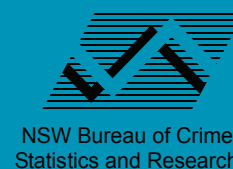


CRIME AND JUSTICE

Bulletin



Contemporary Issues in Crime and Justice

Number 164

August 2012

Youth Justice Conferences versus Children's Court: A comparison of cost-effectiveness

Andrew Webber

Aim: To compare the cost-effectiveness of Youth Justice Conferences (YJCs) to matters eligible for YJCs but dealt with in the Children's Court.

Method: The costs for Police, Legal Aid, Children's Court, Juvenile Justice YJC administration and Juvenile Justice administration of court orders were separately estimated using a combination of top-down and bottom-up costing methods. These were combined with data from matched samples of young people who were to be dealt with by a YJC and young people who could have been dealt with by a YJC but instead were dealt with in the Children's Court in 2007 in order to estimate average costs per person for each process.

Results: The average cost of a YJC was estimated to be about 18 per cent less than the average cost of a comparable matter dealt with in the Children's Court. This result was robust under variation of most assumptions (or combinations of assumptions). However, if marginal costs for the Children's Court and costs for administering Children's Court orders are low, then it may be more efficient to deal with an additional young person by court rather than by YJC.

Conclusion: When viewed in totality, the YJC scheme is more cost-effective than the Children's Court.

INTRODUCTION

Youth Justice Conferences (YJCs) have been examined in recent months in terms of whether they are being used appropriately (Moore, 2011a), their timeliness (Moore, 2011b), and their effect on reoffending (Smith & Weatherburn, 2012). However, one dimension of YJCs that has not yet been investigated is that of cost. Because YJCs require less infrastructure and are less reliant on legal professionals and judicial officers, they may be less resource intensive than a court alternative, and may be a valuable option in the juvenile criminal justice system.

The purpose of cost-effectiveness analysis is to compare two or more options on the basis of their relative efficiency. A particular option is said to be cost-effective if it is cheaper per unit of nominated outcome than a comparison option. This could either be because it achieves the same outcome at a lower cost, or achieves a greater outcome at the same cost. Following Smith and Weatherburn (2012), the chosen outcome for comparison is reoffending. As that study was unable to find a significant difference in reoffending outcomes between court and YJC groups using a range of measures¹, the issue of cost-effectiveness is simplified to one of cost-minimisation: given YJC and courts are equally effective, YJCs are more cost-effective than courts if the cost of holding a YJC is less than the cost of hearing that same matter in court.

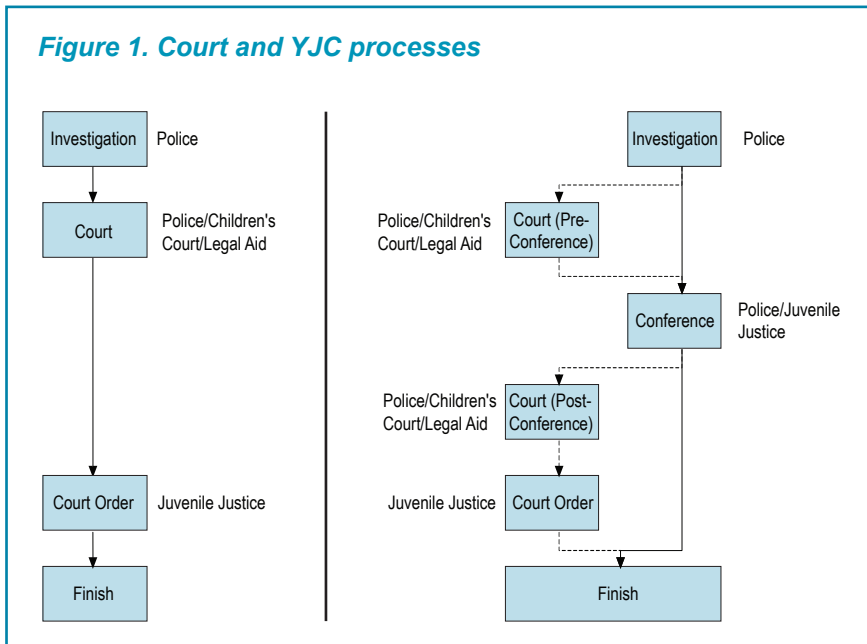
PROCESS

YJCs are alternative ways to deal with certain cases that would have been dealt with by the Children's Court prior to the enactment of the Young Offenders Act 1997. The two processes are compared in Figure 1. The processes are also compared in more detail by Trimboli (2000).

In the case of a matter that does not go to a YJC, police officers investigate, gather evidence, and (if the evidence supports it) formally charge the young person. The young person then attends court. Several interlocutory hearings may take place before the matter is finalised. All young people in the Children's Court are represented by lawyers, usually from the Children's Legal Service or Aboriginal Legal Service. Since the young people in the court sample for this study have all admitted to the offence, the main function of the court is to make an order under section 33 of the Children (Criminal Proceedings) Act 1987 against the young person. Juvenile Justice then administers those court orders that involve supervision.

The process for a YJC may involve some additional steps. Young people can be referred to a YJC by either Police (P-YJC) or the Children's Court (C-YJC). In the case of a C-YJC, Police have determined that the case should not be referred to a conference, and instead formally charge the young person and require them

Figure 1. Court and YJC processes



alter the results⁴. The YJC group was made up of young people that had a YJC date set in 2007 and:

- made admissions to all charges;
- were aged 18 or under when their YJC was held;
- were not charged with a strictly indictable offence;
- were not charged with a breach, traffic (if aged 16 or older), drug, robbery, or sex offence, or an offence resulting in death;
- did not have a custodial order prior to the YJC.

The court group used the same eligibility criteria, with the exception of containing only young people who had a finalised Children’s Court appearance in 2007 but did not have a YJC. Both groups were then matched using propensity score matching. This technique aims to adjust for the impact of treatment selection bias and

to attend the Children’s Court. The court may then refer the young person to a YJC. This may happen because because circumstances in the case have changed to make the young person eligible for a YJC (for example, they admit the offence between being charged and attending court).

YJCs are organised by Juvenile Justice and usually attended by at least one police representative. The young person is not legally represented at the YJC, although a lawyer is entitled to attend². If the YJC proceeds as planned and the young person satisfactorily completes the outcome plan agreed to at the conference, the only further cost incurred by the Government is a final review by a judicial officer of the Children’s Court in chambers³. However, if the case cannot be resolved satisfactorily at the YJC (for example, because the victim and young person cannot agree to an outcome plan, the young person does not comply with the outcome plan, or the young person does not attend the YJC), the matter is sent back to be finalised by the Children’s Court. The court may then impose an order that involves supervision, which is administered by Juvenile Justice.

Without collecting detailed data, it is not clear whether the YJC or the court process is less resource-intensive. YJC events may cost the Government less than a comparable court event because conference convenors are paid less than a typical judicial officer in the Children’s Court and, unlike in court, lawyers typically do not represent young people in YJCs. However, some YJCs involve additional court events held before and/or after the conference. In these cases, it is possible that the YJC process is more resource intensive, since the Government must pay for both court and conference-related costs.

METHOD

SAMPLE

As this analysis relies heavily on the results of Smith and Weatherburn (2012), the court and YJC groups have been defined and matched in a similar way to the method used in that study, with the addition of two new exclusion criteria that did not

approximate the conditions of randomisation by finding pairs of individuals who are equally likely to receive a treatment (see Smith & Weatherburn, 2012 for details). The final matched sample contained 896 young people in each of the court and YJC groups.

COSTING METHODOLOGY

Due to information access issues, the scope of this analysis is confined solely to costs borne by Government agencies in the NSW criminal justice system. These costs fall into five main components: Police costs, Legal Aid costs, Children’s Court costs, Juvenile Justice YJC administration costs, and Juvenile Justice order supervision costs. In order to make timeframes consistent, all cost information has been collected for the 2010-11 financial year.

This analysis uses two separate costing techniques. The first is bottom-up costing, where cost components are broken down to individual activities that must be completed, each of those activities are individually costed (usually by determining the average time needed to complete necessary actions, which is then combined with information on wage costs to determine a dollar value), and then the cost of each activity is added to arrive at a total cost for the component.

Where bottom-up costing was not feasible, this study made use of top-down estimates. This is where total costs for an area are identified (for example the total cost for the Children’s Courts), and this is divided by some measure of output (for example, the number of court cases that are finalised) to arrive at an average cost per unit of output. The source and costing technique of each cost component is summarised in Table 1.

Each costing technique has different disadvantages. Bottom-up costing often cannot fully take into account overheads that are more removed from the direct activities that take place, whereas top-down costing does include all overheads but is less effective at estimating how costs might change when an additional unit of output is added (marginal costs).

Table 1. Summary of costing components

Component	Source of costs	Estimation method
Police	Survey of Local Area Commands	Bottom-up
Legal Aid	Interview with Legal Aid staff	Bottom-up
Children’s Court	Report on Government Services	Top-down
Juvenile Justice YJC administration	Juvenile Justice financial records	Top-down
Juvenile Justice order supervision	Juvenile Justice estimates	Top-down

POLICE COSTS

To estimate Police costs, each of the 79 local area commands (LACs) in NSW were randomly allocated into a court or YJC sample. An email was sent to the Crime Managers in each of the LACs seeking advice on the amount of police time spent on the last matter finalised in their LAC. The court sample was asked the rank and hours spent by each officer involved in the last case involving a young person who was against whom an order was made following an admission or guilty plea in the Children’s Court. The YJC sample was asked identical information about the last YJC that was held. The full text of each request is attached in the appendix. Consistent with the sample definition used in Smith and Weatherburn (2012), any response involving a robbery, drug, or traffic charge was excluded from the court sample⁵. The YJC sample was also subsequently asked whether the conference referral was police-referred (P-YJC) or court-referred (C-YJC), in case either P-YJC or C-YJC cases were overrepresented in police responses. The eligibility criteria and response rate for the survey samples are set out in Figure 2.

The time estimates provided by police were converted into costs using the Crown Employees (Police Officers - 2011) Interim

Award, which defines the salaries police officers would have been earning in June 2011. The amount used includes an 11.5 per cent loading to account for shift penalties and overtime payments. Police salaries were divided into ranks, and then subdivided into individual grades based on years of service. Where LACs did not specify grades within each rank, the midpoint of that rank was used. In order to calculate an hourly cost of police time, annual salaries were divided by 38 hours per week and 210 days per year (accounting for public holidays, six weeks annual leave, and an allowance for other leave). On-costs of 22.36 per cent were added to account for costs such as payroll tax, superannuation, and leave loading. An average cost was obtained across LACs for the court sample, the C-YJC sample, and the P-YJC sample. These were multiplied by the number of young people in each group.

LEGAL AID

Estimates of the average time taken to finalise a matter were provided by the Solicitor in Charge of the Children’s Legal Service at Legal Aid NSW. Estimates were provided as average time taken for solicitors and administrative officers per court appearance. This was combined with data on the number of young people appearing in court and the average number of court appearances in each group. It was assumed that all young people appearing in any court hearing were represented by a Legal Aid lawyer. Legal Aid advised that in five per cent of C-YJC matters, solicitors spent an additional hour and administrative officers spent an additional 30 minutes, while in 2.5 per cent of C-YJC matters, solicitors spent an additional five hours and administrative officers spent an additional 40 minutes. On average, this implies an additional 0.375 hours of solicitor time, and 0.042 hours of administrative time for each person appearing in court before being referred to a conference.

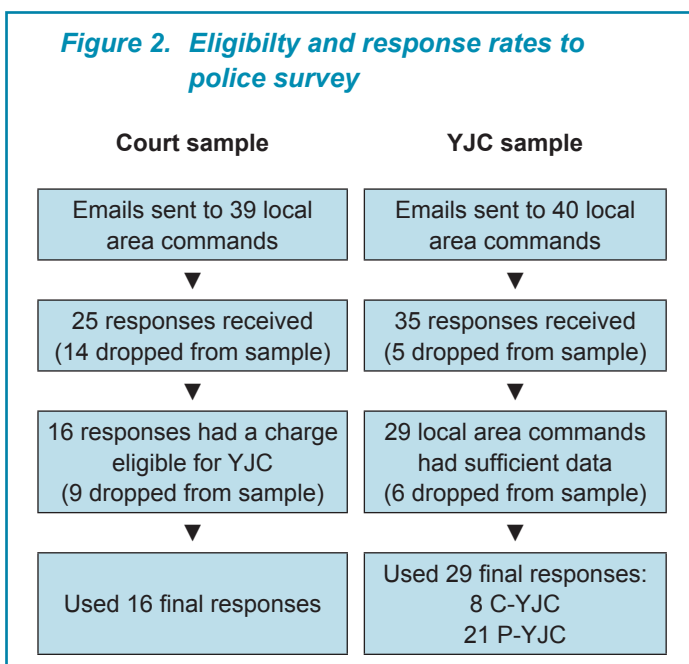
Average salaries for solicitors and administrative officers as of June 2011 were estimated by Legal Aid and 22.36 per cent on-costs were added to these. Annual salaries were divided by 35 hours per week, and 220 days per year.

CHILDREN’S COURT

Court costs were taken from the Report on Government Services (Steering Committee for the Review of Government Service Provision [SCRGSP], 2012). This report divides an estimate of the total cost of criminal cases in the Children’s Court by the number of finalised criminal cases in that court, to arrive at a cost per finalised criminal case of \$906 for the financial year ending June 2011. This average cost includes all relevant overheads that apply to court matters, such as on-costs, security, library and transcription services, and corporate and executive services.

Since very serious criminal cases and cases where the young person pleads not guilty are excluded from YJCs, it is likely that this average cost per finalised case overstates the average cost incurred by the court or YJC groups. To account for this, the average cost per case was divided by the average number of appearances per criminal case in the Children’s Court, to estimate an average cost per criminal court appearance. Details of this calculation are shown in Table 2. This average cost per appearance was then multiplied by the number of people attending court from each group, and the average number of

Figure 2. Eligibility and response rates to police survey



appearances for each of these people.⁶ As much of the cost of court is the cost of buildings and judicial officers, it is assumed that the cost of a hearing in chambers to finalise conference matters where the outcome plan has been completed is approximated by the average cost per appearance.

Table 2. Estimated Children’s Court costs for Children’s Court group

	Total Children’s Court
Average cost per finalised Children’s Court case	\$906
Average number of appearances per Children’s Court case	2.83
Average cost per appearance	\$320

JUVENILE JUSTICE YJC ADMINISTRATION COSTS

Juvenile Justice is responsible for all costs relating to the organisation of YJCs, other than the time of police officers or other representatives that may attend. This may include the hire of venues, the compensation and training of convenors, and costs associated with contacting and organising participants. As the costs of organising YJCs are captured fully in a separate cost-centre within Juvenile Justice, they are well-defined. Total and average costs per YJC are shown in Table 3.

Average costs were higher in the first two years of operation due to start-up costs, greater administration expenses and a lower volume of YJCs. In 2008-09, Juvenile Justice restructured the way YJCs were administered and the number of YJCs facilitated increased. As a result, the average cost per YJC has remained relatively static for the last three financial years. This analysis will use the 2010-11 figure. It is assumed that every young person that was allocated a conference date attended a conference.

JUVENILE JUSTICE SENTENCING COSTS

Juvenile Justice is responsible for administering many of the court orders received by young offenders. This may involve supervision of a bond order, a community service order (CSO), or full-time control order. Juvenile Justice provided estimates of the average cost per day for administering custodial and community orders. These were then combined with information on average length of orders for each of the court, C-YJC and P-YJC groups. Juvenile Justice advised that control orders are most appropriately costed at the custodial rate for the non-parole period, and the community order rate for the parole period. Bond orders and CSOs are costed at the community daily rate. CSOs are denominated in hours, rather than days. In order to cost this consistently, CSOs were converted from hours to days using an average of 4.22 hours per day, on the advice of Juvenile Justice.

Table 3. Cost of organising YJCs, 2006-2011

	2006-07	2007-08	2008-09	2009-10	2010-11
Total costs of YJCs	\$4,847,235	\$4,238,478	\$3,523,962	\$3,654,874	\$3,968,102
Number of YJCs held	1,181	1,169	1,441	1,659	1,637
Average cost per YJC	\$4,104	\$3,626	\$2,445	\$2,203	\$2,424

Source: Juvenile Justice NSW

RESULTS

All of the variables relevant to costing each stage of the process, as well as total cost per group are summarised in Table 4. Average costs per young person incurred at each stage in the process are summarised in Table 5. The YJC group⁷ cost an estimated 18 per cent per person less than the court group. The C-YJC group cost 4 per cent per person more than the court group, whereas the P-YJC group cost 45 per cent less than the court group. For Police, Legal Aid, and the Children’s Court, average costs are higher for the court group than the YJC group. For Police and Legal Aid YJCs cost less than court regardless of referral source. However, YJCs cost Juvenile Justice on average \$182 more per person than court.

SENSITIVITY ANALYSIS

Since detailed information on costs was limited, the costing method used here involved making many assumptions. To determine the extent to which the above results rely on the specific assumptions chosen, cost estimates were re-calculated using plausible alternatives. The results of this sensitivity analysis are summarised in Table 6.

Custodial orders: YJCs are not intended to be used as an alternative for custodial orders. However, 13 young people in the court group and four in the C-YJC group were given custodial orders over the time period examined. There are two possible reasons why this could be the case. The first is that the young people receiving custodial orders in the court group may have committed more serious offences that would have made them ineligible for a YJC. This would mean that the way in which the matched sample was constructed did not fully account for factors that change the probability of receiving a custodial order, and it would be inappropriate to include the costs of administering custodial order when comparing the court and YJC groups. The second possible reason is that there are some cases which are “grey areas”, where decision makers disagree. One might feel the case is appropriate for conference, whereas another decision maker might feel the case is inappropriate for conference and that a custodial order should be imposed. That relatively few young people in the court group received custodial orders and some people in the YJC group also received custodial orders might be evidence for this possibility. In order to test the effect of having custodial orders as part of the costs of the court and YJC processes, the costs of custodial orders were removed for both the court and YJC groups. Consistent with the number of custodial orders in each group, this had the effect of reducing costs of the court group more than the costs of the YJC group, and reducing the gap between the two costs. However, the YJC group continued to cost about 10 per cent less than the court group.

Table 4: Estimated total costs of court and YJC groups

	Court group	YJC group (total)	C-YJC group	P-YJC group
Police cost				
Number of young people	896	896	500	396
Average time of police work (hours)	39.2	22.2	29.5	12.9
Average cost of police work	\$2,278	\$1,330	\$1,810	\$724
Total police cost	\$2,041,012	\$1,191,315	\$904,792	\$286,523
Legal Aid cost				
Number of young people attending court – pre-conference	–	500	500	–
Average court appearances per person – pre-conference	–	1	1	–
Additional solicitor time for complex matters (hours)	–	0.375	0.375	–
Additional admin time for complex matters (hours)	–	0.042	0.042	–
Number of young people attending court – post-conference	896	128	60	21
Average court appearances per person – post-conference	2.21	4.97	6.51	2.86
Solicitor’s time per appearance (hours)	0.88	0.88	0.88	0.88
Solicitor’s cost per hour (incl. on-costs)	\$79.45	\$79.45	\$79.45	\$79.45
Admin time per appearance (hours)	0.21	0.21	0.21	0.21
Admin cost per hour (incl. on-costs)	\$47.67	\$47.67	\$47.67	\$47.67
Total Legal Aid cost	\$157,333	\$91,425	\$86,653	\$4,772
Children’s Court cost				
Number of young people attending court – pre-conference	–	500	500	–
Average court appearances per person – pre-conference	–	1	1	–
Number of young people attending court – post-conference	896	128	60	21
Average court appearances per person – post-conference	2.21	4.97	6.51	2.86
Number of post-conference hearings in chambers	–	440	440	–
Average cost per appearance	\$320	\$320	\$320	\$320
Total Children’s Court cost	\$633,695	\$445,042	\$425,821	\$19,221
Juvenile Justice – conference cost				
Number of young people attending YJC	–	896	500	396
Average cost per YJC	–	\$2,424	\$2,424	\$2,424
Total Juvenile Justice - conference cost	–	\$2,171,904	\$1,212,000	\$959,904
Juvenile Justice – cost of administering orders				
Number of custodial orders	13	4	4	0
Average non-parole period (months)	3.24	4.5	4.5	–
Average parole period (months)	3.77	6.5	6.5	–
Average custodial cost per day	\$652.13	\$652.13	\$652.13	\$652.13
Average community cost per day	\$16.73	\$16.73	\$16.73	\$16.73
Subtotal – custodial orders	\$860,416	\$370,272	\$370,272	–
Number of CSOs	44	4	3	1
Average CSO length (days)	66.48	56.25	50	75
Average community cost per day	\$16.73	\$16.73	\$16.73	\$16.73
Subtotal – CSOs	\$11,597	\$892	\$595	\$297
Number of other community orders	275	27	20	7
Average other community order length (months)	11.79	10.37	11.05	8.43
Average community cost per day	\$16.73	\$16.73	\$16.73	\$16.73
Subtotal – other community orders	\$1,649,886	\$142,489	\$112,460	\$30,028
Total Juvenile Justice –Order cost	\$2,521,899	\$513,653	\$483,327	\$30,326

Table 5. Comparison of average cost per person

	Court group	YJC group (total)	C-YJC group	P-YJC group
Police	\$2,278	\$1,330	\$1,810	\$724
Legal Aid	\$176	\$102	\$173	\$12
Children’s Court	\$707	\$497	\$852	\$49
Juvenile Justice – Conference	N/A	\$2,424	\$2,424	\$2,424
Juvenile Justice – Orders	\$2,815	\$573	\$967	\$77
Total cost	\$5,976	\$4,926	\$6,225	\$3,285

Table 6. Average cost per person under alternative assumptions

Assumption	Court group	YJC group	Difference
Base case	\$5,976	\$4,926	-17.6%
Removing custodial orders	\$5,016	\$4,512	-10.0%
Assume community order costs are 20% higher	\$6,352	\$4,961	-21.9%
Assume community order costs are 20% lower	\$5,599	\$4,891	-12.7%
Add 20% Legal Aid overheads	\$6,011	\$4,946	-17.7%
Add 20% Police overheads	\$6,431	\$5,192	-19.3%
Assume bottom of Police salary ranges	\$5,859	\$4,904	-16.3%
Assume top of Police salary ranges	\$6,086	\$4,950	-18.7%
Assume Police costs for C-YJC group are same as court group	\$5,976	\$5,187	-13.2%
Assume YJC administration costs are 20% higher	\$5,976	\$5,410	-9.5%
Assume YJC administration costs are 20% lower	\$5,976	\$4,441	-25.7%
Assume multiple defendants	\$5,682	\$4,786	-15.8%
Remove Legal Aid costs	\$5,800	\$4,824	-16.8%
Double Legal Aid costs	\$6,151	\$5,028	-18.3%
Assume marginal costs are 6% of average	\$2,677	\$3,923	46.6%
Assume marginal costs are 33% of average	\$3,616	\$4,209	16.4%
Assume marginal costs are 50% of average	\$4,215	\$4,391	4.2%
Assume marginal costs are 75% of average	\$5,095	\$4,658	-8.6%

the assumption of no overhead costs, overheads of 20 per cent were added to the bottom-up components (Police and Legal Aid). This increased both the court and YJC group costs by similar amounts, without reducing the gap in costs.

Police salaries: For example, a Police response may have specified that an “Inspector” was involved in a case, but the annual salary of an Inspector can vary by up to \$20,000 depending on the officer’s years of service. In the standard costing, the midpoint of these salaries were used when the specific grade was not available. In order to test this assumption, alternative estimates were made using the lowest grade for each ranking as well as the highest grade. Neither of these changes made an appreciable difference to the results.

Police costs for C-YJCs: Court-referred YJCs make up about 56 per cent of all YJCs, but only 28 per cent of the YJC group’s survey responses from police LACs were C-YJCs. It is possible that a LAC reporting very low costs for their last C-YJC had a large effect on the average cost (due to the small number of survey responses), or that the officers who deal with the case after it is referred from the court do not have much information about the work that other officers did before the first court appearance. To account for this, alternative estimates were created using the assumption that the Police costs for C-YJCs were equal to the Police costs for the court group (that is, assuming that it takes as much time for Police to prepare a matter that goes to court and then is referred to a YJC as it does to prepare a matter that goes to court and is finalised in court). This decreased the cost gap between the court and YJC groups slightly,

but YJCs still cost 13 per cent less than court.

YJC administration costs: As previously shown in Table 3, the average administration cost of a YJC changes from year to year as total costs and number of YJCs held fluctuate. The assumption of a \$2,424 average cost was altered by 20 per cent in each direction to determine the sensitivity of the results to this annual fluctuation. A 20 per cent change in the assumed administration costs of a YJC leads to a change in the gap in costs between the court and YJC groups of about eight percentage points. The court group continues to consume more resources than the YJC group, unless the fluctuation in administration costs is very large.

Multiple defendants: The original costing model assumes that each case is distinct and involves a single defendant. In reality, more than one young person can be charged with the

Community orders: The largest component of the cost of the court group was the administration of community court orders such as supervised bonds. To demonstrate how sensitive the results were to the costs of these community orders, alternative values were assumed for the daily cost of administering a community order. Changing the community order administration cost by 20 per cent had the effect of changing the gap between the court and YJC groups by about five percentage points.

Overheads: A limitation with bottom-up estimates is that, because they measure the cost of specific activities, they often do not capture less specific overhead costs that are a necessary component of delivering services. These overhead costs can include corporate support functions (such as finance, human resources, or information technology-related costs) as well as other overheads such as stationery, electricity, or rental of premises. To see how sensitive the results were to

same offence, and can be co-defendants at the same court hearing. In these cases, assuming an average cost is incurred by each defendant may be double-counting the costs of court. An alternative assumption was made that 50 per cent of all cases going to court had two co-defendants. This had the effect of decreasing the cost of court hearings and Legal Aid costs, for both the court and YJC groups. However, the court group continued to be more expensive than the YJC group.

Legal Aid: The costing of Legal Aid relied on discussions with one officer involved in defending young people in court, as opposed to other components that involved audited accounts, or the aggregate responses of a larger group of people. In addition, this costing assumed that Legal Aid represented every young person appearing in court and did not include the Aboriginal Legal Service, which may have different average costs than the Children's Legal Service. To test how sensitive the results were to the accuracy of the Legal Aid estimates, they were removed from the costing process, and also doubled. Changing the estimated cost of Legal Aid had relatively little effect on the results of the costing.

Marginal costs: One issue with the use of top down estimates is that the average costs obtained by these estimates can be very different to the marginal costs - the costs associated with an additional unit of output. That is, the cost of providing a service to an additional client may be much smaller than the total costs of services divided by the total clients served. The marginal costs of the juvenile criminal justice system are unknown. However, some information is available on the marginal costs of adult prisons.

Weatherburn, Froyland, Moffatt and Corben (2010) report that the marginal savings of adult prisoners are between \$11.89 and \$109.51 per inmate per day, depending on the number of inmates that are being reduced. The average costs of adult custodial sentences are also known – \$199.46 per inmate per day in 2010-11 according to the Report on Government Services (SCRGSP, 2012). The marginal and average costs for adult custodial sentences are summarised in Table 7.

To test the sensitivity of the results to the assumption of marginal costs being equal to average costs, costs for the Children's Court, Juvenile Justice custodial orders, and Juvenile Justice community orders were all reduced to 6-75 per cent of their previous values. At the lower range of marginal costs (specifically, where marginal costs are less than 56 per cent of average costs), this had the effect of reversing the previous conclusion: YJCs now cost more than hearing a comparable case in the Children's Court. This is because the average costs of a YJC are equal to their marginal costs, since each conference is individually set up, with a venue hired and a convenor paid specifically for the event. In contrast, the main costs of a Children's Court (costs of building maintenance, power and other utilities, and judicial and registry staff) will be incurred regardless of the number of cases that court happens to hear.

DISCUSSION

The large difference in cost between the C-YJC group and the P-YJC group can be interpreted in two different ways. The first interpretation is that many of the matters that police send to court would be more appropriate to deal with using YJCs, since courts

often later refer the young person to a YJC anyway. C-YJCs are relatively costly simply because the process requires at least two additional court hearings – the referral appearance, as well as the final hearing in court after the outcome plan has been completed. Using this interpretation, the efficiency of the juvenile justice system could be improved if the police had a concept of which cases were appropriate for YJC that was closer to courts' concept, or if police were able to induce a greater number of young people to admit the offence before the case reaches court. This suggests that improved communication between police (particularly Youth Liaison Officers – the officers responsible for conference referral) and courts may be useful in reducing the number of unnecessary court appearances that occur.

The second possibility is that courts are referring some cases to YJCs that may be more efficiently kept in court. About 12 per cent of C-YJC cases in the matched sample were later finalised in the Children's Court due to issues such as non-completion of outcome plans (compared with 5 per cent of P-YJC cases), and these cases had an average number of court appearances of 7.51, compared to 2.21 appearances for cases that remained in court. The young people involved in these specific cases were presumably not helped by the YJC, since they were unable to agree to or complete the outcome plan, and ended up back in court facing a court order anyway. If it is possible to identify the prospective conference clients who are likely to come back to court, this may result in significant savings.

The potential for difference in results depending on whether marginal or average costs are used and what level marginal costs should be assumed to be is an important issue. Whether average or marginal costs are more relevant depends on the policy question to be answered. If one is trying to determine whether courts or YJC processes in their totality are cheaper (for example, in order to decide whether the YJC scheme should be abolished and all YJC participants instead dealt with by way of court), then average costs are more relevant, and YJCs are more cost-effective than courts. However, if one were trying to decide whether to put an additional young person into a YJC or finalise the person's case by way of court, then marginal costs are more relevant. If marginal costs are relatively low – if, for example, the Children's Court and Juvenile Justice have a lot of spare capacity and would not need to acquire new facilities or hire new staff to take on additional clients – then it may be cheaper to deal with the additional young person by way of court.

The value of marginal costs in the criminal justice system has a large impact on many issues such as the evaluation of programs, and so far there has been relatively little published research that has attempted to estimate these costs. While estimates of marginal costs are available for adult custodial sentences, these may not be transferable to other areas such as juvenile sentences, courts, or police. Accurate estimation of marginal costs would allow evaluators to answer more nuanced or specific questions about programs, as well as providing assistance when determining to what level services should be funded.

A number of limitations with this analysis should be noted. Firstly, this study focused on costs borne by NSW Government agencies in the criminal justice system. It is possible that either courts or YJCs result in costs accruing to businesses, other Government agencies, non-Government organisations, victims or offenders,

Table 7: Comparison of Marginal and Average Costs for Adult Custodial Sentences

Reduction in prisoners	Marginal savings (per inmate day)	Marginal cost as proportion of average cost
Up to 100	\$12.64	6.3%
Up to 300	\$72.61	36.4%
Up to 500	\$84.87	42.5%
Up to 1,000	\$98.60	49.4%
Up to 1,300	\$116.38	58.3%

Note: Marginal savings have been inflated to 2010-11 dollars from estimates reported in Weatherburn et al. (2010).

which have not been accounted for. Secondly, the comparison between courts and YJCs is only relevant for the types of young people that are eligible for YJCs. This does not indicate that YJCs would be more effective or cost-effective than courts if YJCs were expanded to deal with more serious offences. Thirdly, cost-effectiveness analyses are based on comparisons of costs and outcome measures. This means that the analysis is only as meaningful as the choice of outcome. If there is an alternative outcome measure in which courts and YJCs differ significantly, then results of a cost-effectiveness analysis on that basis are likely to change.

CONCLUSION

This study indicates that, when viewed in totality, the Youth Justice Conferencing scheme is more cost-effective than the Children's Court at dealing with young people that are charged with non-serious offences. This result was robust to a variation of most assumptions (or combination of assumptions). However, without further examination of the marginal costs of the criminal justice system, it is difficult to say which process is cheaper for an additional young person.

REFERENCES

- Moore, E. (2011a). *The use of police cautions and youth justice conferences in NSW in 2010* (Bureau Brief No. 73). Retrieved from NSW Bureau of Crime Statistics and Research website: [http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/BB73.pdf/\\$file/BB73.pdf](http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/BB73.pdf/$file/BB73.pdf)
- Moore, E. (2011b). *Youth Justice Conferences versus Children's Court: A comparison of time to finalisation* (Bureau Brief No. 74). Retrieved from NSW Bureau of Crime Statistics and Research website: [http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/BB74.pdf/\\$file/BB74.pdf](http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/BB74.pdf/$file/BB74.pdf)
- Smith, N., & Weatherburn, D. (2012). *Youth Justice Conferences versus Children's Court: A comparison of reoffending* (Crime and Justice Bulletin No. 160). Retrieved from NSW Bureau of Crime Statistics and Research website: [http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/CJB160.pdf/\\$file/CJB160.pdf](http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/CJB160.pdf/$file/CJB160.pdf)

Steering Committee for the Review of Government Service Provision. (2012). *Report on Government Services 2012*. Retrieved from Productivity Commission website: <http://www.pc.gov.au/gsp/rogs/2012>

Trimboli, L. (2000). *An evaluation of the NSW Youth Justice Conferencing scheme*. Retrieved from NSW Bureau of Crime Statistics and Research website: [http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/112.pdf/\\$file/112.pdf](http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/112.pdf/$file/112.pdf)

Weatherburn, D., Froyland, G., Moffatt, S. & Corben, S. (2010). *Prison populations and correctional outlays: The effect of reducing re-imprisonment* (Crime and Justice Bulletin No. 138). Retrieved from NSW Bureau of Crime Statistics and Research website: [http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/CJB138.pdf/\\$file/CJB138.pdf](http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/CJB138.pdf/$file/CJB138.pdf)

NOTES

- 1 Specific reoffending measures used in Smith and Weatherburn (2012) included the probability, severity, and number of reoffences within 24 months of the index offence date, as well as the time to first reoffence. There were no significant differences between court and YJC groups for any of these measures.
- 2 See section 47, Young Offenders Act 1997 (for a list of people entitled to attend and participate in a YJC).
- 3 However, costs may be incurred by non-Government organisations that attend the conference and agree to supervise the young person. These costs are not included in this analysis.
- 4 Breach matters and strictly indictable matters were included in the original Smith and Weatherburn (2012) study. However, these matters are not necessarily eligible for conferences, so these were applied as additional exclusion criteria in order to further ensure that the court and YJC groups were comparable. This resulted in reduction in the size of the matched sample from 918 to 896. The results of the effectiveness comparison were not affected by the changes: there continued to be no significant difference between court and YJC groups for any reoffending measure examined.
- 5 Under section 8 of the Young Offenders Act 1997, only traffic offences committed by young people aged 16 or older are ineligible for a conference. However, whether traffic matters are included or excluded from this analysis makes no difference to the results.
- 6 The number of pre-conference appearances for the C-YJC group was not available. However, the Solicitor in Charge of the Children's Legal Service at LegalAid NSW advises that only one adjournment is necessary to refer the case to a YJC.
- 7 The total YJC group was calculated by combining the C-YJC and P-YJC groups. Together, the YJC group is matched to the court group. The proportion of the matched sample that was in the C-YJC group (55.8%) is approximately equal to the proportion of all conferences in 2007 (53.6% were C-YJC) and 2011 (54.7%). Constructing the YJC group using these alternative proportions results in a change in the average cost of the YJC group of less than one percent.