



Australian Institute of Family Studies

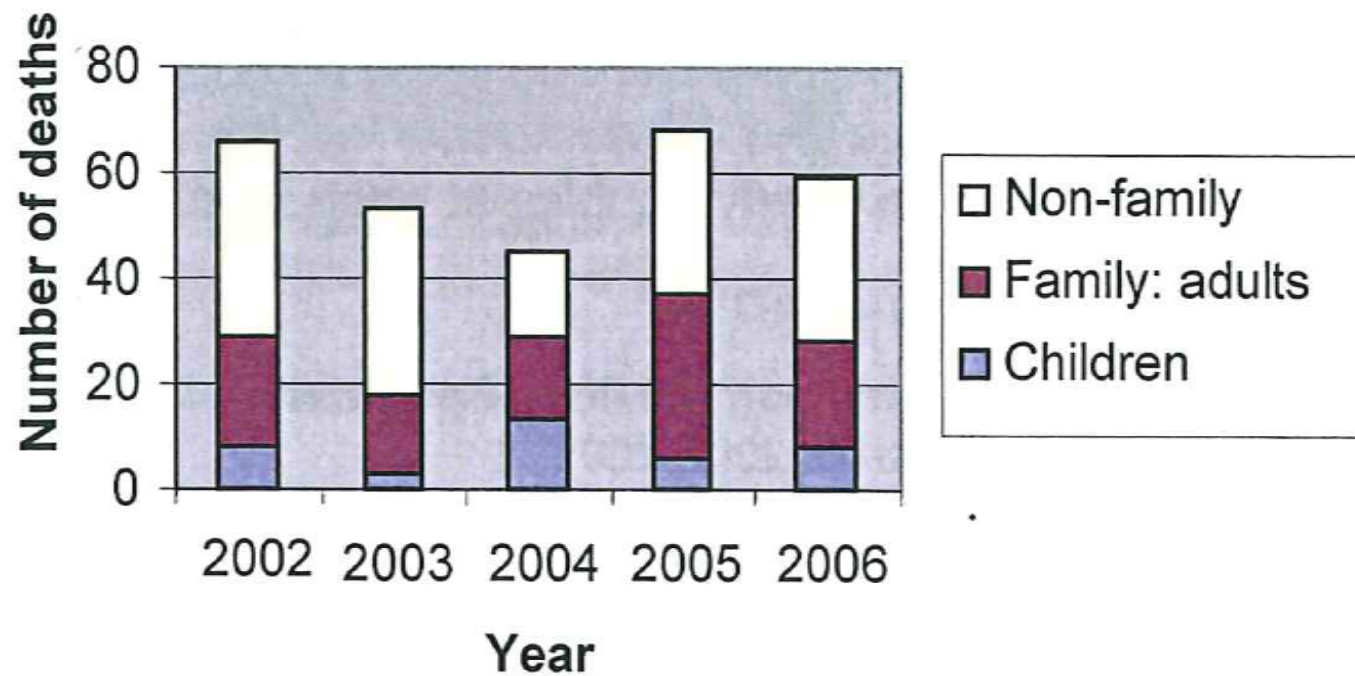
Family Violence and Court Process

Judge Peter Boshier

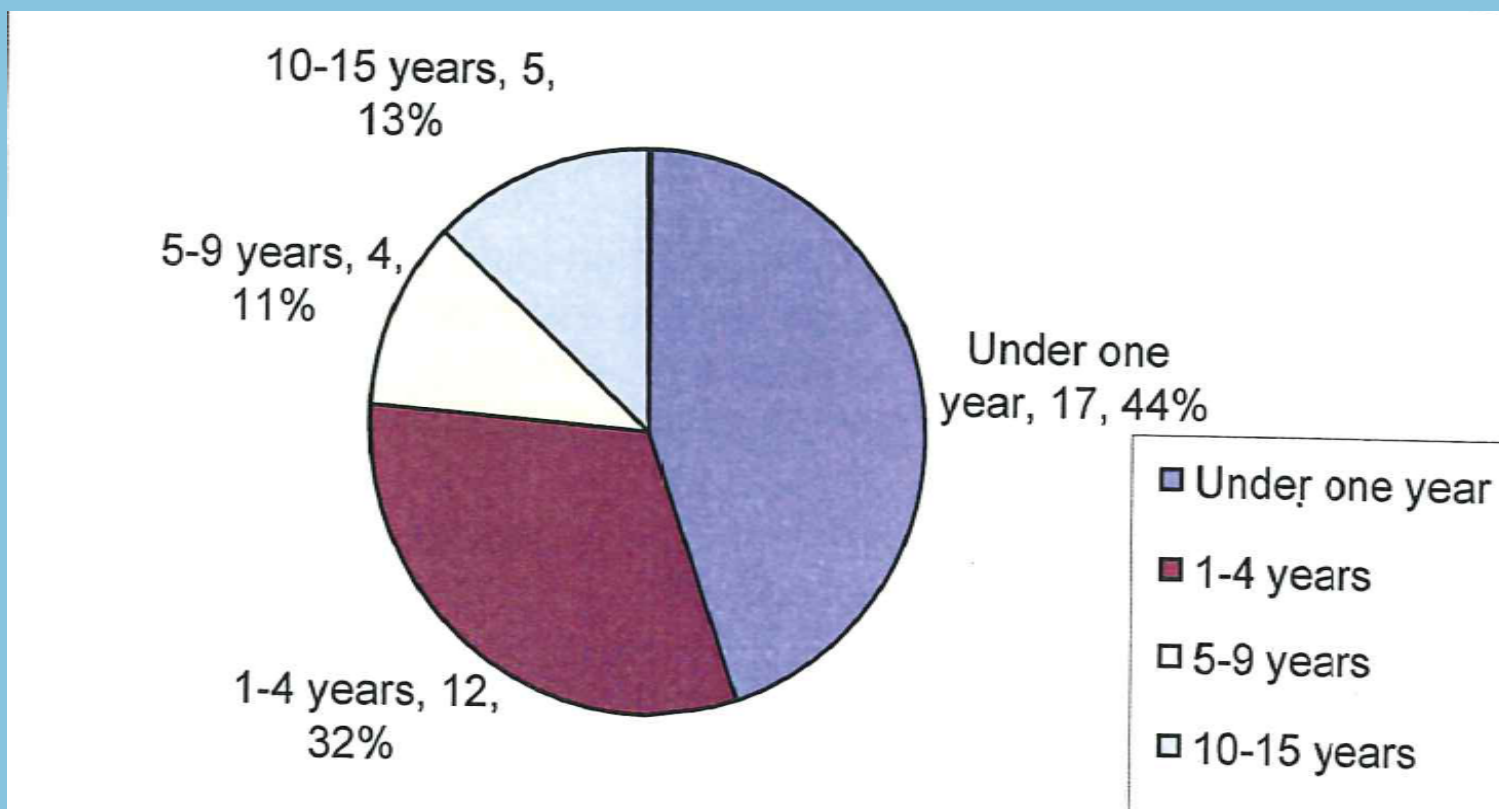


Homicides within Families per year

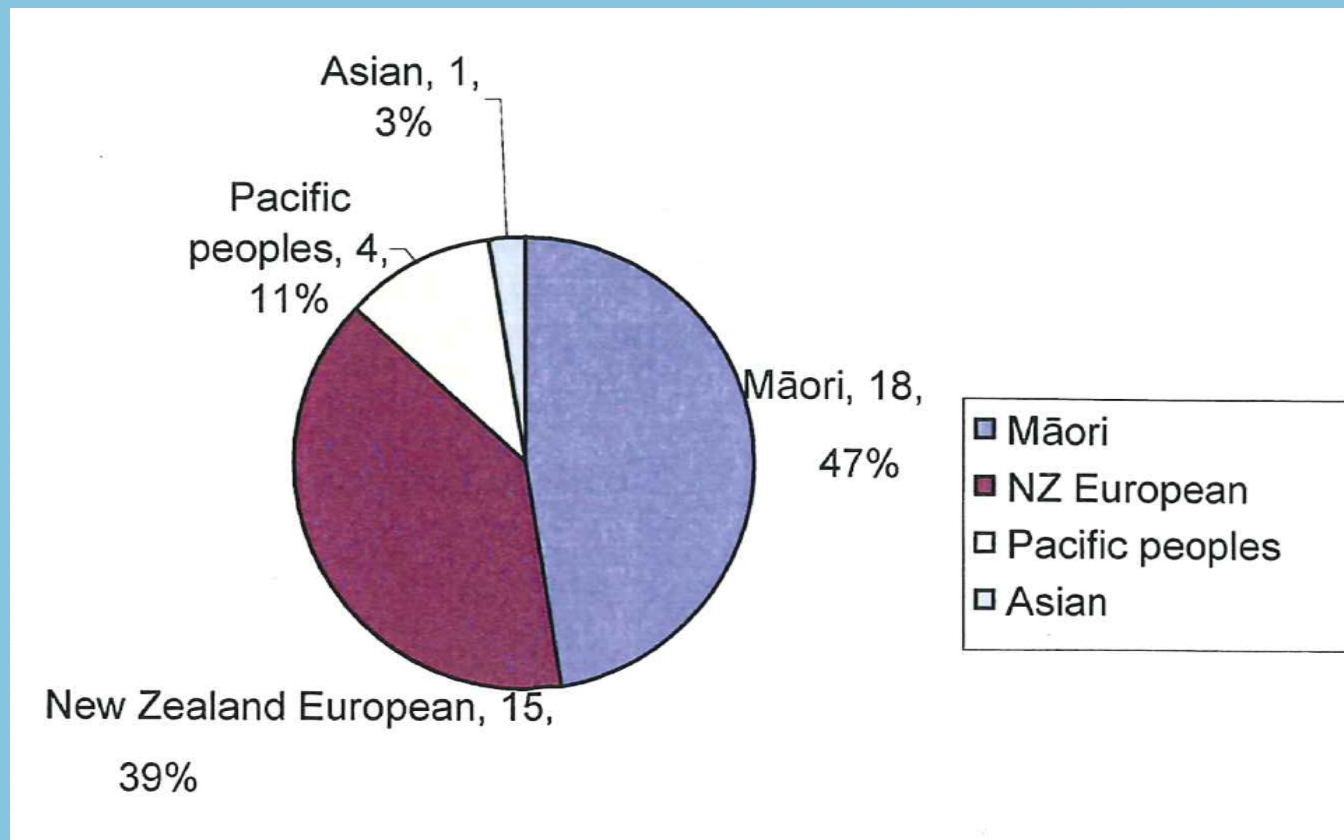
Figure 1. Homicides per year 2002-2006



Age distribution of child homicide victims



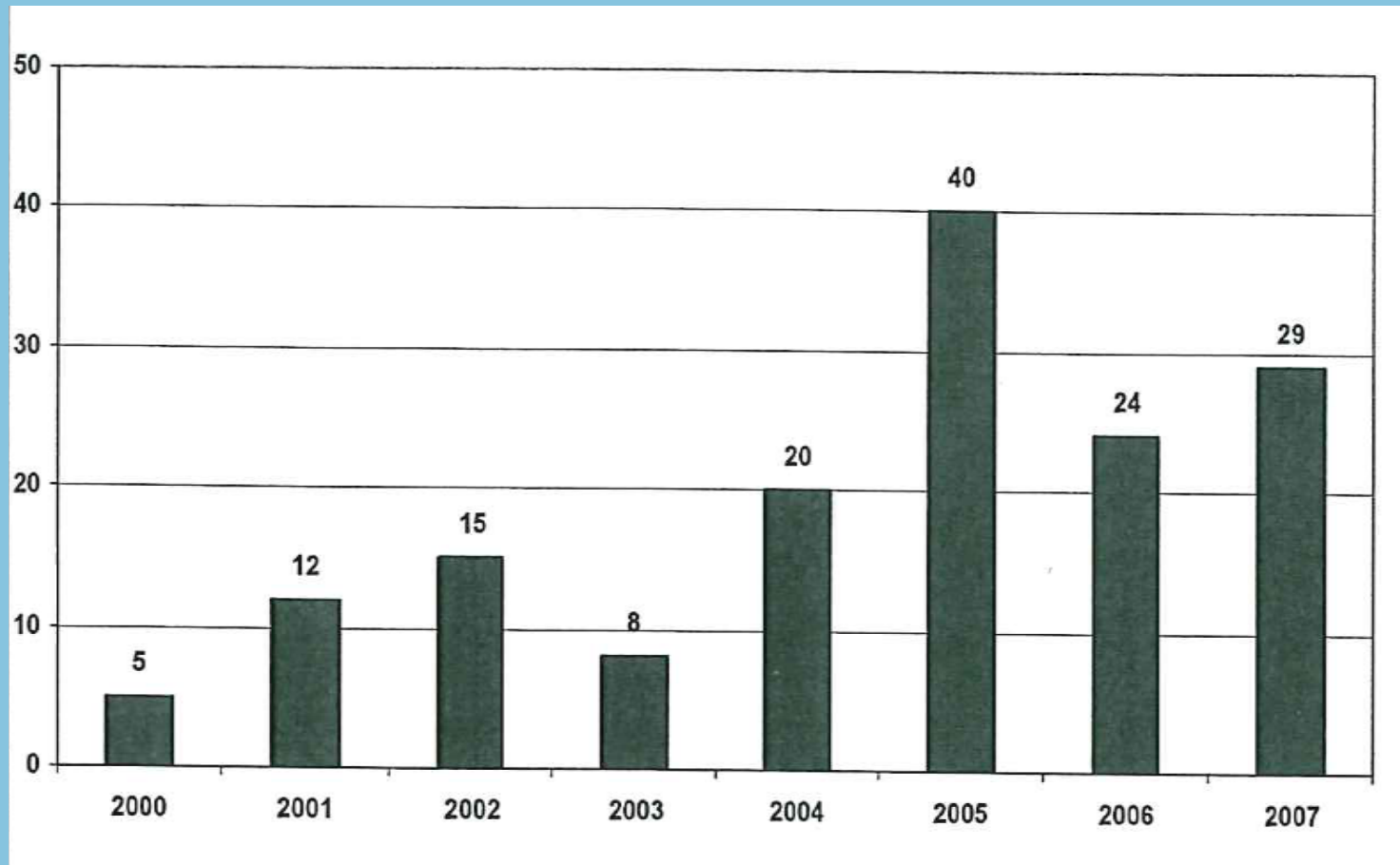
Ethnicity of child homicide victims



Factors common to Family Homicides

- The preponderance of male perpetrators
- Impulsive, hot-headed reactivity more than cool-headed premeditation
- Long-standing, recurrent abusive behaviour
- Neighbourhood deprivation, youth, unemployment and ethnic minority
- Previous offending and history of violence
- Excess drug and alcohol abuse more often than mental illness
- Precipitating event or crisis

Family violence related homicides per year



Statutory Scheme

- **Domestic Violence Act introduced 1995**
- **Protection Orders may be sought for physical, sexual or psychological violence**
- **Most applications are brought by women and without notice**
- **Respondents must attend non-violence programmes**
- **Respondents can defend final orders and hearings must occur within 42 days**

Drop Off in Applications

Calendar Year	Applications	Final orders made	Ratio of applications filed to final orders made
2000	6,015	3699	1:0.61
2001	5,820	3408	1:0.59
2002	5568	3284	1:0.59
2003	5093	2816	1:0.55
2004	4659	2784	1:0.60
2005	4545	2548	1:0.56
2006	4432	2477	1:0.56
2007	4511	2583	1:0.57

Number of without notice applications directed to proceed on notice

Year	2000	2001	2002	2003	2004	2005	2006	2007
Proportion of Applications filed on notice (%)	11	12	14	14	13	11	13	12
Proportion of Applications filed without notice (%)	89	88	86	86	87	89	87	88
Proportion of without notice applications directed to proceed on notice (%)	19	23	24	21	18	17	16	14

The Good and The Bad

- Applications can be dealt with by Judges (usually on the papers alone) immediately
- Criteria for Orders is fairly simple
- The Court's process can be stressful and foreign
- Orders are not uniformly enforced
- Attendance at Victims and Respondents programmes is poor
- Impact on reducing violence is questionable

A More Holistic Approach

- **Courts must make decisions without fear or favour**
- **The judicial system must however act protectively**
- **Victims must have support before Orders are sought and afterwards, irrespective of result**
- **Programmes for victims and respondents need to be culturally and in all respects, appropriate**

Triage and Differentiation

- On 12 April this year, we commenced an Early Intervention Process
- All children's cases will be either Urgent or Standard
- Most will be Standard with a heavy emphasis on counselling, mediation and judge resolution short of hearing
- If there is violence or abuse, through triage, such cases head away from mediation and to direct judicial oversight and decision

www.justice.govt.nz/family

