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Story: Youth offenders

# Page 2. Treatment of young offenders, 1840 to 1980s

Since European settlement there has been ongoing debate in New Zealand about the best way to respond to young people who break the law. At times, punishment and institutionalisation has been emphasised. At others, the education and skills development of offenders, combined with family support, has been preferred.

## 19th century

The Treaty of Waitangi brought English criminal law to New Zealand. Māori resolved matters within the whānau, which was seen as collectively responsible. English law disregarded Māori practices and set up courts which determined guilt and prescribed punishments. Children were tried in the same courts as adults and were given the same penalties: most commonly imprisonment and flogging (beating with a whip or stick).

From the early years of settlement, concern was expressed about delinquent children. Some saw them as innately vicious and deserving punishment. Others blamed inadequate parenting and thought they could be reformed.

From 1867 institutions were established to educate, train and punish both neglected and delinquent children. The two groups were supposed to be kept separate, but in reality were confined together. These institutions were characterised by excessive punishment, unpleasant conditions, and frightened and unhappy children.

From 1893 children under seven years of age could not be imprisoned. Charges against those under 14 could be dismissed if the offenders did not understand the nature and meaning of their actions. However, flogging and imprisonment remained sentencing options for some children – boys were routinely flogged until the 1920s.

## 1900 to 1960s

In the 1900s child offenders were increasingly separated from neglected children and adult offenders. In 1900 the first reformatories for delinquent and criminal children opened. From 1906 cases involving young people under 16 could be heard in separate courts from adult cases.

In 1925 the first Children's Court was established to emphasise care rather than severe punishment of young people under 16. A similar intent was behind the introduction of the borstals sentence in 1924, which allowed slightly older offenders (between 15, later 16, and 21) to be detained for one to five years with the goal of reform. Borstals were based on a graduated rewards system and provided occupational training. However, they often failed to prevent further offending.

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## Bad backgrounds

In 1872 Inspector Bonham of Auckland wrote in his annual report about drunken and vagrant people: '[U]nfortunately, the vices of these persons descend to their children, and most of the juvenile crime of the place is committed by them. A number of these *gamins* have been brought before the Bench from time to time for petty thefts, but owing to the absence of a reformatory, or any suitable place in the Gaol where they could be kept apart from the ordinary criminals, they have mostly been discharged, although such a course is most certain to confirm their criminal career for life.' [1]

## A romp in the mayoral hay

In 1930 young Ōamaru woman Ethel Crouch was charged with 'being illegally in a shed belonging to the mayor of Oamaru, Mr. Frank Crawshaw, and with being an idle and disorderly person'. She was sentenced to two years detention at the Point Halswell Borstal Institute. Ethel's male companion was sent to prison for three months. Their trespassing was compounded by their indiscretions within the shed – the presiding magistrate said '[C]onsidering the disgraceful and bestial nature of the circumstances in which the accused was found, it was in her own interests to be placed under restraint.' [2]

In 1958 police established a Juvenile Crime Prevention division (later Youth Aid) to educate young people and to engage them in activities likely to reduce youth offending. But a stricter approach was also adopted in 1961 when youth offenders aged 16–21 were sentenced to detention centres for a three months of boot-camp style activities.

## New approaches to youth offending – 1960s to 1980s

In the 1960s and 1970s the justice system sought more effective ways to help young people engage in constructive activities likely to reduce re-offending. In 1961 the age of criminal responsibility was raised from 7 to 10.

Youth justice and care and protection matters were heard in separate courts from 1974. Minor offenders came before the Children's Board instead of court. Probation services were expanded and new sentencing options developed. Borstals were closed in 1981.

The detention of youth was further questioned in the 1980s. Residential centres were unable to replace families as primary caregivers, and education programmes were not successful. Some young people were abused by staff, and many re-offended once they left. Māori questioned they way they were treated by the justice system, which placed large numbers of Māori children in state care for minor misdemeanours. Internationally, children's and youth rights became a prominent issue – detention practices conflicted with a growing concern for human rights. A major report on Māori in the social welfare system in 1988 led to new approaches.

These social movements and changes culminated in the Children, Young Persons, and Their Families Act 1989, which represented a new philosophy and way of dealing with young offenders.

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**Footnotes:**

1. 'Inspector Bonham to the commissioner, Armed Constabulary Force.' *Appendices to the Journals of the House of Representatives*, 1872, G-14, p. 15.
2. *New Zealand Truth*, 2 October 1930, p. 8.

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