



NEW ZEALAND COUNCIL OF CHRISTIAN SOCIAL SERVICES

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SUBMISSION TO THE SOCIAL SERVICES SELECT COMMITTEE ON THE CHILDREN, YOUNG PERSONS AND THEIR FAMILIES (YOUTH COURTS JURISDICTION & ORDERS) AMENDMENT BILL

Introduction

1. The New Zealand Council of Christian Social Services (NZCCSS) represents six denominations: the Anglican, Baptist, Catholic, and Presbyterian social services agencies, as well as the Methodist and the Salvation Army churches.
NZCCSS works for a just and compassionate society in Aotearoa New Zealand. We see this as a continuation of the mission of Jesus Christ. In seeking to fulfil this mission, we are committed to giving priority to poor and vulnerable members of our society and Te Tiriti O Waitangi.
2. Collectively, our six members are responsible for over 500 social service delivery sites in their networks throughout New Zealand. Our members deliver a wide range of supports that cover such areas as child and family services, services for older people, food bank and emergency services, housing, budgeting, disability, addictions, community development and employment services.
3. Approximately half of our member agencies work with young people and their families. Youth justice related services include social work support, counselling, mentoring and advocacy, and a small number of services provide foster care and residential care facilities. A larger number of providers work in the area of early intervention and prevention, supporting families experiencing difficulties related to poverty, inadequate housing, addictions, relationship issues and parenting difficulties. Their experiences help to inform this submission. Further details on NZCCSS are provided in Appendix I.
4. NZCCSS welcomes the opportunity to speak to this submission, and would be represented by Trevor McGlinchey (NZCCSS Executive Officer, and Anne Kelly (NZCCSS Policy Advisor) both of whom can be contacted through the NZCCSS Secretariat on 04 473 2627 or via admin@nzccss.org.nz.

5. The format of this submission commences with preliminary observations followed by a brief critique of four of components of the Children, Young Persons and Their Families (Youth Courts Jurisdiction and & Orders) Amendment Bill:
- Widening the jurisdiction of the Youth Courts to deal with serious offenders aged 12 and 13 years
 - Widening of the sentencing options available to Youth Courts
 - Doubling the length of residential orders (from 3 to 6 months) and
 - Introduction of military style camps for serious repeat offenders

Preliminary Observations

“Imprisonment is not effective for young people as a means of reducing re-offending. That is best done in the community, and better still in the context of the environment which probably contributed to the offending and to which the offender will have to return.”¹

Valuing Early Intervention

6. Christian Social Services have a long history of working with young people and their families in the context of their communities. The Council strongly advocates for government policies and resources that recognise the importance of early intervention and prevention supports. “What is really needed is a focus on positive relationships rather than a down the track focus on problems”.² This Bill does not seek to strengthen the family support systems that would help to prevent youth offending, but rather puts greater emphasis on the options available to the Youth Court, without sufficient evidence to justify this move.

Focus on the problem

7. If the government wishes to reduce offending committed by children and young people by addressing the *underlying causes*, their policy and legislative responses need to directly align with the problem. NZCCSS contends that the perceived short-comings in the tools available to the Youth Court to deal with offenders are not the priority issue. Rather, the focus needs to move to the environments that damage young people in the first place, and produce the risk factors that lead to offending behaviour. Moreover, there is a significant

¹ Sending out an SOS – Youth Justice needs the Community, Judge Becroft, Working Together Conference, November 2007

² Ibid:34

lack of specialist staff and effective programmes available for children and young people who are offending.

8. MSD officials point out that conduct disorders, affecting an estimated 5-10% of New Zealand children, are the single most important predictor of a range of poor outcomes and for many “the pathway from early conduct problems typically leads to youth offending, family violence and, ultimately, serious adult crime”³ Officials also advise that this is a significant shortage of behavioural services to deal with behavioural problems because no agency has clear accountability for this area. They point out that “this is despite good evidence that high quality programmes can make an enduring difference”.⁴

Focus on what works

9. In a paper presented at an international conference Judge Becroft describes community based approaches to youth offending as “a recipe for success”.⁵ This is because the “weight of evidence shows a community based approach to be more likely to reduce reoffending than custodial sanctions”.
10. Judge Becroft has also noted that 70% of persistent, more hard-core youth offenders are not at school, and 80% have a drug or alcohol problem. It follows that community strategies to reduce alcohol consumption, and services to help youth with alcohol problems could help reduce youth violence. Similarly keeping young people constructively engaged in the community, through school or other means, seems a promising strategy.⁶
11. There is substantial evidence of how difficult it is for the criminal justice system to reduce recidivism for both young people and adults. Legislative amendments that capture a greater number of young people within the Youth Court system must therefore be treated with the upmost caution.
12. NZCCSS acknowledges the importance of reducing youth offending by most serious young offenders because of the disproportionate amount of crime they commit. The level of recidivism and degree of seriousness of the offending does not take away the responsibility of government to deal with youth offending in the most effective ways. Early engagement in the formal justice system has not proven to be effective in reducing offending.

³ *Briefing to the Incoming Minister: supporting vulnerable children and young people*, CYF MSD 2008

⁴ *Briefing to the Incoming Government: Social Outcomes Briefing*, Social Sector Forum 2008

⁵ *Community based approaches to youth offending*, Conference on Rehabilitation of Youth Offenders, Singapore, 20-21 November 2007

⁶ The Press, “*The truth on youth crime*” 1 November 2005

13. Each part of the Bill is discussed below in terms of our knowledge of best practice, derived from external literature and our own research and our members' experiences of working with young people.

Widening the jurisdiction of the Youth Court to deal with serious offenders aged 12 and 13 years

14. NZCCSS is opposed to widening the jurisdiction of the Youth Court to include serious offenders aged 12 and 13 years for the following reasons:
- a. It draws children into the criminal justice system at a younger age which research shows is likely to have a negative rather than positive impact of the young offender⁷
 - b. It is contrary to our obligations as a signatory to the United Nations Convention on the Rights of the Child (UNCROC)
 - c. The numbers of serious offenders in this age bracket is very small and does not warrant this amendment
 - d. It is unclear whether the Family Court's current jurisdiction over offenders in this age group is inadequate. If this is the case, changes should be made to the Family Court to address these inadequacies rather than shifting the issues into the Youth Court domain
 - e. There are better ways of supporting this age group (and their families) using specialist staff in community based settings
 - f. Our own research⁸ with families on the effectiveness of support services demonstrates the importance of engaging with families and young people in their own communities using strength based holistic approaches.

Widening of the sentencing options available to Youth Courts

15. This Bill, should it be enacted, gives the Youth Court the power to impose a range of compulsory orders including parenting, mentoring and drug and alcohol rehabilitation programmes. It is unclear to us whether there is a need to expand the sentencing options available to Youth Courts given the powers they already have⁹ and the options that already

⁷ *Young and Accountable? Should NZ lower the age of criminal prosecution?* UNICEF NZ Summary Position paper, October 2008

⁸ *Grassroots Voices*, NZCCSS, February 2009

⁹ For example, the existing Supervision with Activity order has a focus on rehabilitation in the community and is an alternative to the Supervision with Residence Order, however it is underutilised. Improvements

exist via Family Group Conferences. From our members' experiences of working with families the more pressing issue relates to problems families have in accessing help when the need it and the lack of services available to them. This was one of the key findings of our recent *Grassroots Voices* research. This research involved interviews with 130 clients of Christian social services, 82 social workers and 33 agency chief executives.

16. Gaps in services identified by families interviews for *Grassroots Voices* included a lack of affordable (or free) parenting support, a lack of affordable counselling for children and young people and a lack of access to specialist support services for parents whose children have behaviour problems.¹⁰ A number of families expressed frustration at the lack of practical support available to them to cope with children who feel angry and act violently:

"In every area visited for the research, parents and social workers spoke of the lack of resources, both in terms of funds and services, for young people with anger problems".¹¹

17. Research carried out by a Christian member agency (Presbyterian Support Upper South Island) on youth anger issues had similar findings. Parents in *A Fistful of Tears* reported that support was not available early enough: "you have to wait for the crisis to happen". Parents asked for "greater access to specialist services" and "more affordable services".¹² Professionals emphasised that "more programmes and funding" and "no waiting time" would help reduce youth anger and violence issues and note there needs to be provision for "consistent and on-going support, not just a one or two sessions thing".
18. Judge Becroft has also identified the need for government to increase the numbers of community based programmes, particularly programmes related to specific learning disabilities, alcohol and drug dependencies, health and education where shortages are the most chronic.¹³
19. NZCCSS may consider supporting the widening of sentencing options available to Youth Courts if it was accompanied with an increased investment in the provision of appropriate support services to young people and their families.

could be made to ensure this option is used more e.g. better training of CYF staff, better funding of social workers etc (Becroft 2007:31-33).

¹⁰ *Grassroots Voices*, NZCCSS, 2009:95

¹¹ *Grassroots Voices*, 2009:62

¹² Sue Milligan, *A Fistful of Tears: Exploring Youth Anger*, PSUSI, November 2008:40

¹³ *Sending out an SOS – Youth Justice needs the Community*, November 2007:32

Doubling the length of residential orders (from 3 to 6 months)

20. There are conflicting views of the appropriate length of interventions with youth offenders, whether delivered in a residential or community setting. Parents and staff who participated in *A Fistful of Tears*¹⁴ told us that professional support for children with anger problems was not being provided for long enough and that 'time generous' support is needed for young people with the greatest needs. Similar arguments are made regarding residential programmes.
21. However it is also argued that there is an absence of New Zealand based research on the effectiveness of residential orders. Judge Becroft has commented that "there is no completed quantitative research into the success or otherwise of top end Youth Court orders" adding "In what other jurisdiction would Judges impose sentences, the efficacies of which are unknown?"¹⁵ Until there is quality research that demonstrate the effectiveness of residential orders it is ill advised to lengthen them.
22. A research review by Kaye McLaren on what works to reduce youth offending found that residential interventions were more expensive and less likely to be effective than non residential alternatives. In short, residential programmes have to "work harder to succeed".¹⁶ Again, it appears unwise to lengthen the duration of residential orders as this intervention is more costly and the more difficult to get right.

Introduction of military style camps for serious repeat offenders

23. There is a large body of evidence that military style/boot camp interventions do not reduce the likelihood of reoffending. Get tough interventions that try to scare young people out of offending with a short sharp shock "almost always fail".¹⁷ For persistent young offenders being held to account is insufficient. Effective interventions must address the criminogenic needs (risk factors) that young offenders present.
24. We acknowledge that the Fresh Start package tries to address some of the known shortcomings of boot-camp style approaches by offering 'military activity camps' alongside a

¹⁴ A Fistful of Tears: Exploring Youth Anger, PSUSI, November 2008:40

¹⁵ Top end order include supervision with residents orders and supervision with activity orders (*Addressing the Underlying Causes of Offending: What is the Evidence?* Judge Becroft, presentation to Victoria University of Wellington School of Law, 26 February 2009)

¹⁶ Kaye L McLaren, *Tough is Not Enough: Getting Smart About Youth Crime*, Ministry of Youth Affairs, June 2000:12

¹⁷ Ibid

new range of treatment orders (to deal with some of the causes of offending) and offering the intervention over a longer length of time. However we have reservations about military styles camps (and the Fresh Start package in general) for the following reasons:

- a. It is risky to put antisocial young people together as they can encourage each other to be antisocial.
- b. Camps provide an artificial environment. Successful programmes generally include families and work to rehabilitate the young person in the context of their schools, neighbourhoods, peers and community
- c. For a military style programme to be effective it is critical that highly skilled staff are able to target a range of risk factors for each participant and use a variety of techniques to address these factors. We question the current availability of specialist staff with the requisite therapeutic and educative skills to work with persistent offenders, particularly in a military context.
- d. It is also questionable whether the New Zealand Defence Force is the right agency to develop a military style residential programme aimed exclusively at recidivist offenders when youth justice matters are outside its area of expertise.¹⁸
- e. Given the offending history of these young people, even for those who do respond well to a military type camp, it is unlikely that there will be any career path within the Defence Force. This could unwittingly set young people up to fail.

Summary

25. The CYF Youth Courts Jurisdiction & Orders Amendment Bill does not strengthen community based early intervention and prevention services which, if adequately resourced, would have a positive impact on reducing offending by children and young people.

26. Some of the amendments in this Bill move in an opposite direction to known effective practice with young offenders – for example introducing military style camps and extending programmes that aggregate offenders in artificial environments. NZCCSS is opposed to widening the jurisdiction of the Youth Court to deal with offenders aged 12 and 13 years. As increased investment in the provision of appropriate supports for young offenders and their families have not been included within this bill and an adequate case for widening the sentencing options available to Youth Courts has not been made.

27. Options for improving Family Court practices for children remain unexplored.

¹⁸ The Limited Service Volunteer programme is quite different as participation is voluntary, participants don't have a history of serious and repeat offending and do not present with a multiple problem backgrounds.

28. Information from Christian providers and the families they work with indicates that the critical issue is a lack of specialist support available for young people with specific learning difficulties, severe conduct disorder, addictions and histories of violence, abuse and neglect. Environmental factors that contribute towards youth anger and violence are often ignored. Schools and whanau do not have affordable and timely access to the support services they need. The underlying issues which cause young people distress often remain unaddressed. Until these issues are addressed children and young people will continue to offend.
29. How societies and government respond to serious offending by children and young people remains challenging. The Children's Commissioner has called for more attention to be paid to the causes of challenging behaviour rather than on management and control of such behaviour. She asks what is being communicated when children offend?¹⁹ NZCCSS agrees with the Commissioner and with the UNICEF statement that "more attention to the environments that grow damaged children is likely to achieve better results. Children's rights to survival, protection, education and to be treated fairly are at the heart of preventing juvenile crime".²⁰

¹⁹ Dr Cindy Kiro, *Addressing the Underlying Causes of Offending: What is the evidence?* February 2009

²⁰ *Young and Accountable? Should NZ lower the age of criminal prosecution?* UNICEF Summary Position paper, October 2008:

Appendix I – Overview of NZCCSS

NZCCSS Mission and Role

NZCCSS works for a just and compassionate society in Aotearoa New Zealand. We see this as a continuation of the mission of Jesus Christ. In seeking to fulfil this mission, we are committed to:

- giving priority to poor and vulnerable members of our society
- Te Tiriti O Waitangi

The key roles of NZCCSS are to represent the common interests and vision of our members at the national level; to supply information and networking opportunities to support members provide quality services; and to develop, critique and advocate for policies that will assist poor, vulnerable and disadvantaged members of society.

A national Council, made up of two representatives from each denomination, governs NZCCSS.

A small Secretariat team carries out the day-to-day work of the Council. This includes gathering and distributing information, research on social policy issues, and building relationships with government officials and others working in the community sector.

A Policy Group oversees the policy and research work that NZCCSS does in three key areas: child and family, housing and poverty and services for older people. Each Policy Group is made up of at least two council representatives plus social services managers, academics or others with particular expertise in that area. This means that the work that NZCCSS does is well informed by what is happening in our members' communities.

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