



**Oranga Tamariki (Responding to Serious  
Youth Offending) Amendment Bill**

Submission from VOYCE – Whakarongo Mai

January 2025

# Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill

About VOYCE - Whakarongo Mai

**We are VOYCE - Whakarongo Mai, which stands for Voice Of the Young and Care Experienced - Listen to me.** We are an independent non-governmental organisation that was co-designed by tamariki and rangatahi with care experience. **We exist to amplify the voices of tamariki and rangatahi** through individual and systemic advocacy and ensure they are at the centre of all conversations and decisions being made about their lives.

**We believe that it is only in working together** (with young people, government, the philanthropic and nongovernment sectors) that the vision of **an Aotearoa where all tamariki and rangatahi live with love and mana** will be realised.

We are guided by our five pou in all that we do:

1. WHAKAMANA (empowerment): We advocate alongside of and with care experienced tamariki and rangatahi, in relation to their goals and concerns
2. TŪHONO (connection): We connect care experienced tamariki and rangatahi with each other through activities and local networks
3. WHAKATAIRANGA (amplification): We promote the collective voice of care experienced tamariki and rangatahi so that they can influence the wider system
4. WHAIPŪKENGA (skills development): We equip and enable care experienced tamariki and rangatahi for their future
5. RANGATIRATANGA (leadership development): We build leadership among care experienced tamariki and rangatahi

For more information, please contact our Impact and Insights team at [ImpactandInsightsTeam@voyce.org.nz](mailto:ImpactandInsightsTeam@voyce.org.nz)

## Contributions

It is important that those with lived experience of the State Care and the Youth Justice system have the opportunity to have input into laws and systems that impact them. Due to the time constraints raised below, and in particular the timing of this legislation being open for submission during the Christmas holiday period. We have not been able to engage with young people on this submission as much as we usually would.

Instead, we have used the previous engagement undertaken in the writing of our submission on the Ram Raid Offending and Related Measures Amendment Bill and the Youth Demerit Points Bill to inform this Bill. As all three pieces of legislation are in response to a judgemental and reactive political response to a deeply complex issue. We have also drawn on input and quotes from care experienced rangatahi, which are woven through our submission. This includes work informing the Royal Commission of Inquiry into Abuse in Care from Te rōpū Kaitiaki mō ngā teina, e haere ake nei.

**January 2025**

Committee Secretariat  
Social Services and Community Select Committee  
Parliament Buildings  
WELLINGTON  
ssc@parliament.govt.nz

Hei Mihi

**Ko tūmanako, ko wawata ka tau ki runga, ka tau ki raro, ka tau ki te aroaro o te kawanatanga, e ara e!**

Our hopes and desires are above, are below and in the presence of the government, pay heed!

**Rere kau atu ngā mihi ki nunui ma, ki roroa mā. Okioki e!**

We acknowledge the ancestors who have departed

**Tihei Mauri Ora –**

And to us behold the breath of life.

**Ko te whakatau me Whakatinanahia mai ēnei kohinga kōrero I makere mai I ngā ngutu o te papori Atawhai. kei a mātou te mana!**

Our directive is for you to adhere to the collection of thoughts from our care experienced community. We who have mana!

**Ka whakairihia ēnei wawata kia puta ai ki te whei ao ki te Ao Mārama, tihei Mauri ora!**

And so our submission is centred around providing clarity and wellbeing for all.

# Submission on the Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill

## Our general position

**VOYCE – Whakarongo Mai strongly opposes this Bill.**

**VOYCE – Whakarongo Mai wishes to appear before the Committee to make an oral submission.**

## Our recommendations in summary

Below is a list of the recommendations that form the basis of our submission. The reasoning behind each of these is found in the body of our submission:

- 1. Redirect the funding for the military-style academy into the existing youth justice and care and protection system to allow earlier broader and more intentional interventions that have a therapeutic, trauma-informed, wrap-around approach.**
- 2. Take the time to develop systems, supports and services in consultation with the tamariki and rangatahi this Bill impacts.**
- 3. Stop the progress of this Bill through parliament until a full review of the military-style academy pilot has been undertaken and can inform any future programmes of support for young people in conflict with the law.**
- 4. Ensure the Bill is child and young people focused and is in the best interest of children.**
- 5. Take the time to develop systems, supports and services in consultation with Māori to address the persistent inequities for Māori in the Youth Justice system.**
- 6. Prevent offending by addressing poverty and trauma, not by increasing the severity of how young offenders are treated.**
- 7. Base policy and legislation on evidence and prioritise wrap-around trauma-informed support that addresses the underlying causes of offending.**
- 8. Include the option for early release from orders and further consider the issues we have raised in relation to how orders are being structured.**
- 9. Should the extension of use of force powers proceed, amend the legislation to include a mandatory requirement for regular, public reporting of all use of force for all children and young people in care which is independently monitored and establish a set of explicit national standards with regards to the use of force.**

- 10. Repeal the proposed sections in the Bill that enable warrantless arrests.**
- 11. Retain the current requirement for FGCs.**
- 12. Review the use of electronic monitoring based on the experiences of the military-style academy pilot.**
- 13. Provide sufficient funding to ensure the system is adequately supported and monitored so that it does not negatively impact on the young person's ability to access supports and services.**
- 14. Remove the criminal offence for absconding from the Bill.**
- 15. Remove admission of offence at FGCs from the mechanisms by which an application for YSO can be made.**

## 6 promises

Our VOYCE – Whakarongo Mai 6 Promises reflect basic expectations from care experienced tamariki and rangatahi. Oranga Tamariki continues to fail to meet these promises to tamariki and rangatahi in state care in Aotearoa. We would like to highlight three promises in particular in relation to this Bill – promise 1 to make sure we have what we need, promise 2 to be kept safe, and promise 5 to be listened to.

1. E kī taurangi ana au kia whakahōnore a Aotearoa i tōna haepapa, ā mātua nei, kia whakarato ki a koe  
**I promise to take care of you and make sure you have the things you need**
2. E kī taurangi ana au kia noho mātāmua te pūmautanga i roto i tō oranga.  
**I promise to make sure you have safety and stability in your life**
3. E kī taurangi ana au kia whakarato i te tautoko ki a koe e whai ai koe, e whai wāhi ai hoki koe ki ō whāinga me ō wawata mātauranga.  
**I promise to help you with your education goals and dreams**
4. E kī taurangi ana au kia whai wāhi koe ki ngā ratonga hauora e tika ana mōu i te wā e tika ana.  
**I promise to support you with healthcare when you need it**
5. E kī taurangi ana au kia mātua whai wāhi atu koe ki ngā whakatau e pā ana ki a koe kei noho ana koe ki ngā pūnaha tiaki.  
**I promise to listen and include you when decisions are made about you**
6. E kī taurangi ana au kia whanake i tō tuakiri, kia mōhio ki tō whakapapa, kia whakatipu hoki i tō mana Motuhake  
**I promise to help you feel confident in who you are, and learn about your whakapapa, culture and language**

These promises arise from our children’s basic human rights. Human rights that every tamaiti and rangatahi in Aotearoa should be able to enjoy, and which the State as a parent has an obligation to uphold for children in their care.

These promises are enshrined in legislation via the Oranga Tamariki Act 1989 and Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018. And yet, monitoring of Oranga Tamariki continues to highlight that they are still falling woefully short of their own basic standards and are failing to keep the promises that have been made to our tamariki.

The government is already failing to meet the most basic needs of our most vulnerable Tamariki and rangatahi in Aotearoa. This Bill aims to establish a new, harsher, mechanism within legislation which will allow for more of our most vulnerable children to be imprisoned. This Bill will result in more children incarcerated for longer, risking further institutionalisation, trauma and harm and creating further risk of repeating mistakes of the past outlined in The Royal Commission's report into Abuse in State Care.

## Our submission

***“We have to do extreme shit to get any kind of attention from anybody. Yeah it is the wrong kind of attention but it’s so much better than none at all... because that’s the only time you ever get seen and that’s the only time you ever get listened to.” VOYCE Youth Council member***

VOYCE – Whakarongo Mai strives towards a vision of an Aotearoa in which all care experienced Tamariki and rangatahi live with love and mana. This is about young people who are thriving, safe, confident, connected to whānau and community, healthy, supported with all they need and with hope for their future. The love and mana of our Tamariki and rangatahi and hope for their future is sorely lacking in this Bill.

If this Government is serious about addressing youth crime, they need to address the drivers of crime – poverty, abuse, trauma, isolation, and disconnection. The answers to keeping children and our communities' safe lies in prevention. To thrive tamariki and rangatahi need safe, loving, supportive communities; positive role models and connection to whānau and culture; and as needed trauma informed, therapeutic, community-based wrap-around supports and services.

***“When you’re growing up disconnected from your whole whakapapa and alienated by people who don’t understand, a lot of the time the only communities that you find any sense of understanding from are gang whānau or young offenders.”***

The Royal Commission of Inquiry into Abuse in Care provides a case study<sup>1</sup> on a ‘boot camp’ style programme, Whakapakari, that ran until 2004. Whakapakari catered for 14-17 year olds with ‘problems with the law’, they were placed there for 3-6 months. The young people coming through the programme were 80% Māori. Young people were under order of the Youth Court as an outcome of proven youth justice charges. The report notes the following institutional factors contributed to the horrific abuse and neglect that occurred there:

- isolation of children and young people from whānau, support networks, social workers, communities and society made them vulnerable to abuse and neglect
- The environment which permitted abuse to occur was not kaupapa Māori. It placed tamariki and rangatahi Māori at risk and disconnected them from whānau, hapū and iwi, making them more vulnerable to abuse and neglect.
- There was no process for children and young people to make complaints.

The Royal Commission Report *Whanaketia* states “Institutions such as Hokio Beach School and Kohitere Boys’ Training Centre, and Te Whakapakari Youth Programme were some of the most extreme examples the Inquiry saw of substandard living conditions. They demonstrated the harmful impacts that punitive or corrective bootcamp-style approaches to care have on children and young people. Experts agree that this approach is more likely to lead young people into the criminal justice system.”<sup>2</sup>

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<sup>1</sup> <https://www.abuseincare.org.nz/reports/whanaketia/case-studies/case-study-whakapakari>

<sup>2</sup> <https://www.abuseincare.org.nz/reports/whanaketia/part-9/chapter-5>

VOYCE – Whakarongo Mai is concerned that what is being proposed in this legislation is a repeat of past abusive systems of care and protection. There is limited evidence to suggest military-based training and education programmes are effective in preventing or reducing offending, and such measures are unlikely to be accessible to or meet the needs of neuro-diverse, trauma-affected, or otherwise vulnerable groups.

The principle of what has been set up in the running of the military-style academy pilot is not wrong. VOYCE – Whakarongo Mai supports early intervention trauma-informed supports that seek to divert rangatahi and tamariki from the adult criminal justice system through more intensive responses well before they are before the Youth Court. However, this Bill does not achieve this. Instead, it is another knee-jerk response to moral panic with no attention to the evidence of what works. VOYCE – Whakarongo Mai does not support the approach of this Bill.

VOYCE – Whakarongo Mai wants to see a broader focused and more intentionally therapeutic approach that starts well before tamariki and rangatahi are in front of a Youth Court. The funding that is intended for the military-style academy and the implementation of this Bill would be better directed to our existing youth justice and child protection residents. Fix the system we have, do not add additional unnecessary layers to it with a military-style academy.

The foundational premise of the military-style academy pilot to provide a therapeutic environment and interventions that nurture, care, and connect young people back into family and society are good ones. They are just not being provided early enough in the current system that supports vulnerable children and their whānau.

**VOYCE – Whakarongo Mai is opposed to this Bill.**

**Recommendation #1: Redirect the funding for the military-style academy into the existing youth justice and care and protection system to allow earlier broader and more intentional interventions that have a therapeutic, trauma-informed, wrap-around approach.**

There is a lack of consultation and unnecessarily urgent timeframe

There has been little to no consultation on this bill and no engagement with those most impacted by the programme, the young people and their families. The Regulatory Impact Statement (RIS) for the Bill<sup>3</sup> notes that there has only been limited consultation with the Youth Court Judiciary as to the workability of the proposals, and no engagement with “rangatahi and whānau Māori, or with strategic iwi Māori partners of Oranga Tamariki to understand the impacts on Māori and to identify mitigations.”

The coalition Government’s 100-day plan timeframe and election commitments have heavily influenced the urgency by which this legislation has been designed and the timeframe for implementation. The RIS notes that the pace has been heavily influenced by Ministers, and this has contributed to limited options (and in some areas no alternative options) being considered. The RIS states that the Bill “lacks sufficient consultation with stakeholders to test the accuracy

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<sup>3</sup> <https://www.orangatamariki.govt.nz/assets/Uploads/Youth-justice/Military-Style-Academies/Regulatory-Impact-Statement-Serious-Youth-Offenders-and-military-style-academies-June-2024.pdf>



of the analysis and does not fully address material issues of implementation, including more accurate financial costs.”<sup>4</sup> This lack of consultation and urgency is of deep concern. It is not in the best interest of our most vulnerable tamariki and rangatahi and it does not ensure a programme of investment and support that is evidence and experience based.

**Recommendation #2: Take the time to develop systems, supports and services in consultation with the tamariki and rangatahi this Bill impacts.**

This Bill has been introduced before the completion of the military-style academy pilot (the pilot) and the possibility of an evaluation that could inform this work. Concerningly the Bill alters key supportive methods of the pilot, without any basis for this, resulting in harsher mechanisms and longer periods of imprisonment for young people. As noted by the Oranga Tamariki report *Performance Measures for Ministerial Priorities – Quarter One*<sup>5</sup> there is an interim report on the residential phase of the pilot due at the end of the second quarter (30 December 2024) and a second interim report on the pilot’s process of transitioning out of the residence and lessons learnt from the first part of the community phase at the end of Quarter Three (31 March 2025). Take the time and examine the experiences from the pilot, use the successes of the pilot and learn from what has and has not worked. VOYCE – Whakarongo Mai want to see this Bill halted until there has been a full review of the pilot and fuller engagement with those most impacted by this Bill.

**Recommendation #3: Stop the progress of this Bill through parliament until a full review of the military-style academy pilot has been undertaken and can inform any future programmes of support for young people in conflict with the law.**

This Bill negatively impacts on the wellbeing and best interest of the child

This Bill is not child and youth centred. The Young Serious Offender (YSO) declaration starts with its first objective being to increase public safety and accountability for offending. Nowhere does the YSO declaration seek to support rangatahi to stop offending. This Bill is focused on achieving political commitments, delivering on public statements, election promises, and manifesto commitments, not what is in the best interests of tamariki and rangatahi.

The Bill goes against the principles set out in the Oranga Tamariki Act. Under section 5(1)(b) of the Oranga Tamariki Act, the wellbeing of a child or young person must be at the centre of decision making that affects that child or young person. This includes consideration for the need for a safe, stable, loving home, a holistic approach that sees rangatahi and tamariki as a whole person, and their place in whānau/family/community to be recognised.

Under section 208 of the Oranga Tamariki Act, which set out the principles for Youth Justice, the court must ensure measures to deal with offending strengthen the family, whānau, hapū, iwi and family group of the young person, and foster their abilities to develop their own means

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<sup>4</sup> <https://www.orangatamariki.govt.nz/assets/Uploads/Youth-justice/Military-Style-Academies/Regulatory-Impact-Statement-Serious-Youth-Offenders-and-military-style-academies-June-2024.pdf>

<sup>5</sup> <https://www.orangatamariki.govt.nz/about-us/performance-and-monitoring/ministerial-priorities/>

of dealing with the offending of their children. Section 208 also requires the child or young person to be kept in the community as far as practicable, and measures should be taken to address the underlying causes of the offending.

This Bill makes no provision for these principles. VOYCE – Whakarongo Mai urge the Government to follow the law of the Oranga Tamariki Act and the guidance of the RIS in relation to this<sup>6</sup>.

A June 2024 Cabinet Paper<sup>7</sup> on the YSO declaration notes there are rights within the New Zealand Bill of Rights Act (NZBORA) “likely to be limited by the content of orders that may apply to young people declared to be YSOs. For example, a curfew condition would limit freedom of movement. The proposals include search powers (electronic monitoring) and powers of detention that are regulated by NZBORA and may engage the right in the case of a child (under the age of 18 years old) to be dealt with in a manner that takes account of their age, the right not to be arbitrarily arrested or detained, the right to freedom of association, the right to freedom of expression and the right to be free from unreasonable search and seizure.”

In addition to the above there is no consideration within the Bill to ensure that a young person is dealt with in a manner that takes account of their age (s25 NZBORA) and is protected against disproportionately severe treatment or punishment (s9 NZBORA).

Nowhere does the Bill prioritise what is in the best interest of children and young people. The Young Serious Offender declaration and Military-Style Academy Order are in breach of the Oranga Tamariki Act, The New Zealand Bill of Rights Act and Te Tiriti o Waitangi.

#### **Recommendation #4: Ensure the Bill is child and young people focused and is in the best interest of children.**

It breaches Crown’s Te Tiriti o Waitangi obligations

The Bill, in its current form, offers no consideration of the specific needs of tamariki and rangatahi Māori or of the solutions available within whānau, hapū and iwi. Given the current status of the youth justice system the majority of tamariki and rangatahi who would be eligible for a YSO declaration would be Māori. The RIS indicates the rate of young people being declared YSOs and placed under MSA orders could be as high as 80-85% Māori.

The Ministry of Justice’s latest report on Youth Justice Indicators<sup>8</sup> notes that tamariki and rangatahi Māori continue to be overrepresented in the youth justice system and are more

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<sup>6</sup> The RIS points to the need for the Youth Court to:

- take the least restrictive form of action that is appropriate in the circumstances
- seek alternatives to prosecution
- deal with a matter in the community where possible
- empower the family/whānau and community to respond to offending behaviour
- have proper regard to the interests of any victims of the offending.

<sup>7</sup> <https://www.orangatamariki.govt.nz/assets/Uploads/Youth-justice/Military-Style-Academies/Cabinet-paper-Young-Serious-Offender-Declaration-and-Military-Style-Academies-June-2024.pdf>

<sup>8</sup> [https://www.justice.govt.nz/assets/Documents/Publications/Youth-Justice-Indicators-Summary-Report-December-2024\\_v1.0.pdf](https://www.justice.govt.nz/assets/Documents/Publications/Youth-Justice-Indicators-Summary-Report-December-2024_v1.0.pdf)

likely to be proceeded against in comparison to the total population. These disparities have persisted over the last decade.

This inequitable treatment of rangatahi Māori is in breach of the Crown’s responsibilities under Article 3 of Te Tiriti o Waitangi and does nothing to reduce the inequities in offending and criminalisation rates experienced by Māori.

It is the view of VOYCE - Whakarongo Mai that consultation with tamariki, rangatahi and whānau Māori should have occurred in the development of this Bill. This is supported in the Cabinet paper in response to Te Tiriti o Waitangi implications<sup>9</sup>. There is not sufficient or even reasonable need for these legislative interventions to be rushed through. Nor is the Select Committee process suitable means for consultation on this legislation.

**Recommendation #5: Take the time to develop systems, supports and services in consultation with Māori to address the persistent inequities for Māori in the Youth Justice system.**

The numbers of young people offending has been reducing for 10 years

***“Why are our politicians making people panic and scared?” (VOYCE Youth Council member)***

One of the Government’s priorities driving this Bill has been stated as needing to restore law and order, yet the data shows that in the ten years from 2011/12 to 2021/22<sup>10</sup> there was an overall reduction in the numbers of young people (aged 14 – 17 years) offending. Using the information in both the RIS<sup>11</sup> and the latest Youth Justice Report (2024)<sup>12</sup> the data shows that over the last 10 years there has been:

- a 44% decrease for young people with police proceedings against them for offending
- a 41% decrease in Youth Court appearances
- a 79% decrease in young people charged with offences carrying a maximum penalty of 10-years imprisonment
- a 27% decrease in young people charged with 14-year offences
- and the re-offending rate decreased from 46% in 2013 to 37% in 2022.

Persistent offending behaviour (the offending this Bill targets) is decreasing year on year. The ‘blip’ in numbers that saw a rise in ram raid’s immediately after COVID has declined. The most recent Ministry of Justice data shows, the decline in offences is now back in line with the downward tracking of youth offending in the last decade. This Bill is a response to moral panic that need not exist.

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<sup>9</sup> <https://www.orangatamariki.govt.nz/assets/Uploads/Youth-justice/Military-Style-Academies/Cabinet-paper-Young-Serious-Offender-Declaration-and-Military-Style-Academies-June-2024.pdf>

<sup>10</sup> 2022 is the latest year for which reoffending over one year can be measured.

<sup>11</sup> <https://www.orangatamariki.govt.nz/assets/Uploads/Youth-justice/Military-Style-Academies/Regulatory-Impact-Statement-Serious-Youth-Offenders-and-military-style-academies-June-2024.pdf>

<sup>12</sup> [https://www.justice.govt.nz/assets/Documents/Publications/Youth-Justice-Indicators-Summary-Report-December-2024\\_v1.0.pdf](https://www.justice.govt.nz/assets/Documents/Publications/Youth-Justice-Indicators-Summary-Report-December-2024_v1.0.pdf)

***“It’s just another trend... It used to be boy racing, now it’s ram raids. It’ll be something else next.”***

In our submission on the Ram Raid Offending and Related Measures Amendment Bill VOYCE Youth Council members voiced concern that **“politicians are making decisions that have a huge effect on our lives... they have no idea what our reality is like, coming from a position of privilege.”** They asked, **“why are our politicians making people panic and scared?”** and stated that **“being ‘tough on crime’ should be tough on ending poverty, substance abuse, homelessness”**. These comments hold true for this Bill too.

As highlighted by Lambie (2022)<sup>13</sup> “evidence indicates that internationally, the increasing number of those in prison has been driven largely by ‘tough on crime’ policies... [and these] knee jerk policies that lack any evidence-base have resulted in an increased financial burden for the taxpayer with no increase in the public’s sense of safety”.

**Recommendation #6: Prevent offending by addressing poverty and trauma, not by increasing the severity of how young offenders are treated.**

We know what works

***“Wraparound supportive housing to provide the care, support and love they’ve not had – these people need trauma-informed care.” (VOYCE Youth Council member)***

The drivers of youth offending are societal and the answers to keeping our community safe lies in prevention. Wrapping support around tamariki and rangatahi and their families, and addressing the underlying causes of offending - poverty, homelessness, mental health and addiction. When circumstances have escalated to the point where young people are driven to commit serious offences, it may almost be too late.

The RIS supports this, stating: “There is good evidence of what works to address serious offending by children and young people. This includes focusing on training for parents, helping children and young people manage and change their behaviour and supporting families with evidence-based services, including those aimed at addressing the underlying causes of offending.”<sup>14</sup>

***“Being ‘tough on crime’ should be tough on ending poverty, substance abuse, homelessness”***

UN Committee General Comment (2019)<sup>15</sup> when talking about comprehensive child justice policy stated “As an absolute priority, children should be supported within their families and

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<sup>13</sup> <https://www.justice.govt.nz/assets/Preventing-the-prison-pipeline-Professor-Ian-Lambie-report.pdf>

<sup>14</sup> <https://www.orangatamariki.govt.nz/assets/Uploads/Youth-justice/Military-Style-Academies/Regulatory-Impact-Statement-Serious-Youth-Offenders-and-military-style-academies-June-2024.pdf>

<sup>15</sup> United Nations (2019) Committee on the Rights of the Child: General comment No. 24 (2019) on children’s rights in the child justice system. Retrieved from: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsglKirKQZLK2M58RF%2F5F0vEnG3QGKUxFivhToQfjGxYjV05tUAlgpOwHQJsFPdJXCiixFSrDRwow8HeKLLh8cgOw1SN6vJ%2Bf0RPR9UMtGkA4>

communities. In the exceptional cases that require an out-of-home placement, such alternative care should preferably be in a family setting, although placement in residential care may be appropriate in some instances, to provide the necessary array of professional services. It is to be used only as a measure of last resort and for the shortest appropriate period of time and should be subject to judicial review.”

International evidence<sup>16</sup> referred to in the RIS indicates that military style academies (also known as ‘boot camps’) are one of the least effective interventions when it comes to reducing offending and antisocial behaviour by young people. The research also showed that ‘boot camps’ had the most success when they included trauma informed, rehabilitative, and transitional approaches.

This is backed up in the June 2024 Cabinet Paper on the Bill.<sup>17</sup> It notes that “Analysis undertaken at the Social Wellbeing Agency suggests that most young people likely to be subject to a YSO will have very high needs due to experiences of abuse and neglect, victimisation and other contact with the justice system, poor mental health, household and community hardship, and disengagement from education. This evidence suggests that trauma informed approaches, coupled with intensive support over a relatively long period of time will be needed to prevent their future offending.”

***“The only life skills OT give us, is the ability to be ultra vigilant and traumatized.” [Korowai Aroha]***

New Zealand’s history of ‘boot camps’ as outlined at the start of this submission has been well documented in the Royal Commission of Inquiry into Abuse in Care. VOYCE – Whakarongo Mai urge the Select Committee to be informed by the evidence and the lessons of the past.

In our work to inform our Ram Raid Bill submission young people told us it is important for children to remain in education as **“young kids that are not in school feel real abandoned and start acting up and the only community that accepts them is gangs. So, they go towards that and think ‘I’m welcome here’.”** Education and training which leads to employment would create alternative pathways, as one young person told us: **“if I got a job I’d stop”**.

The Social Wellbeing Agency<sup>18</sup> talks to the abundance of evidence that points to early intervention and prevention programmes, developing the social and emotional skills, restorative justice, strong community partnerships and providing positive education and employment opportunities to young people as being the things that work to prevent youth

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<sup>16</sup> Farrington, D., Gaffney, H., & White, H. (2022). Effectiveness of 12 Types of Interventions in Reducing Juvenile Offending and Antisocial Behaviour. Canadian Criminal Justice Association. As referred to in <https://www.orangatamariki.govt.nz/assets/Uploads/Youth-justice/Military-Style-Academies/Regulatory-Impact-Statement-Serious-Youth-Offenders-and-military-style-academies-June-2024.pdf>

<sup>17</sup> <https://www.orangatamariki.govt.nz/assets/Uploads/Youth-justice/Military-Style-Academies/Cabinet-paper-Young-Serious-Offender-Declaration-and-Military-Style-Academies-June-2024.pdf>

<sup>18</sup> <https://www.sia.govt.nz/assets/Document-Library/Wellbeing-of-children-and-young-people-who-offend.pdf>

crime. This is also backed up by the UN Committee on the Rights of the Child's 2019 General Comment on the child justice system.<sup>19</sup>

***“Always having something to address the trauma in the care plan.”***

***“In YJ they’ve got three meals a day, clothes on their back... for some people that’s better and when they get out they’ve got nowhere to go... so they reoffend and go back.”***

As we said at the start of this submission. To thrive tamariki and rangatahi need safe, loving, supportive communities; positive role models and connection to whānau and culture; and as needed trauma informed, therapeutic, community-based wrap-around supports and services. Without support that addresses the drivers of crime, and approaches that support tamariki, rangatahi and their families to thrive - long-term lasting change in behaviour is limited. Keeping communities safe requires changes across health, education, housing, and social services. Not isolated changes in youth justice.

***“Institutions are a way to push problems away - a way to make care easier for bureaucrats not focused on the needs of tamariki and rangatahi.” [Korowai Aroha]***

***“We need to look deeper... how many of these people have experienced abuse, out-of-home care, poverty, disabilities, neurodiversity, mental health challenges.”***

VOYCE – Whakarongo Mai want to see investment in community led-interventions that focus on prevention and are early interventions undertaken well before a young person is before a youth court. Not large amounts of money being poured into punitive systems that risk further criminalising of young people. As mentioned earlier VOYCE – Whakarongo Mai want to see the funding that is intended for the military-style academy and the implementation of this Bill redirected to the existing youth justice and child protection residences. Which would allow for the existing system to be fixed and a broader focused and more intentionally therapeutic approach that started much earlier than what is proposed by this Bill.

**Recommendation #7: Base policy and legislation on evidence and prioritise wrap-around trauma-informed support that addresses the underlying causes of offending.**

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<sup>19</sup> “Research has demonstrated that intensive family- and community-based treatment programmes designed to make positive changes in aspects of the various social systems (home, school, community, peer relations) that contribute to the serious behavioural difficulties of children reduce the risk of children coming into child justice systems. Prevention and early intervention programmes should be focused on support for families, in particular those in vulnerable situations or where violence occurs. Support should be provided to children at risk, particularly children who stop attending school, are excluded or otherwise do not complete their education. Peer group support and a strong involvement of parents are recommended. States parties should also develop community-based services and programmes that respond to the specific needs, problems, concerns and interests of children, and that provide appropriate counselling and guidance to their families.”

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsglKirKQZLK2M58RF%2F5F0vEnG3QGKUxFivhToQfjGxYjV05tUAlgpOwHQJsFPdJXCiixFSrDRwow8HeKLLh8cgOw1SN6vJ%2Bf0RPR9UMtGkA4>

Long length of order and little support for early release and transition back to community

***“Do not bury these rangatahi in places they cannot grow” (VOYCE Youth Council member)***

Under this Bill the military-style academy order is a new sentencing response made by the courts in response to a YSO order. In the current pilot young people are self-selecting to attend a military-style academy. This mechanism for attendance, court directed not self-selecting, significantly changes the dynamic of the programme, how young people will respond, and will likely negatively impact the success of the programme.

The military-style academy order in this Bill will last between 3 and 12 months. Young people remain in the custody of the chief executive of Oranga Tamariki throughout the order, and are ordered there by the courts, not self-selecting as is the case in the pilot. The military-style academy order is followed by a supervision order, which can be between 6 and 18 months in length. The combined duration of the 2 orders cannot exceed 24 months. This is double the period of the current pilot. What evidence, that this is a beneficial approach, is this decision based on?

***“They’re taking us away from our families for too long.”***

This Bill will mean that Oranga Tamariki will be the guardian of young people under the orders of this Bill for up to 24 months. As we noted in our submission on the Oversight of Oranga Tamariki System Legislation Amendment Bill, parents can be criminally prosecuted when they fail to care for their children. When children are under the guardianship and care of the State, the State is not held accountable in the same way. VOYCE – Whakarongo Mai ask that the Select Committee expand this bill to ensure State are being held accountable for care in the same way parents would be.

The June 2024 Cabinet Paper<sup>20</sup> related to this Bill asked for a young person who has been declared a YSO to receive intensive case management, rehabilitative support, and whānau engagement and an enhanced transition response. As part of the implementation “An intensive rehabilitative and transitional support package will be developed by Oranga Tamariki for young people with a YSO declaration and their whānau. A range of agencies and stakeholders will need to be engaged in the design and provision of the support package in order to ensure that any support provided reflects the complex needs of this group, is trauma-informed, and involves their whānau and communities.” **Not one piece of this intention is evident in the Bill.**

Therapeutic supports and community interventions for rangatahi and whānau as part of the transition out of a military academy and back into community will be essential. Community-based interventions are more likely to produce long-term sustainable change. Community providers will need to be sufficiently resourced and equipped to provide this. More support needs to be given to hapū and iwi providers and Māori kaimahi to ensure there is expert

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<sup>20</sup> <https://www.orangatamariki.govt.nz/assets/Uploads/Youth-justice/Military-Style-Academies/Cabinet-paper-Young-Serious-Offender-Declaration-and-Military-Style-Academies-June-2024.pdf>

support and services available across the country for the high percentage of rangatahi Māori and their whānau who will be impacted by this Bill. Lessons learnt from the military-style academy pilot programme also need to inform this.

VOYCE – Whakarongo Mai does not support the decision to strengthen the Youth Court orders by including no eligibility for early release from a supervision with residence order or a military-style academy order. The RIS has noted that “this option may engage section 9 (right not to be subject to disproportionately severe treatment) and section 22 (liberty of the person) of NZBORA. Removing early release is also inconsistent with the adult jurisdiction and therefore may contribute to concerns that the young person is not being dealt with in a manner that takes account of their age (section 25(i)).”<sup>21</sup>

**Recommendation #8: Include the option for early release from orders and further consider the issues we have raised in relation to how orders are being structured.**

Unnecessary extension of use of force

The Bill provides for the use of reasonable physical force by the chief executive (including a delegate or subdelegate), an approved worker of a qualifying provider, or by anyone who is authorised to detain a YSO. The use of force may be used to prevent the young person from absconding from a residential location or where an activity is delivered outside of a residential setting, and from being harmed, harming themselves, or harming another.

Force should always be a last resort, with isolation rather than restraint always being the preference. Currently use of force powers exists in youth justice and care and protection residences. VOYCE – Whakarongo Mai is concerned that provision to use force is being extended beyond a residence and potentially for use by people who are not trained in physical restraints.

The use of force in secure residences and other care facilities operated by, or under contract to, Oranga Tamariki is also largely invisible from public and legislative scrutiny. While fundamentally opposed to the proposed extension of the use of force provisions set out in The Bill, in the event of this proceeding, VOYCE Whakarongo Mai recommends that this legislation includes the requirement for mandatory reporting for all use of force by all care providers (including Oranga Tamariki).

VOYCE – Whakarongo Mai want to see Oranga Tamariki held responsible for collating this data at a national level and making this publicly available on a regular basis including its annual report. Data should be segmented between different levels of care provision (i.e. secure residences and community-based providers) to enable sufficient scrutiny of the use of force, the reasons for this and the impacts of the legislation on children and young people.

The responsibility for monitoring the use of force should be independent of Oranga Tamariki, either through Mana Mokupuna or Aroturiki Tamariki. VOYCE – Whakarongo Mai want to see

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<sup>21</sup> <https://www.orangatamariki.govt.nz/assets/Uploads/Youth-justice/Military-Style-Academies/Regulatory-Impact-Statement-Serious-Youth-Offenders-and-military-style-academies-June-2024.pdf>



clear, specific national standards with regards to staff training, investigation and monitoring of the use of force in care services. This needs to be an explicit requirement for all care providers.

This would provide an added layer of protection for children and young people, and increased scrutiny of this practice to reduce the risk of abusive practice as highlighted in Whanaketia.

**Recommendation #9: Should the extension of use of force powers proceed amend the legislation to include a mandatory requirement for regular, public reporting of all use of force for all children and young people in care which is independently monitored and establish a set of explicit national standards with regards to the use of force.**

Power to detain and arrest without a warrant

***“Politicians are making decisions that have a huge effect on our lives... they have no idea what our reality is like, coming from a position of privilege.”***

The Bill provides for a new section 296FF which empowers a constable to detain a young serious offender without a warrant. And a new section 296FG which empowers a constable to arrest a young serious offender without a warrant, using such force as may be reasonably necessary.

VOYCE – Whakarongo Mai support the concerns raised in the RIS<sup>22</sup> that:

- these are unnecessary additions given the Police already have the powers to arrest a young person without a warrant where their behaviour puts the public at risk
- enabling warrantless arrests could breach the NZBORA and a young person’s rights in relation to search, seizure and arrest (sections 21, 22 and 23 of the NZBORA)
- this does not align with the Crown’s Treaty of Waitangi obligations to actively protect rangatahi as taonga
- this will disproportionately impact rangatahi Māori given the disproportionate representation of rangatahi Māori in the YSO cohort.

**Recommendation #10: Repeal the proposed sections in the Bill that enable warrantless arrests.**

Removal of Family Group Conferences

***“I was trying to speak but the way I spoke was through offending because no one was listening”***

The Bill reduces the application of Family Group Conferences (FGCs) simply to enable the YSO declaration to be fast-tracked. VOYCE – Whakarongo Mai does not support this. FGCs provide tamariki, rangatahi and whānau with the opportunity for collective discussion and decision-making. They are an important part of a young person’s right to participate in decisions that impact them. This will also further limit the ability of family, whānau, hapū and iwi to have a

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<sup>22</sup> Ibid

voice and be involved in a plan to support their young person. The RIS also raises a concern that this may be inconsistent with the Crown’s Treaty of Waitangi obligations<sup>23</sup>.

### **Recommendation #11: Retain the current requirement for FGCs.**

#### Greater use of electronic monitoring

The Bill extends the use of electronic and judicial monitoring of young people for up to a 12-month period. VOYCE – Whakarongo Mai is concerned about these extensions. While electronic monitoring does enable the young person to be placed outside of a secure residence during the supervision order we do not think the system has the ability to adequately support this process so that young people have access to school, training and the rehabilitation they need during this transition process.

These system challenges are also noted by the RIS<sup>24</sup> “Implementation challenges need to be considered. Officials note in particular that Oranga Tamariki may need to transition to a 24-hour operating model to ensure that information provided from electronic monitoring can be effective and acted on in a timely way, particularly where the curfew applies overnight. Officials understand anecdotally that there is a higher level of complexity given young people are attending school and other appointments and these can show up as reported breaches if recorded incorrectly.” VOYCE – Whakarongo Mai are concerned that these limitations will negatively impact on a young person’s ability to access the supports and services they need.

### **Recommendation #12: Review the use of electronic monitoring based on the experiences of the military-style academy pilot.**

### **Recommendation #13: Provide sufficient funding to ensure the system is adequately supported and monitored so that it does not negatively impact on the young person’s ability to access supports and services.**

#### Criminalisation of young people

***“My older foster brother was in and out of the YJ system... he got to the point where getting arrested and going to prison is no longer a threat because he’s like ‘I’ve got nothing to lose here - society’s already decided I’m a bad egg so why bother changing’.”***

Labelling young people ‘serious offenders’ fails to honour the intrinsic value and inherent dignity of rangatahi. It risks labelling and stigmatising them for life and ignores the variety of complex and dynamic factors contributing to youth offending. Nothing in this Bill speaks to a vision of enhancing mana and improving outcomes for our most vulnerable young people.

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<sup>23</sup> Ibid

<sup>24</sup> Ibid

As mentioned earlier offending is a symptom of larger systemic and structural factors such as poverty, addiction, complex personal histories of abuse and neglect, housing insecurity, colonisation.

The Oranga Tamariki 2023 Secure Residence Review<sup>25</sup> highlights research by Professor Ian Lambie and others which observes, “While the personal, social, and economic harm these children have caused by their offending should not be minimised, it is critical to remember that these children were victims first... Indeed, most would have never escalated to engage in offending behaviour if they and their families had not experienced significant harm themselves – all too often, intergenerationally – or had received timely, effective help that addressed their needs.”

***“I watch my parents work for weeks just to get a bit of money when I could do a ram raid and get that in one night”. (Young person in a Youth Justice residence)***

This Bill increases the ways young people can be convicted. Under the Act absconding while on a supervision with residence order or when detained in custody under a military-style academy order will be considered a criminal offence of escaping from lawful custody under section 120 of the Crimes Act 1961. Concerns to similar steps being proposed by the Ram Raids Bill were raised by young people when we consulted on that Bill. Young people told us they’re worried these types of approaches **“will teach these rangatahi they’ve already been discarded by society and written off as problem individuals.”**

In the disclosure document for this Bill<sup>26</sup> the Ministry of Justice does not support absconding being considered a criminal offence. The Ministry considers “it would be more appropriate for any penalty for absconding to be rehabilitative rather than punitive (which appears consistent with the principles of the Oranga Tamariki Act 1989)”.

#### **Recommendation #14: Remove the criminal offence for absconding from the Bill.**

The ways an application for a YSO declaration can be made includes when a young person admits an offence at FGCs. The RIS<sup>27</sup> notes that this raises significant human rights and youth justice principles issues as the offending has not met the legal test of charges being proven in a court.

Under the Bill applications for a YSO declaration include not just charges proven in the Youth Court but also convictions in the District or High Court. This is considerably broader than the current focus of the military-style academy pilot and will significantly increase the number of young people subject to a YSO declaration. This increase in size is not financially sustainable under the current structure of the pilot. VOYCE – Whakarongo Mai is concerned that this will significantly change how the programme is run and negatively impact on the outcomes from the programme.

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<sup>25</sup> <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Reviews-and-Inquiries/Rapid-residence-review/Secure-residence-review.pdf> pg 18

<sup>26</sup> <https://disclosure.legislation.govt.nz/bill/government/2024/99>

<sup>27</sup> <https://www.orangatamariki.govt.nz/assets/Uploads/Youth-justice/Military-Style-Academies/Regulatory-Impact-Statement-Serious-Youth-Offenders-and-military-style-academies-June-2024.pdf>

VOYCE – Whakarongo Mai believes that the motivation for this legislation is capturing (and accusing) the largest YSO cohort possible, rather than ensuring those most in need get the interventions and supports they need. The Bill has the potential to actually work counter to its stated objective ‘to improve public safety’, by bringing the young person more deeply into the youth justice system, potentially resulting in more offending across the young person’s lifetime<sup>28</sup>. Without the evaluation from the pilot, it is impossible to determine how this wider reach will benefit those most vulnerable rangatahi that this Bill targets.

**Recommendation #15: Remove admission of offence at FGCs from the mechanisms by which an application for YSO can be made.**

Insufficient support for disability, trauma, and neurodiversity

Young People in Youth Justice residences are more likely to have mental health or disability diagnosis, learning difficulties, experienced abuse, harm, and traumatic events. The most recent Youth Justice report (2024)<sup>29</sup> notes that “The data highlights that children and young people proceeded against often have complex needs, which can be among the underlying causes of their offending.”

The June 2024 Cabinet Paper<sup>30</sup> notes “Young people diagnosed with a disability such as Foetal Alcohol Spectrum Disorder (FASD), Attention Deficit Hyperactivity Disorder (ADHD), Dyslexia, Autism Spectrum Disorder (ASD) and other neurodiverse impairments are overrepresented in populations of young people who offend, or tend to be prosecuted for offences that may see them ordered to attend military-style academies.” ...“International and New Zealand-based research indicate that military style training may not be an effective intervention for disabled young people. Many young people, including those who are neurodivergent would likely struggle to succeed in these environments. Common challenges associated with neurodivergent young people include memory and recall difficulties, impulsivity, confabulation and cognitive limitations. Some may also experience sensory overload in these environments.”

VOYCE – Whakarongo Mai is concerned that nothing in this Bill acknowledges the complex needs and difficult life experiences that contribute to these young people’s situations. Nothing in the Bill indicates that the programmes within the military- style academy will identify and support these needs in a way that ensures tamariki and rangatahi receive the understanding and supports they need to thrive.

**Reiterating recommendation #3: Stop the progress of this Bill through parliament until a full review of the military-style academy pilot has been undertaken and can inform any future programmes of support for young people in conflict with the law.**

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<sup>28</sup> Ibid

<sup>29</sup> [https://www.justice.govt.nz/assets/Documents/Publications/Youth-Justice-Indicators-Summary-Report-December-2024\\_v1.0.pdf](https://www.justice.govt.nz/assets/Documents/Publications/Youth-Justice-Indicators-Summary-Report-December-2024_v1.0.pdf)

<sup>30</sup> <https://www.orangatamariki.govt.nz/assets/Uploads/Youth-justice/Military-Style-Academies/Cabinet-paper-Young-Serious-Offender-Declaration-and-Military-Style-Academies-June-2024.pdf>

## In summary

At the beginning of our submission we talk about 6 promises. These promises reflect basic expectations from care experienced tamariki and rangatahi, the children and young people that sit at the core of the work of VOYCE – Whakarongo Mai.

### **This Bill does nothing to deliver on these promises.**

As part of our work care experienced rangatahi helped to inform the work of the Royal Commission of Inquiry into Abuse in Care. Te rōpū Kaitiaki mō ngā teina, e haere ake nei documented this work in a position statement *Korowai Aroha*<sup>31</sup>. There are 25 key asks in this statement and a number of them speak directly to what VOYCE – Whakarongo Mai wants to see from this Bill. They are;

- Systemised love, not systemised abuse - advocating for a shift towards a care system that prioritises love, compassion, and positive relationships, rather than perpetuating abusive or neglectful practices.
- Restorative care: shifts from punitive to harm reduction and trauma-informed care - emphasising the importance of transitioning from a punitive approach to a more restorative and trauma-informed model of care, focusing on addressing trauma and promoting healing.
- Effective care: shift from efficiency and ‘cheapest’ to what is best + what is needed - prioritising what is best for the children and providing adequate support for caregivers.
- Care and Protection residences + Youth Justice: supposed to address issues but just creates more - care and protection residences and youth justice systems often fail to address underlying issues and may even exacerbate problems.
- Recognise + support whānau with intergenerational trauma + poverty - better prevention and earlier support; support for whānau and keeping whānau together.
- Transitioning out of care - need for robust support systems and resources to help young people successfully navigate the transition, develop essential life skills, and establish their autonomy and inter-dependence.

VOYCE – Whakarongo Mai is concerned that what is being proposed is not based on the evidence of what works and what is needed to support these young people, to reduce offending and prevent re-offending. This legislation has the risk of being a repeat of past abusive systems of care and protection.

Fix the system we have, do not add additional unnecessary layers to it with a military-style academy. VOYCE – Whakarongo Mai want to see policy and legislation that is based on evidence. A broader system approach that starts earlier, well before tamariki and rangatahi are in front of a Youth Court. Supports and services that are therapeutic and prioritises wrap-around trauma-informed support and addresses the underlying causes of offending.

VOYCE – Whakarongo Mai want to see this Bill stopped and the funding that is intended for the military-style academy and the implementation of this Bill invested in improving and providing therapeutic environments for our existing youth justice and child protection residences.

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<sup>31</sup> <https://voyce.org.nz/korowai-aroha/>

**VOYCE – Whakarongo Mai is opposed to this Bill.**