conference		Court		All Systems	
	Unknown	% of Missing	Unknown	% of Missing	Unknown	% of Missing	Unknown	% of Missing
10	108	7.6	0	0.0	0	0.0	108	7.6
11	185	13.1	2	0.1	0	0.0	187	13.2
12	209	14.8	9	0.6	0	0.0	218	15.4
13	139	9.8	3	0.2	0	0.0	142	10.0
14	200	14.2	9	0.6	1	0.1	210	14.9
15	221	15.6	9	0.6	3	0.2	233	16.5
16	262	18.5	3	0.2	9	0.6	274	19.4
17	33	2.3	2	0.1	6	0.4	41	2.9
Total	1357	96.0	37	2.6	19	1.3	1413	100.0

^a At time of caution event, conference event, or finalised court appearance

Given that Indigenous status was missing principally from the cautioning dataset, cautioned youth who had a missing Indigenous status indicator were compared with cautioned youth who had an Indigenous status indicator based on average number of contacts and most serious finalised offence. Youth who had a missing Indigenous status identifier had fewer contacts with the justice system ($M=1.07$ $SD=0.27$) than youth who had an Indigenous status identifier ($M=2.31$, $SD=2.71$). No differences were found in the most serious offence which youth had for their first caution based on whether or not they had an Indigenous status identifier (Table 2). There is a need for information about Indigenous status to be consistently recorded for youth cautioned by police and entered into QPRIME.

Table 2: Individuals with missing Indigenous status identifier in cautioning data by most serious offence type

Offence Type	Missing		Identified		Total	
	N	%	N	%	N	%
Homicide and related offences						
Acts intended to cause injury	109	8.0	400	7.1	509	7.2
Sexual assault and related offences	30	2.2	109	1.9	139	2.0
Dangerous or negligent acts endangering persons	16	1.2	61	1.1	77	1.1
Abduction and related offences						
Robbery, extortion and related offences	2	.1	11	.2	13	.2
Unlawful entry with intent/burglary, break and enter	119	8.8	672	11.9	791	11.3
Theft and related offences	627	46.2	2,366	41.8	2,993	42.6
Deception and related offences	44	3.2	155	2.7	199	2.8
Illicit drug offences	67	4.9	400	7.1	467	6.6
Weapons and explosives offences	24	1.8	140	2.5	164	2.3
Property damage and environmental pollution	175	12.9	661	11.7	836	11.9
Public order offences	123	9.1	602	10.6	725	10.3
Road traffic and motor vehicle regulatory offences	3	.2	14	.2	17	.2
Offences against justice procedures, government security and government operations	9	.7	44	.8	53	.8
Miscellaneous offences	9	.7	31	.5	40	.6
Total	1,357	100.0	5,666	100.0	7,023	100.0

Attachment C: Procedure used for interviews with police officers and stakeholders

Approvals to undertake interviews with police officers and stakeholders were obtained from the *Griffith University Human Research Committee* and *Queensland Police Service (QPS) Research Committee*. The researchers then liaised with the Chair of the QPS Research Committee and selected the six stations: Ipswich, Indooroopilly, Ferny Grove, Logan, Townsville and Maroochydore. The Chair of the QPS Research Committee sent letters about the project to the Officer in Charge of the police stations. The researcher then contacted the Officer in Charge and a mutually agreed time was arranged to attend the stations and explain the nature and purpose of the research to obtain support. The researcher then arrived at each police station and approached officers on a one-on-one basis and outlined the purpose of the research, seeking participation. Officers could participate if they had made a decision about whether a young offender could be diverted during the previous seven days. All officers were informed that participation was voluntary and of the procedures used to ensure anonymity and confidentiality. In cases where officers agreed to participate, written informed consent was obtained including permission to audio-record interviews. Each interview took between 10 and 30 minutes to complete.

Stakeholder participants were identified by asking representatives from Queensland Government agencies to provide the contact details of potential stakeholder organisations and participants. Potential participants were selected because of their detailed understanding about or frequent interaction with diversionary practices and the youth justice system in Queensland. The researcher then contacted potential participants, outlined the purpose of the research and sought participation in an interview. All participants were informed that participation was voluntary and informed consent was obtained. Where the participant did not agree to being audio-recorded, the researcher took notes. Notes and audio-recordings were later transcribed for analyses.

Attachment D: Scoping/Inclusion criteria for interviews with police officers

What I would like to do is to discuss the contact that you have had with young people where a decision has been made (i.e. take no action, formally caution, refer to a youth justice conference, or commence proceedings) within the last 7 days. I'm more than happy for you to refer to your notes or reports to ensure accuracy.

How many young people have you had contact with? We will limit the discussion to a maximum of five contacts.

1. Can you describe what happened that led to your contact with this young person?

Prompts/sub-questions such as:

- A *How did this young person come to your attention (reported/detected/case referred)?*
- B *Do you happen to remember what day of the week and time this contact took place?*
- C *Where did this contact take place (e.g. public space, residence, etc.)?*
- D *How soon after the initial contact, did you meet with the young person? (CPIU)*
- E *What type of offence had been committed?*
- F *What was the alleged offender's response to your approaching them?*
- G *What was the young person's attitude like?*
- H *Were they offending by themselves or in the company of others?*
- I *What did you do?*
- J *Approximately how long did the interview with the young person last? (CPIU)*
- K *What was the young person's attitude like during the interview? (CPIU)*
- L *What was discussed with the young person during the interview? (CPIU)*

2. Could you please give a brief description of the young person?

Prompts/sub-questions such as:

- A *How old was the young person?*
- B *Was the offender from any identifiable minority or ethnic group?*
- C *What was the young person's response to your approaching them?*
- D *What was the young person's attitude?*
- E *Did they appear to be under the influence of any inhibiting substance?*
- F *Did they appear to suffer from a mental illness or disability?*
- G *What do you know about the family environment of the young person?*

3. What course of action did you decide to take in response to the offence?

4. Why did you take this type of action?

Prompts/sub-questions such as:

- A *Did the YP have a prior history of offending, or were they known previously to the police?*
- B *Was the young person's caregiver/s contacted, and if so, what was their reaction?*
- C *Did the YP's caregiver/s attend the interview, and if so, what was their reaction? (CPIU)*
- D *Did the young person receive any legal advice, and if so, what advice were they given?*
- E *Did the young person make an admission of guilt?*
- F *Did you consider the use of any alternative measures, and what were they?*
- G *What was the recommendation, if any, from the officer that had initial contact with the YP?*
- H *What was the most significant factor that influenced your decision?*

Checklist for Interviews

<p>Decision</p> <p>1. Decision outcome:</p> <ul style="list-style-type: none"><input type="checkbox"/> No action<input type="checkbox"/> Formal caution<input type="checkbox"/> Refer to Youth Justice Conference<input type="checkbox"/> Commencement of proceedings <p>2. Other alternatives considered:</p> <ul style="list-style-type: none"><input type="checkbox"/> No action<input type="checkbox"/> Formal caution<input type="checkbox"/> Refer to Youth Justice Conference<input type="checkbox"/> Commencement of proceedings<input type="checkbox"/> None <p>Offender Demographics</p> <p>3. Age: _____</p> <p>4. Gender:</p> <ul style="list-style-type: none"><input type="checkbox"/> Male<input type="checkbox"/> Female <p>5. Indigenous status</p> <ul style="list-style-type: none"><input type="checkbox"/> Indigenous<input type="checkbox"/> Non-Indigenous <p>6. Influence of inhibiting substance</p> <ul style="list-style-type: none"><input type="checkbox"/> Yes<input type="checkbox"/> No <p>7. Mental illness or disability</p> <ul style="list-style-type: none"><input type="checkbox"/> Yes<input type="checkbox"/> No <p>8. Homeless</p> <ul style="list-style-type: none"><input type="checkbox"/> Yes<input type="checkbox"/> No <p>Legal characteristics</p> <p>9. Offence</p> <ul style="list-style-type: none"><input type="checkbox"/> Property<input type="checkbox"/> Person<input type="checkbox"/> Other	<p>10. Prior history</p> <ul style="list-style-type: none"><input type="checkbox"/> Yes<input type="checkbox"/> No <p>11. Sole offender</p> <ul style="list-style-type: none"><input type="checkbox"/> Yes<input type="checkbox"/> No <p>12. Plead guilty</p> <ul style="list-style-type: none"><input type="checkbox"/> Yes<input type="checkbox"/> No <p>13. Received legal advice</p> <ul style="list-style-type: none"><input type="checkbox"/> Legal Aid<input type="checkbox"/> ATSILS<input type="checkbox"/> Other: _____<input type="checkbox"/> None <p>Other factors</p> <p>14. Location of offence</p> <ul style="list-style-type: none"><input type="checkbox"/> Public space<input type="checkbox"/> Residence<input type="checkbox"/> Other _____
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Officer Demographics

To start off, I would like to collect some general demographic information about you. Please provide information to the following seven questions. Providing this information does not affect your anonymity, as all information will be reported in aggregate form.

1. Sex:

- Male
- Female

2. Age: _____

3. Highest educational qualification:

- Secondary School
- Certificate/Diploma
- Degree
- Post-graduate Degree

4. Do you identify with an ethnic group?

- Yes
- No

If yes, which one? _____

5. Number of years service as police officer: _____

6. Current rank:

- Constable, or Acting Constable
- Senior Constable, or Acting Senior Constable
- Sergeant, or Acting Sergeant
- Senior Sergeant, or Acting Senior Sergeant
- Inspector, or Acting Inspector
- Superintendent, or Acting Superintendent
- Other, please specify: _____

7. Current Area of Work:

- General Duties
- CPIU
- Other, please specify: _____

Attachment E: Descriptive statistics exploring the relationships between demographic characteristics (gender and age) and the nature of offending (number of offences, offence seriousness and offence type) on the process used to respond to offending by Indigenous and non-Indigenous youth for their first four contacts with the youth justice system.

Gender was operationalised as male or female, while age was operationalised as the number of years between the individual's date of birth and the date when the cautioned was actioned, youth had a police referred conference or had a finalised youth court appearance. Ordering of the process used to respond to offending by youth was undertaken based on the date when the caution was actioned, the date the police referred conference was held, and the date when the youth court appearance was finalised.

The relationships between nature of offending and the process used to respond to offending were explored using three measures: number of offences, offence seriousness and offence category. *Number of offences* involved calculating the median number of offences which were cleared by police for cautions or conferences or were finalised by courts based on contact number, the process used to respond to offending and Indigenous status. The median rather than average number of offences was used because the data are highly skewed. The maximum number of offences that were cautioned, referred by police to conference and finalised at a court appearance were 40, 298, and 178. *Offence seriousness* was explored using the National Offence Index (ABS, 2009). This involved calculating the average National Offence Index (NOI) score based on the most serious offence for which youth had contact disaggregated by contact number, the process used to respond to offending and Indigenous status. Consistent with the NOI, higher numbers are indicative of less serious offending.

Offence category was explored by collapsing the 16 broad Australian Standard Offence Classification levels into six offence categories: person, property, drug, public order, traffic and other (ABS, 2008b). Person included: (1) Homicide and related offences, (2) Acts intended to cause injury, (3) Sexual assault and related offences, (4) Dangerous or negligent acts endangering persons, (5) Abduction, Harassment and other offences against the person and (6) Robbery, extortion and related offences. Property included: (7) Unlawful entry with intent/burglary, break and enter, (8) Theft and related offences, (9) Fraud, deception and related offences and (12) Property damage and environmental pollution. Drug included: (10) Illicit drug offences. Public order included: (13) Public order offences. Traffic included: (14) Traffic and vehicle regulatory offences. Other included: (11) Prohibited and regulated weapons and explosives offences, (15) Offences against justice procedures, government security and government operations and (16) Miscellaneous offences.

The left section of Table 1 presents the proportions of Indigenous and non-Indigenous youth who were processed through cautioning, conferencing and court based on contact number and gender. For first contact, Indigenous youth were more likely to be processed through court than non-Indigenous youth, regardless of gender. Indigenous females were more likely than other demographic groups to be referred to a youth justice conference and were least likely to be cautioned. Non-Indigenous females were most likely to be cautioned and were least likely to be referred to a youth justice conference. For subsequent contacts, Indigenous youth tended to be less likely to be referred to a conference and more likely to have a court appearance, regardless of gender. There was decreased use of cautioning as youth had more contacts with the system. Few youth were referred to a conference for their first contact, with greater proportions referred for second and subsequent contacts.

The relationship between the average age when youth had contact and Indigenous status is presented based on contact number and the process used to respond to offending in the right section of Table 1. For each contact, Indigenous youth processed through cautioning, conferencing or court were younger than non-Indigenous youth. Indigenous and non-Indigenous youth who were cautioned were younger than youth who were referred to a conference or had a court appearance.

The left section of Table 2 presents the median number of offences for young people based on contact number, the process used to respond to offending and Indigenous status. There were only two differences between Indigenous and non-Indigenous youth, and both related to youth justice conferencing. Indigenous youth conferenced for their third contact had a median of two offences compared to non-Indigenous youth who had a median of one. The reverse was apparent for youth conferenced for their fourth contact, with Indigenous youth having a median of one offence and non-Indigenous youth having a median of two. Overall, youth cautioned typically had one offence while youth referred by police to conferencing had one or two offences. Youth processed through the courts had two offences.

Table 1: Offender pathways through the youth justice system by demographic factors

Contact #	Process	Gender								Average Age at Contact					
		Indigenous				Non-Indigenous				Indigenous		Non-Indigenous		Total ^a	
		Male		Female		Male		Female							
		<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>
1	Caution	720	77.1	314	73.2	2,997	83.0	1,609	88.3	13.84	1.78	14.76	1.49	14.47	1.70
	Police Conference	22	2.4	16	3.7	104	2.9	36	2.0	14.63	1.45	15.52	1.32	15.15	1.49
	Court	192	20.6	99	23.1	510	14.1	178	9.8	14.93	1.69	15.89	1.30	15.62	1.49
	Total	934	100.0	429	100.0	3,611	100.0	1,823	100.0	14.09	1.81	14.92	1.52	14.63	1.72
2	Caution	311	50.7	119	50.2	812	52.8	266	51.8	14.13	1.68	15.12	1.39	14.80	1.59
	Police Conference	37	6.0	12	5.1	168	10.9	69	13.4	14.96	1.24	15.44	1.18	15.37	1.19
	Court	266	43.3	106	44.7	558	36.3	179	34.8	14.86	1.54	15.64	1.36	15.38	1.47
	Total	614	100.0	237	100.0	1,538	100.0	514	100.0	14.50	1.64	15.34	1.38	15.07	1.54
3	Caution	141	30.5	38	23.3	227	28.7	56	28.1	14.47	1.71	15.37	1.35	15.01	1.57
	Police Conference	34	7.4	6	3.7	102	12.9	19	9.5	14.93	1.29	15.60	1.04	15.43	1.14
	Court	287	62.1	119	73.0	462	58.4	124	62.3	14.89	1.54	15.64	1.32	15.33	1.46
	Total	462	100.0	163	100.0	791	100.0	199	100.0	14.77	1.59	15.56	1.30	15.25	1.47
4	Caution	77	21.0	20	17.2	82	18.1	25	26.6	14.68	1.65	15.59	1.18	15.17	1.50
	Police Conference	19	5.2	9	7.8	46	10.1	6	6.4	15.18	0.84	15.58	1.04	15.44	0.99
	Court	271	73.8	87	75.0	326	71.8	63	67.0	15.06	1.50	15.74	1.25	15.42	1.42
	Total	367	100.0	116	100.0	454	100.0	94	100.0	14.99	1.51	15.70	1.22	15.37	1.41

^a Includes missing Indigenous status and sex

Table 2: Offender pathways through the youth justice system by average number of offences and offence seriousness

Contact #	Process	Number of Offences						Seriousness of Most Serious Offence (NOI) ^a					
		Indigenous		Non-Indigenous		Total ^b		Indigenous		Non-Indigenous		Total ^b	
		<i>Median</i>	<i>Max</i>	<i>Median</i>	<i>Max</i>	<i>Median</i>	<i>Max</i>	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>
1	Caution	1	20	1	27	1	27	87.07	38.96	98.89	40.31	97.33	40.61
	Police Conference	2	11	2	298	2	298	70.66	35.81	65.05	31.90	65.80	34.06
	Court	2	38	2	22	2	38	91.98	42.07	98.88	44.02	97.07	43.44
	Total	1	38	1	298	1	298	87.66	39.69	98.02	40.95	96.48	41.11
2	Caution	1	18	1	21	1	21	81.36	37.64	91.95	39.41	89.40	39.30
	Police Conference	1	11	1	72	1	72	76.82	34.07	80.00	36.90	79.53	36.18
	Court	2	66	2	156	2	156	88.42	41.11	93.74	41.66	91.96	41.51
	Total	1	66	1	156	1	156	84.18	39.16	91.21	40.15	89.37	39.98
3	Caution	1	40	1	13	1	40	82.71	37.27	94.35	39.45	89.89	38.91
	Police Conference	2	8	1	282	1	282	77.75	36.18	80.01	32.36	79.54	33.17
	Court	2	76	2	46	2	76	84.97	39.24	89.53	41.84	87.72	40.86
	Total	1	76	1	282	1	282	83.86	38.49	89.75	40.30	87.53	39.67
4	Caution	1	18	1	7	1	18	91.04	37.67	93.74	38.17	92.66	37.88
	Police Conference	1	11	2	14	1	14	77.29	34.86	71.40	27.50	73.46	30.19
	Court	2	54	2	74	2	74	83.42	38.26	91.34	41.92	87.54	40.37
	Total	2	54	2	74	2	74	84.59	38.04	89.92	40.45	87.47	39.42

^a Higher scores indicate less serious offending

^b Includes missing Indigenous status and sex

The right section of Table 2 presents the seriousness of the most serious offence, averaged for each process based on contact number and Indigenous status. Indigenous youth who were processed through cautioning or court had more serious offending than non-Indigenous, regardless of contact number. Indigenous youth who were conferenced for their first contact had less serious offending than non-Indigenous youth while offence seriousness was similar for second and third contacts that were conferenced. Overall, youth who were cautioned or appeared in court had less serious offending than youth who had a conference.

Table 3 presents the most serious offence category that Indigenous and non-Indigenous youth were convicted of, based on contact number and the process used to respond to offending. Indigenous youth who were processed through cautioning or court were more likely than non-Indigenous youth to have had a property offence as their most serious offence, regardless of contact number. Indigenous youth were less likely than non-Indigenous youth to have been cautioned or have a court appearance for public order offences, but were more likely to be conferenced for public order offences. This pattern for public order offences was consistent for first and subsequent contacts and may indicate that police could caution public order offences committed by Indigenous offenders more frequently. Almost all traffic offences resulted in court appearances because these offences are not eligible for diversion, and Indigenous youth were less likely than non-Indigenous youth to have traffic offences for first and subsequent contacts.

Table 3: Offender pathways through the youth justice system by most serious offence type

Contact #	Process	Indigenous												Non-Indigenous											
		Person		Property		Drug		Public Order		Traffic		Other		Person		Property		Drug		Public Order		Traffic		Other	
		N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%		
1	Caution	122	11.8	755	72.8	43	4.2	89	8.6	1	0.1	26	2.5	459	10.0	3,099	66.9	357	7.7	513	11.1	13	0.3	189	4.0
	Police Conference	10	26.3	25	65.8	1	2.6	2	5.3	0	0.0	0	0.0	33	23.5	93	66.5	1	0.7	4	2.9	2	1.4	7	5.0
	Court	42	14.4	142	48.8	5	1.7	35	12.0	25	8.6	42	14.5	122	17.7	219	31.8	22	3.2	91	13.2	133	19.3	101	14.8
	Total	174	12.7	922	67.5	49	3.6	126	9.2	26	1.9	68	5.1	614	11.2	3,411	62.5	380	7.0	608	11.1	148	2.7	297	5.5
2	Caution	59	13.7	296	68.7	21	4.9	44	10.2	0	0.0	11	2.5	127	11.8	654	60.5	84	7.8	167	15.4	4	0.4	45	4.1
	Police Conference	6	12.2	38	77.6	0	0.0	3	6.1	0	0.0	2	4.1	36	15.2	171	72.2	5	2.1	10	4.2	6	2.5	9	3.8
	Court	43	11.5	231	62.1	3	0.8	21	5.6	15	4.0	59	16.0	110	14.9	374	50.7	29	3.9	57	7.7	80	10.9	87	11.9
	Total	108	12.7	565	66.3	24	2.8	68	8.0	15	1.8	72	8.4	273	13.1	1,199	58.3	118	5.7	234	11.4	90	4.4	141	7.1
3	Caution	20	11.2	122	68.1	13	7.3	18	10.1	0	0.0	6	3.3	36	12.7	151	53.1	36	12.7	46	16.2	0	0.0	15	5.3
	Police Conference	7	17.5	27	67.5	0	0.0	4	10.0	0	0.0	2	5.0	15	12.4	94	77.6	1	0.8	9	7.4	0	0.0	2	1.8
	Court	56	13.7	253	62.3	2	0.5	36	8.9	20	4.9	39	9.7	97	16.6	302	51.5	17	2.9	47	8.0	50	8.5	73	12.5
	Total	83	13.3	402	64.4	15	2.4	58	9.3	20	3.2	47	7.4	148	14.9	547	55.2	54	5.4	102	10.3	50	5.0	90	9.2
4	Caution	8	8.2	63	65.0	9	9.3	15	15.5	0	0.0	2	2.0	11	10.3	57	53.2	13	12.1	21	19.6	0	0.0	5	4.8
	Police Conference	3	10.7	22	78.6	0	0.0	1	3.6	0	0.0	2	7.1	6	11.5	38	73.0	3	5.8	1	1.9	0	0.0	4	7.8
	Court	54	15.1	205	57.3	9	2.5	39	10.9	14	3.9	37	10.3	56	14.5	195	50.1	21	5.4	40	10.3	40	10.3	37	9.4
	Total	65	13.4	290	60.0	18	3.7	55	11.4	14	2.9	41	8.6	73	13.3	290	52.9	37	6.8	62	11.3	40	7.3	46	8.4
Total Contacts	Caution	231	12.3	1,320	69.5	106	5.6	190	10.0	1	0.1	51	2.5	641	10.4	3,998	64.4	505	8.1	776	12.5	17	0.3	267	4.3
	Police Conference	29	15.1	141	73.5	1	0.5	14	7.3	0	0.0	7	3.6	96	16.1	434	72.5	11	1.8	24	4.0	9	1.5	24	4.1
	Court	480	14.5	1,944	58.9	68	2.1	260	7.9	155	4.7	393	11.9	571	16.2	1,663	47.0	167	4.7	341	9.6	387	10.9	415	11.6
	Total	740	13.7	3,405	63.1	175	3.2	464	8.6	156	2.9	451	8.5	1,308	12.7	6,095	59.0	683	6.6	1,141	11.0	413	4.0	706	6.7

Attachment F: Main effects of multinomial logistic regression models exploring impact of factors on whether cautioned, conferenced or appearing in court for first, second, third and fourth contact

Factor	Contact 1				Contact 2				Contact 3				Contact 4			
	Indigenous		Non-Indigenous		Indigenous		Non-Indigenous		Indigenous		Non-Indigenous		Indigenous		Non-Indigenous	
	χ^2	df	χ^2	df	χ^2	df	χ^2	df	χ^2	df	χ^2	df	χ^2	df	χ^2	df
Gender	3.92	2	2.49	2	0.70	2	4.83	2	7.12	2	2.01	2	1.84	2	4.46	2
Age at contact	37.54	2	153.84	2	8.69	2	14.03	2	0.56	2	2.70	2	2.08	2	1.38	2
Number of offences	17.60	2	109.27	2	6.89	2	37.05	2	0.01	2	27.22	2	2.93	2	11.05	2
Seriousness of MSO (NOI)	2.42	2	75.74	2	18.73	2	33.49	2	2.18	2	6.94	2	1.65	2	19.61	2
Offence against Person	20.25	2	10.82	2	7.80	2	7.67	2	4.54	2	6.44	2	2.94	2	1.78	2
Property Offence	58.61	2	152.13	2	15.77	2	33.99	2	5.26	2	23.86	2	7.56	2	3.70	2
Drug Offence	32.73	2	104.46	2	38.39	2	41.35	2	23.20	2	36.30	2	16.59	2	9.57	2
Public Order Offence	21.49	2	60.35	2	26.75	2	55.99	2	5.27	2	24.57	2	9.09	2	8.65	2
Age at first contact					0.24	2	0.56	2	0.27	2	2.46	2	0.12	2	3.32	2
Previous caution									6.62	2	4.43	2	1.80	2	7.74	2
Previous conference					56.73	4	111.68	4	7.93	2	5.81	2	7.35	2	3.29	2
Previous court appearance									28.44	2	24.97	2	26.31	2	14.38	2

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Attachment G: Descriptive statistics exploring how Indigenous and non-Indigenous youth’s first contact with each process differed based on demographic and offence characteristics

This attachment presents descriptive statistics exploring the relationships between Indigenous and non-Indigenous youth’s first contact with each process and gender, average age, number of offences, offence seriousness and offence type. When first contact/s with each process were examined, approximately two-thirds of youth were male (Table 1). Indigenous youth were younger when they had contact with each process, and youth were younger when they were cautioned than when they had a police referred conference or court appearance

Table 1: First contact with process/es by Indigenous status, gender and average age at contact

Process ^a	Indigenous Status	Gender				Average Age at Contact	
		Male		Female		M	SD
		N	%	N	%		
First Caution	Indigenous	757	69.6	331	30.4	13.90	1.79
	Non-Indigenous	3,074	65.4	1,624	34.6	14.78	1.49
First Police Conference	Indigenous	123	71.1	50	28.9	15.02	1.31
	Non-Indigenous	413	76.3	128	23.7	15.52	1.19
First Court	Indigenous	558	72.5	212	27.5	14.80	1.62
	Non-Indigenous	1,248	76.7	380	23.3	15.69	1.33

^a regardless of when process occurred in offender’s pathway

Table 2 presents the offence characteristics of youth based on their first contact with cautioning, police referred conferencing and/or court. There were no differences between Indigenous and non-Indigenous youth in the median number of offences for their first contact with each process. Youth had a similar number of offences for their first contact with cautioning and first contact with conferencing. Youth had more offences for their first contact with court than cautioning or police conferencing. Indigenous youth had more serious offending than non-Indigenous youth for their first contact with cautioning and court, but not with conferencing. Youth had more serious offending for their first contact with conferencing than cautioning or court. With respect to most serious offence type, Indigenous youth were more likely than non-Indigenous youth to have a property offence and less likely to have a drug or public order offence when they first had contact with cautioning. Indigenous and non-Indigenous youth had similar offence profiles when they were first referred by police to a conference. Indigenous youth were less likely than non-Indigenous youth to have a person or traffic offence and more likely to have a property offence when they first had contact with court.

Table 2: First contact with process/es by Indigenous status, number of offences, offence seriousness and type

Process ^a	Indigenous Status	Number of Offences		Seriousness of Most Serious Offence (NOI)		Most Serious Offence Type											
						Person		Property		Drug		Public Order		Traffic		Other	
		<i>Median</i>	<i>Max</i>	<i>M</i>	<i>SD</i>	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
First Caution	Indigenous	1	20	86.78	39.01	131	12.0	786	72.1	48	4.4	94	8.6	1	0.1	30	2.8
	Non-Indigenous	1	27	98.67	40.34	472	10.0	3,144	66.6	367	7.8	534	11.3	14	0.3	191	4.0
First Police Conference	Indigenous	1	11	75.29	33.43	28	16.2	127	73.4	1	0.6	11	6.4	0	0.0	6	3.5
	Non-Indigenous	1	298	75.21	34.39	88	16.3	390	72.1	9	1.7	22	4.1	9	1.7	23	4.3
First Court	Indigenous	2	83	89.90	40.47	89	11.6	457	59.4	10	1.3	69	9.0	43	5.6	102	13.2
	Non-Indigenous	2	92	95.23	42.61	259	15.9	720	44.2	59	3.6	173	10.6	209	12.8	208	12.8

^a regardless of when process occurred in offender's pathway

Attachment H: Descriptive statistics exploring how recontact status, frequency of recontact and offence seriousness differed between Indigenous and non-Indigenous offenders based on demographic and offence characteristics

Recontact status

Table 1 presents how the demographic characteristics gender and average age were related to whether Indigenous and non-Indigenous youth had any recontact after their first contact with each process used to respond to offending. Youth processed through cautioning for the first time were less likely to have recontact than youth processed through police conferencing or court for the first time, regardless of Indigenous status. After their first contact with each process, Indigenous males and females were more likely than non-Indigenous males and females to have recontact. Youth who had recontact with the system were younger at the time they had their first contact than youth who did not have recontact. However, youth appearing at older ages had less time to reappear than those who appeared at younger ages.

Table 1: Recontact status by process, Indigenous status, gender and average age at first contact

Process ^a	Indigenous Status	Recontact	Gender				Average Age at First Contact	
			Male		Female		M	SD
			N	%	N	%		
First Caution	Indigenous	Yes	512	67.6	182	55.0	13.26	1.66
		No	245	32.4	149	45.0	15.02	1.40
	Non-Indigenous	Yes	1338	43.5	449	27.6	14.10	1.56
		No	1736	56.5	1175	72.4	15.20	1.29
First Police Conference	Indigenous	Yes	87	70.7	27	54.0	14.71	1.17
		No	36	29.3	23	46.0	15.60	1.38
	Non-Indigenous	Yes	207	50.1	42	32.8	15.09	1.21
		No	206	49.9	86	67.2	15.87	1.04
First Court	Indigenous	Yes	406	72.8	141	66.5	14.36	1.52
		No	152	27.2	71	33.5	15.87	1.32
	Non-Indigenous	Yes	629	50.4	154	40.5	15.17	1.37
		No	619	49.6	226	59.5	16.17	1.09

^a regardless of when process occurred in offender's pathway

Table 2 presents the recontact status of youth based on offending profile. The left side of Table 2 presents how number of offences and seriousness of most serious offence were related to whether Indigenous and non-Indigenous youth had recontact after initial contact with each process. There were no differences in the median number of offences youth who were processed through each process for the first time had based on Indigenous status. Youth who had contact with court for the first time had more offences than youth who had contact with cautioning or police conferencing for the first time. Non-Indigenous youth cautioned for the first time were more likely to have recontact if they had more serious offending. Indigenous youth who had a police conference for the first time were less likely to have recontact if they had more serious offending. Indigenous youth who had a court appearance for the first time were more likely to have recontact if they had more serious offending.

The right side of Table 2 presents how offence type was related to whether Indigenous and non-Indigenous youth had recontact after their first contact with each process. Indigenous youth who had property offences were more likely to have recontact than Indigenous youth who had recontact for other offence types. Indigenous youth were more likely than non-Indigenous youth to have recontact after their first contact with each process, regardless of offence type.

Table 2: Recontact status by process, Indigenous status, number of offences, offence seriousness and offence type

Process ^a	Indigenous Status	Recontact	Number of Offences		Seriousness of Most Serious Offence (NOI)		Most Serious Offence Type											
							Person		Property		Drug		Public Order		Traffic		Other	
			<i>Median</i>	<i>Max</i>	<i>M</i>	<i>SD</i>	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>
First	Indigenous	Yes	1	20	87.17	38.34	76	58.0	525	66.8	27	56.3	48	51.1	1	100.0	18	60.0
		No	1	11	86.08	40.21	55	42.0	261	33.2	21	43.8	46	48.9	0	.0	12	40.0
Caution	Non-Indigenous	Yes	1	27	94.35	39.81	181	38.3	1243	39.5	136	37.1	157	29.4	5	35.7	68	35.6
		No	1	17	101.30	40.44	291	61.7	1901	60.5	231	62.9	377	70.6	9	64.3	123	64.4
First Police Conference	Indigenous	Yes	1	11	76.22	32.79	17	60.7	87	68.5	1	100.0	4	36.4	0	0.0	5	83.3
		No	2	11	73.49	34.83	11	39.3	40	31.5	0	0.0	7	63.6	0	0.0	1	16.7
Conference	Non-Indigenous	Yes	1	72	74.55	33.79	39	44.3	181	46.4	7	77.8	12	54.5	4	44.4	6	26.1
		No	2	298	75.77	34.94	49	55.7	209	53.6	2	22.2	10	45.5	5	55.6	17	73.9
First Court	Indigenous	Yes	2	83	87.82	38.44	49	55.1	365	79.9	6	60.0	48	69.6	12	27.9	67	65.7
		No	2	76	94.99	44.74	40	44.9	92	20.1	4	40.0	21	30.4	31	72.1	35	34.3
	Non-Indigenous	Yes	2	92	91.59	41.29	114	44.0	417	57.9	25	42.4	75	43.4	61	29.2	91	43.8
		No	2	86	98.61	43.54	145	56.0	303	42.1	34	57.6	98	56.6	148	70.8	117	56.3

^a regardless of when process occurred in offender's pathway

Frequency of recontact

Table 3 presents frequency of recontact after Indigenous and non-Indigenous youth had contact with each process for the first time based on gender and average age of first contact. Indigenous males and females were less likely to have three or more contacts after their first caution or police conference than after their first court appearance. Generally, males were more likely than females to have three or more recontacts after their first contact with each process, regardless of Indigenous status. However, similar proportions of male and female Indigenous youth had three or more contacts after their first contact with police referred conferencing. Indigenous and non-Indigenous youth were more likely to have three or more contacts if they had contact at a younger age, reflecting the greater period of time they had to have recontact.

Table 3: Frequency of recontact for youth who had additional contact by process, Indigenous status, gender and average age of first contact

Process ^a	Indigenous Status	Frequency of Recontact	Gender				Average Age of First Contact	
			Male		Female		M	SD
			N	%	N	%		
First Caution	Indigenous	1	119	23.2	58	31.9	14.00	1.56
		2	82	16.0	38	20.9	13.59	1.59
		3+	311	60.7	86	47.3	12.82	1.58
	Non-Indigenous	1	637	47.6	274	61.0	14.54	1.41
		2	293	21.9	91	20.3	13.88	1.58
		3+	408	30.5	84	18.7	13.45	1.53
First Police Conference	Indigenous	1	25	28.7	9	33.3	15.26	1.13
		2	19	21.8	5	18.5	14.82	1.13
		3+	43	49.4	13	48.1	14.34	1.10
	Non-Indigenous	1	93	44.9	23	54.8	15.44	1.06
		2	44	21.3	7	16.7	15.14	1.13
		3+	70	33.8	12	28.6	14.57	1.29
First Court	Indigenous	1	90	22.2	36	25.5	15.33	1.20
		2	49	12.1	19	13.5	15.27	1.11
		3+	267	65.8	86	61.0	13.84	1.44
	Non-Indigenous	1	260	41.3	73	47.4	15.70	1.20
		2	125	19.9	30	19.5	15.30	1.21
		3+	244	38.8	51	33.1	14.50	1.34

^a regardless of when process occurred in offender's pathway

Table 4 presents how offence characteristics were related to frequency of offending based on the process used to respond to offending and Indigenous status. Indigenous youth who had more offences at their first police referred conference were more likely to have three or more contacts than Indigenous youth who had fewer offences. Indigenous youth who were conferenced with fewer offences were more likely than non-Indigenous youth to have recontact for one or two offences. Youth who appeared in court for the first time had more offences than youth who were cautioned or had a youth justice conference for the first time.

Also outlined in Table 4, Indigenous youth who were cautioned or appeared in court for the first time with more serious offending were more likely to have two additional contacts rather than one or three+. Indigenous youth who were referred by police to a conference with less serious offending were more likely to have two contacts rather than one or three+. With the exception of Indigenous youth who had two additional contacts, Indigenous youth had more serious offending than non-Indigenous youth, regardless of process. With respect to offence type, Indigenous youth tended to have three or more additional contacts regardless of offence type while non-Indigenous youth tended to have one or two additional contacts.

Table 4: Frequency of recontact for youth who had additional contact by process, Indigenous status, number of offences, offence seriousness and offence type

Process ^a	Indigenous Status	Frequency of Recontact	Number of Offences		Seriousness of Most Serious Offence (NOI)		Most Serious Offence Type											
			Median	Max	M	SD	Person		Property		Drug		Public Order		Traffic		Other	
							N	%	N	%	N	%	N	%	N	%	N	%
First Caution	Indigenous	1	1	18	88.07	38.03	17	22.4	139	26.5	9	33.3	13	27.1	0	.0	0	.0
		2	1	11	83.23	39.29	17	22.4	86	16.4	4	14.8	9	18.8	0	.0	4	22.2
		3+	1	20	87.96	38.21	42	55.3	300	57.1	14	51.9	26	54.2	1	100.0	14	77.8
	Non-Indigenous	1	1	27	96.53	40.46	93	51.4	609	49.0	77	56.6	92	58.6	5	100.0	37	54.4
		2	1	23	92.21	40.90	42	23.2	269	21.6	27	19.9	28	17.8	0	.0	19	27.9
		3+	1	11	91.98	37.53	46	25.4	365	29.4	32	23.5	37	23.6	0	.0	12	17.6
First Police Conference	Indigenous	1	1	8	70.94	30.25	7	41.2	26	29.9	0	.0	1	25.0	0	0.0	0	0.0
		2	1	11	96.50	34.53	1	5.9	20	23.0	0	.0	2	50.0	0	0.0	1	20.0
		3+	2	11	70.73	30.57	9	52.9	41	47.1	1	100.0	1	25.0	0	0.0	4	80.0
	Non-Indigenous	1	2	65	74.66	34.84	16	41.0	82	45.3	5	71.4	6	50.0	3	75.0	4	66.7
		2	2	72	70.92	34.80	10	25.6	32	17.7	2	28.6	4	33.3	1	25.0	2	33.3
		3+	1	55	76.65	31.81	13	33.3	67	37.0	0	0.0	2	16.7	0	0.0	0	0.0
First Court	Indigenous	1	2	38	87.46	40.37	15	30.6	75	20.5	2	33.3	10	20.8	3	25.0	21	31.3
		2	2	24	80.66	39.57	10	20.4	43	11.8	0	.0	5	10.4	2	16.7	8	11.9
		3+	2	83	89.33	37.45	24	49.0	247	67.7	4	66.7	33	68.8	7	58.3	38	56.7
	Non-Indigenous	1	2	69	91.92	43.50	59	51.8	146	35.0	15	60.0	39	52.0	31	50.8	43	47.3
		2	2	24	93.15	40.23	18	15.8	83	19.9	5	20.0	13	17.3	18	29.5	18	19.8
		3+	2	92	90.39	39.34	37	32.5	188	45.1	5	20.0	23	30.7	12	19.7	30	33.0

^a regardless of when process occurred in offender's pathway