

Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill



New Zealand Council Of
Christian Social Services

December 2024

Tirohanga Whānui | Overview

The New Zealand Council of Christian Social Services (NZCCSS) welcomes the opportunity to provide feedback on **the Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill**. We challenge the kaupapa to establish a Serious Young Offender category and introduce Young Offender Military Academies. NZCCSS believes greater focus on the determinants of offending by children and young people and the advancement of children's rights is needed, rather than an increase in punitive approaches.

Our main points are:

1. Lack of evidence base for the provisions of the Bill

NZCCSS recommends that this Bill be abandoned due to a lack of evidence of its need or suitability in addressing the issue of serious youth offending.

2. Greater focus on the determinants of offending is needed

NZCCSS recommends a stronger focus within policy on addressing the known determinants of offending by children and resourcing evidence-based interventions.

3. Concern for the enactment of te Tiriti o Waitangi and the United Nations Convention on the Rights of the Child

NZCCSS advocates for this Bill to be abandoned given its implications for children right's under te Tiriti o Waitangi and UNCROC.

Taunakitanga | Recommendations

We raise the following points and recommendations for consideration:

1. Lack of evidence base for the provisions of the Bill

NZCCSS is concerned that this Bill is progressing in response to campaign promises and coalition agreements, rather than in the best interests of the children this Bill targets.

Current statistics indicate a reduction in serious youth offending occurring in the absence of the measures this Bill suggests are needed. Recent reporting by Oranga Tamariki (2024) indicates that rates of serious and persistent offending behaviour among children and young people have decreased by 7% in the last year (Oranga Tamariki, 2024). Reporting by the Ministry of Justice (2024) indicates that rates of children (aged 10-13 years) with serious and persistent offending behaviour decreased by 8% in the past year. While the overall rate of young people (aged 14-17 years) with serious and persistent offending behaviour remained consistent with last year, the rate of rangatahi Māori with serious and persistent offending behaviour decreased by 8% over the last year. This is important to note given that Oranga Tamariki's regulatory impact statement indicates Māori young people will make up 80-85% of the young people eligible for the YSO declaration and military style academy orders

(pg. 13). Given that there has in the past year been a reduction in rates of serious and persistent offending equivalent to almost 50% of the 2030 government target, we query whether this Bill and the measures it contains is needed.

The Regulatory Impact Statement highlights that there is little evidence to support the effectiveness of young serious offender categories or military style academies in improving public safety or reducing rates of reoffending. We question the decision to progress this Bill in advance of completion of the military-style academy pilot and the findings of its evaluation, following the pilot's community stage ending July 2025. There is currently no evidence of the effectiveness of the model being piloted both in and of itself, and in comparison to alternative interventions that already exist or could be alternatives to the military style academy. We are also concerned about the ability to sustain funding for this model beyond the pilot, and the potential for changes in funding to impact delivery of the model or reduce the quality of any support provided. This is not consistent with the government's social investment approach which promotes investment based on evidence of outcomes. It is concerning that this focus is being disregarded in relation to initiatives that impact one of our most vulnerable populations who have typically experienced prior trauma and have complex needs.

"It is essential that, as a society, we consider both the impact our youth justice policies have on marginalised young people and our responsibility to ensure each response instituted is practical, effective and evidence based. As we continue to evaluate whether our responses live up to this standard, we must incorporate the voices of those frontline workers, children, young people and whānau who are directly impacted." (Polglase & Lambie, 2023, pg. 57).

Finally we are concerned by the lack of consultation that has occurred in the development of the Bill, as highlighted in the Regulatory Impact Statement. Failure to consider the views of those most affected by these initiatives, including young people and their whānau, further suggests that the Bill is being progressed by political will rather than based on evidence of demand and the ability to deliver the outcomes desired.

Recommendation 1: NZCCSS recommends that this Bill be abandoned due to a lack of evidence of its need or suitability in addressing the issue of serious youth offending.

2. Greater focus on the determinants of offending is needed

NZCCSS believes greater focus on the determinants of youth offending is needed to adequately address this issue. Research confirms that young people who offend are likely to be known to children's agencies and have experienced the impacts of family violence, criminal offending, issues of mental health and addiction and poverty within their whānau or home environment. They are more likely to themselves have been the victim of crime, received a mental health referral and received a truancy intervention (Reil et al, 2022; Social Wellbeing Agency, 2023).

We are concerned to see increasingly punitive approaches introduced concurrent to reductions in services and supports that address the known contributing factors that place a child or young person more at risk of offending. This is evident in cuts to prevention and early intervention services for tamariki and whānau within the Oranga Tamariki system and changes to supports such as benefits, food grants and emergency housing. These measures, and those contained in the Bill, contradict the findings of current research into this issue which note the negative impacts of incarceration for young people, the importance of early intervention and prevention programmes and community-based approaches, and the need to address the factors that keep people in poverty (Reil et al, 2022; Mendel, 2023; Social Wellbeing Agency, 2023).

“Overall, key stakeholders described a child welfare system that is currently reactive, not proactive, and fails to effectively address the needs of children even though these are often well-known to services.” (Reil et al., 2022, pg. 4).

Despite our understanding of these risk factors and evidence of what is and is not helpful, children and young people will continue to suffer from our *“missed opportunities”* to engage early and effectively (Reil et al., 2022, pg. 4). Again this approach appears to contradict a focus on social investment that would see greater emphasis on the evidence base that exists and recognises the critical nature of prevention and intervention.

Central to avoiding these *“missed opportunities”* is this is the ability to engage and meet the needs of children during early and middle childhood (ibid). While we have a strong focus on early childhood within policy, greater support for children during middle childhood could assist in setting children up well for adolescence:

“Although the preschool years establish the base for future development, experiences in middle childhood can sustain, magnify or reverse the advantages or disadvantages that children acquire during the preschool years. At the same time, middle childhood is a pathway to adolescence, setting trajectories that are not easily changed later.” (Huston & Ripke, 2006, p.2).

Our report on middle childhood *Te Kōrero mō ngā Tamariki* (Wilson et al., 2024) provides greater insight into middle childhood in Aotearoa and where there are opportunities to support children during this age stage.

Recommendation 2: NZCCSS recommends a stronger focus within policy on addressing the known determinants of offending by children and resourcing evidence-based interventions.

3. Concern for the enactment of te Tiriti o Waitangi and children’s rights

NZCCSS is concerned that this Bill infringes on children’s rights under te Tiriti o Waitangi and our commitments under the United Nations Convention on the Child (UNCROC).

Specific concerns relating to te Tiriti o Waitangi include:

- The disproportionate impact of this legislation on tamariki and rangatahi Māori and the extent to which this may further embed inequities for this population of children and young people, counter to the Crown’s obligations under Article 3 of te Tiriti
- The lack of consultation with Māori in the development of this Bill and the impact of this on the Crown’s obligations under Article 2 to uphold tino rangatiratanga over taonga which includes mokopuna
- The provision for the removal of most mandatory Family Group Conferences where a young person declared to be a YSO reoffends, and the impact of this on whānau involvement and tikanga

In relation to Articles 37 & 40 of the Convention we are concerned about:

- The use of force that this Bill enables outside of youth justice facilities and the potential impact of this force being used in settings where inadequate training has been provided, or inadequate accountability is in place.
- Children’s access to justice and the likelihood of children raising complaints and being supported to take legal action where their rights are breached.
- The risk of stigmatisation from the categorisation of Young Serious Offender

- Potential infringements of the Convention due to increasing use of punitive measures and criminalisation of children.

Recommendation 3: NZCCSS advocates for this Bill to be abandoned given its implications for children right's under te Tiriti o Waitangi and UNCROC.

Ngā Tohutoro | References

Huston, A. C., & Ripke, M. N. (2006). Middle Childhood: Contexts of Development. In A. C. Huston & M. N. Ripke (Eds.), *Developmental Contexts in Middle Childhood: Bridges to Adolescence and Adulthood* (pp. 1–22). chapter, Cambridge: Cambridge University Press. <https://www.cambridge.org/core/books/abs/developmental-contexts-in-middle-childhood/middle-childhood-contexts-of-development/F1DAC2E948142AAC8FEC463EAF063B96>

www.cambridge.org/core/books/abs/developmental-contexts-in-middle-childhood/middle-childhood-contexts-of-development/F1DAC2E948142AAC8FEC463EAF063B96

Mendel, R. (2023). Why youth incarceration fails: an updated review of the evidence. <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>

Ministry of Justice. 2024. *Youth Justice Indicators Summary Report*. December 2024. Wellington: Ministry of Justice.

Oranga Tamariki (2024). *Performance measures for ministerial priorities. Quarter One 2024/25*.

<https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Ministerial-priorities/Performance-Measures-for-Ministerial-Priorities-Report-Quarter-One-2024-25.pdf>

Oranga Tamariki (2024). *Regulatory Impact Statement Young serious offender declaration and military-style academies*. <https://www.treasury.govt.nz/sites/default/files/2024-09/aris-ot-ysod-may24.pdf>

Polglase, L., & Lambie, I. (2023). A sharp decline in youth crime: reviewing trends in New Zealand's youth offending rates between 1998 and 2019. *Current Issues in Criminal Justice*, 36(1), 42–62.

<https://doi.org/10.1080/10345329.2023.2236730>

Reil, J., Lambie, I., Becroft, A., & Allen, R. (2022). *How we fail children who offend and what to do about it: 'A breakdown across the whole system'. Research and recommendations*. Auckland, NZ: The Michael and Suzanne Borrin Foundation, the New Zealand Law Foundation & the University of Auckland.

Social Wellbeing Agency. (2023, September). Wellbeing of children and young people who offend.

Summary of findings. *Te Atatū - Insights*. <https://www.sia.govt.nz/assets/Document-Library/Wellbeing-of-children-and-young-people-who-offend.pdf>

Wilson, M J., Hurst, N A., Hamlin, K M. & Mackay, R P. (2024). *Te Kōrero mō ngā Tamariki*.

https://nzccss.org.nz/wp-content/uploads/2024/06/NZCCSS_Te-Korero-mo-nga-Tamariki_May2024.pdf

Ko wai tātou | Who we are

NZCCSS has six foundation members; the Anglican Care Network, Baptist Churches of New Zealand, Catholic Social Services, Presbyterian Support and the Methodist and Salvation Army Churches.

Through this membership, NZCCSS represents over 230 organisations providing a range of social support services across Aotearoa. Our mission is to call forth a just and compassionate society for Aotearoa, through our commitment to our faith and Te Tiriti o Waitangi.

Further details on NZCCSS can be found on our website - www.nzccss.org.nz.

Ingoa whakapā | Contact Name

Rachel Mackay eo@nzccss.org.nz

Melanie Wilson