



Youth Horizons submission on the:

Children, Young Persons, and Their Families

(Youth Courts Jurisdiction and Orders)

Amendment Bill

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1.0 Introduction

Youth Horizons provides interventions for high risk youth offenders and young people with severe conduct problems. The organisation was established in 1996 at the behest of Dame Margaret Bazley with the support from the then National Government. The organisation provides a wide range of interventions in community, residential and treatment foster care settings.

This submission is a reflection of the clinical, scientific and programme management expertise that Youth Horizons possesses and has developed through the provision of programmes to families and young people. We believe this knowledge and experience should be taken into account in the law-making process.

Youth Horizons concurs with the government's concerns about both serious and repeat offending by children and young people and the impact of this offending on victims, communities as well as the lives of the offenders and their families.

Similarly, Youth Horizons supports the Bill's primary objective "... to reduce reoffending by serious and recidivist child and youth offenders and thereby improve community safety"¹.

The overarching theme of our submission is that appropriately targeted, evidenced-based interventions are essential if the bills' objectives are to be achieved. We urge government to design legislation that facilitates effective solutions to the challenging problem of youth offending.

This submission offers:

- A summary of our recommendations
- Research in support of evidence-based practice
- A more detailed examination of the Bills' main proposals:
 - Youth Court jurisdiction of 12 and 13 yr olds
 - Longer sentences and supervision orders
 - Sentencing orders and underlying causes
 - Sentencing options for repeat offenders

¹ Amendment Bill, Explanatory note, P27

2.0 Summary of the Recommendations in this Submission

- Make better use of the longer term custody options currently available to the Family Court for 12-13 year olds rather than escalate sentencing into the criminalising arena of the Youth Court.
- That longer supervision and sentencing orders be made available only if they enable the application of evidence-based rehabilitation options.
- Place children and young teenagers in residential or camp facilities only as a last resort, and as a short term initial intervention, as these are potentially harmful, more expensive and an ineffective way of reducing recidivism. When doing so it is crucial to separate older residents from younger residents (and high risk from moderate risk) to minimise the chance of the young and moderate risk becoming more skilled criminals.
- Deliver treatment programmes (such as scientifically supported Functional Family Therapy, Multi-Systemic Therapy and Multi-Dimensional Treatment Foster Care) in offenders' communities and with the engagement of their families to offer the best chance of reducing recidivism over the long term.
- Legislate Child Youth and Family to make available evidence-based supervision orders that are made under current Youth Court law to ensure the effectiveness of such orders.
- That Multi-dimensional Treatment Foster Care (MTFC) is a mandated option for youth who require an intensively supervised out-of-home supervision order. MTFC is the only evidence-based out-of-home treatment model that avoids aggregating antisocial youth together.
- Apply a stepped approach, where low level, least intrusive and least expensive interventions are attempted first before more intensive options. To facilitate such decision making, all youth undergo a risk and needs assessment to establish what level of intervention is most suitable:
 1. Parents/family take full responsibility within a first level supervision order, then if necessary;
 2. Engagement with offender and family in an intensive community, evidence-based intervention programme (Functional Family Therapy or Multi-Systemic Therapy), through extended supervision with activity orders, then if necessary;
 3. Treatment in a one-on-one, out of home evidence-based treatment option (Multi-Dimensional Treatment Foster Care), then if necessary;
 4. "Spotlight"- type surveillance, as an adjunct to one of above options, then if necessary;
 5. Group residential or group intensive activity programmes, followed by monitored, evidence-based treatment in the community (FFT, MST or MTFC).

3.0 Evidence Supporting this Submission

Youth Horizon's submission is based on a wealth of international research² and New Zealand evidential reviews³ of what works to reduce Juvenile crime, and the key drivers of crime, such as conduct disorder.

Both the New Zealand and international reviews concur about what treatments are most effective and should be invested in for the youth offender population⁴. Graph 1 summarises the effectiveness of various adolescent crime-reduction programmes. This data is based on a major international meta-analysis compiled by the Washington Institute of Public Policy (*Dr Steve Aos was a key-note speaker at the recent (March 2009) New Zealand Education summit on behaviour problems in schools - Taumata Whanonga*).

Aos found nil positive crime reduction effects of *boot camps*, *intensive surveillance* or *wilderness* programmes.

Furthermore, Lipsey's⁵ review found no positive effect on recidivism by *juvenile justice supervision* or *custody* and negative effects of discipline related programmes such as *boot camps* (8% increase in crime). Interventions based on 'therapeutic' philosophies were more effective than those based on 'control' or 'coercion'.⁶ Programmes based in the community were more effective than those residentially based⁷.

Currently there is no data supporting the effectiveness of *mentoring* or *substance abuse* programmes for reducing adolescent crime in the high risk⁸.

There is evidence supporting a small positive impact on youth crime of *behaviour management*, *skills-based training*⁹ and *Aggression Replacement Training*.

The most effective interventions are the trio of *Functional Family Therapy*, *Multi-Systemic Therapy* and *Multi-Dimensional Treatment Foster Care*. These programmes all provide intensive, highly supervised interventions that address the known risk factors for juvenile crime in ways that are effective.

Programmes that are targeted at high risk youth, which address the dynamic risk factors and do so in a way that effectively engages programme participants and their families are significantly more effective than those who don't (the latter having a mean effect size of

² Aos, S; Miller, M, and Drake, E (2006). *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*. Olympia: Washington State Institute for Public Policy.

³ See: a) Church, J. (2003). *Church Report: The Definition, Diagnosis and Treatment of Children and Youth with Severe Behaviour Difficulties*. New Zealand Ministry of Education.

b) Interagency Working Group (2007) *Interagency Plan for Conduct Disorder/Severe Antisocial Behaviour 2007-2012*. Ministry of Social Development, Wellington, New Zealand

c) Advisory Group On Conduct Problems (2009). *Conduct Problems Best Practice Report*. Ministry of Social Development, Wellington, New Zealand

⁴ Ibid 2, 3

⁶ Lipsey, M (2009) The Primary Factors that Characterise Effective Interventions with Juvenile Offenders: A Meta-Analytic Overview. *Victims and Offenders*, 4:124-147

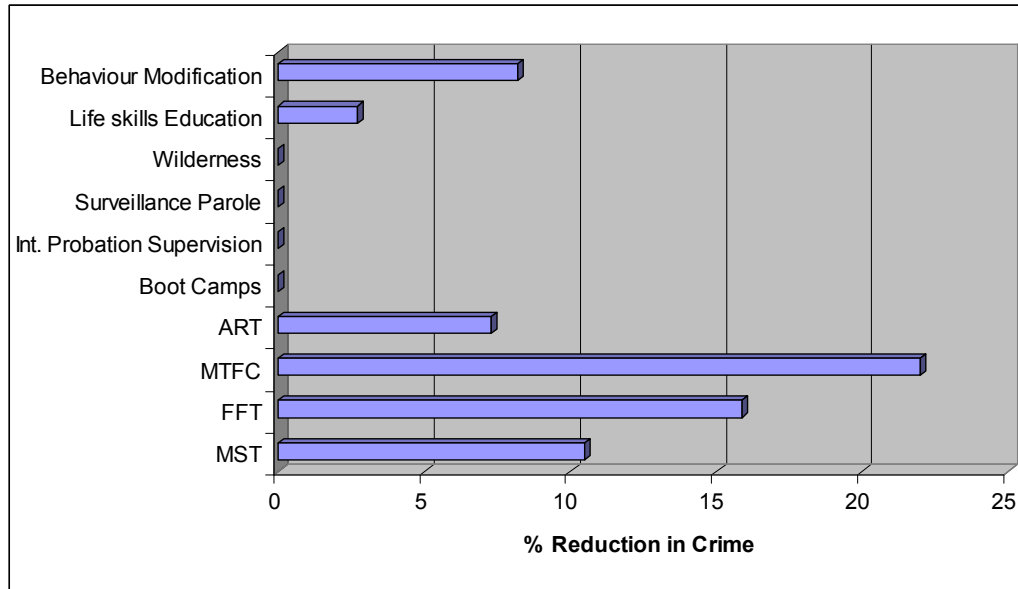
⁷ Ibid 4

⁸ Ibid 2

⁹ Ibid 4

virtually zero)^{10 11}. Furthermore, higher quality programmes (particularly those which adhere to model requirements) evidence significantly greater effects on crime reduction than programmes without model implementation accountability processes.¹²

Graph 1: What Works to Reduce Youth Crime¹³



Key to terms:

Wilderness = Wilderness or adventure based challenge programmes

Surveillance Parole = Regular surveillance-oriented parole (vs no parole supervision)

Int. Probation Supervision = Intensive probation supervision programmes

ART = Aggression Replacement Training. A structured group therapy intervention for adolescents that addresses anger control and antisocial thinking

MTFC= Multi-Dimensional Treatment Foster Care. A structured, multi-modal treatment for youth (and their families) who require a temporary, well-supervised out-of-home placement.

FFT= Functional Family Therapy. A structured, family-based intervention that uses a multi-step approach to enhance protective factors and reduce risk factors in the family

MST=Multi-Systemic Therapy. A structured, community based intervention aimed at improving families' capacity to overcome known causes of delinquency

¹⁰ Ibid 4

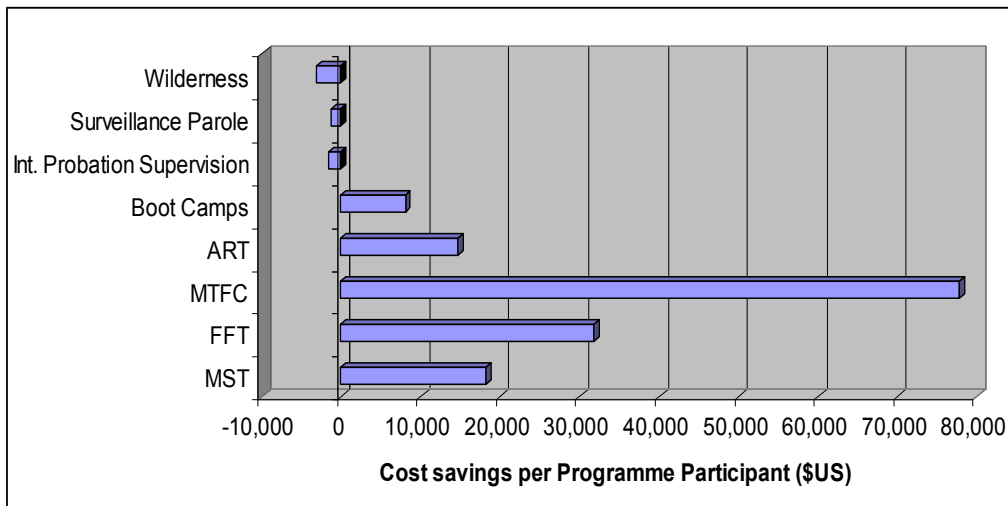
¹¹ Andrews, D and Bonta, J (2006). *The Psychology of Criminal Conduct* (4th ed.). Newark, NY:Lexis/Nexis.

¹² Ibid 4, 2

¹³ Ibid 2

Graph 2 presents the monetary cost benefit (or return on investment) of adolescent crime-reduction programmes. Put another way, do the benefits of the programmes' crime reduction savings exceed the costs of running the programme? The cost of crime includes tax payer costs (police, court, incarceration), victim-related costs, and marginal programme costs (compared with costs of alternatives).

Graph 2: Financial Return on Investment for Youth Justice Programmes¹⁴



Similar results are found as in graph 1: the programmes with the greatest net worth are the most effective programmes: *Multi-Dimensional Treatment Foster Care*, *Functional Family Therapy* and *Multi-Systemic Therapy*.

While *boot camps* show no crime-related cost savings, as they tended to be cheaper to run than juvenile detention centres (in the USA), they represented a net cost savings.

Wilderness programmes, *community supervision* and *surveillance programmes* evidenced a net loss.

¹⁴ Ibid 2

4.0 Jurisdiction of Youth Courts to Include 12 and 13 Year Olds

Youth Horizons does not support the proposal to subject 12 and 13 year olds to Youth Court processes – other than for murder or manslaughter.

4.1 Youth Horizons concerns are:

- a. Young offenders should be kept away from the criminal justice system for as long as possible. Only as a last resort, for heinous crimes such as murder, should children and young people be subjected to the potentially harmful influences of the criminal justice system. The risks of moving young people from youth to adult criminal jurisdiction are well evidenced in international literature with the results being an increase in recidivism rates.¹⁵
- b. Twelve and 13 year olds subject to Youth Court sanctions could be sent to District Court which will only exacerbate the risks already inherent in sending children to Youth Court.
- c. Simply using Youth Court as a way to apply the new sanctions proposed in this Bill will not, of itself, improve recidivism rates.
- d. Requirement to deliver evidence-based treatments as part of Family Court orders has traditionally been a low priority of the State.

4.2 Youth Horizons' recommendations:

- a. That the principles of the Act will be best maintained and practised by responding to children of this age in the Family Court setting.
- b. That the authorities use the options they already have at their disposal through the Family Court such as Care and Protection orders and Custody orders. Because primary drivers of offending are family-based, the family Court has more power than the Youth Court to influence custody and guardianship arrangements.
- c. Family Court orders can be very effective now but they must receive a greater degree of commitment from Child Youth and Family to fund and implement evidence based treatments, and regularly support, monitor and manage the order. Young people (12-13 year olds) should only enter the criminal justice system when there is clear evidence that all effective evidence based interventions have been trialled via the Family Court.
- d. The aim of reducing recidivism would be better served by allocating extra resource to improving support for the current legislative options in the Family Court.
- e. That measures be taken to ensure that the principle of strengthening family/whanau be upheld in any intervention designed to deal with offending by children and young persons, as stated in Section 28c of the Children young Persons and their Families Act. Currently, Families tend not to be mandated to undergo treatment via the FGC Youth Court process.

¹⁵ Bishop, D (200) Juvenile Offenders in the Adult Criminal Justice System. *Crime and Justice*,27,81-167

5.0 Longer Sentences and Supervision Orders

The position of Youth Horizons is that extending the terms of supervision orders may be an effective tool to assist the achievement of the Bill's goals, but, only if these extensions are supported with proven therapeutic programmes for offenders and their families.

5.1 Supervision with Residence - concerns

- a. Youth Horizons has real concerns about the placement of 12 and 13 year olds with older at-risk young people. Placing young people with a wide range of developmental and offence risk levels together poses immediate and long term risks. Aggregating at-risk young people has proven to be an ineffective intervention more likely to increase the risk of recidivism¹⁶.
- b. Residential sentences tend to regard the young people as a homogenous group whereas they have individualised, multi-dimensional needs and the treatment responses need to accommodate this if crime is to be reduced. Most risk factors for offending in young people are community-based and hence are unable to be addressed in group residential programmes¹⁷.
- c. Youth tend to be housed in CYF residences geographically isolated from their families and communities. Treating young people in distant facilities divorces offenders from their home environments rather than supporting them to function acceptably within those environments and integrating their family in treatment.
- d. There is evidence, that group residential sentences can reduce the effectiveness of evidence-based programmes used as a step-down from such facilities. There is certainly no evidence that group residential sentences improve the outcomes of using evidence based services alone¹⁸.

5.2 Youth Horizons' recommendations

- a. Supervision with Residence Orders are used as a last resort once all community-based options are exhausted.
- b. CYF residences are required to be run on best practices principles (see 7.2) and undergo external evaluation.
- c. Youth undergo a comprehensive criminogenic assessment while in residence and that a community-based intervention plan is developed.
- d. Youth reside in CYF residences within reasonable travelling distance of their families, their families are integrated into the treatment of the young person, and

¹⁶ Dodge, K et al (eds) (2006) *Deviant Peer Influences in Programmes for Youth: Problems and Solutions*. New York: Guilford.

¹⁷ Ibid 6

¹⁸ Mitchell-Herzfeld, S et al (2008). *Effects of Multi-systemic Therapy (MST) on Recidivism Among Juvenile Delinquents in New York State*. New York State: Office of Children and Family Services.

the young person receives evidence-based treatments while in residence (eg. Aggression Replacement Training).

- e. Multi-Dimensional Treatment Foster Care is a mandated option for Residence with Supervision Orders.

5.3 Supervision with Activity - concerns

Youth Horizons supports extending the Supervision with Activity Order. However, for this to be utilised and effectively managed there needs to be better resourcing of evidence-based community options. Furthermore, youth attending a Youth Justice FGC undergo a comprehensive assessment to ascertain their risks, needs and drivers of their offending. This will provide a clear direction for intervention recommendations for those attending the FGC.

5.4 Youth Horizons' recommendations

- a. Use programmes which address the current drivers of offending, that are evidence based and proven to work. Such programmes must be behavioural, systemic and community based.
- b. Fully test all community options (which may include "spotlight" monitoring) before group residential options are considered.
- c. Ensure that the act allows for Multi-dimensional Treatment Foster Care to be an alternative to group residential treatment for children who require an out-of-home placement, because it:
 - a. is more effective in reducing crime,
 - b. is targeted at the developmental level of child,
 - c. does not do harm by aggregating at risk young people, and
 - d. is more rigorous in its monitoring of young people and discipline practices than group residential options¹⁹.
- d. Address alcohol and drug issues as part of an evidence-based systemic family intervention programme (eg. Functional family therapy or MST), and not in a stand-alone fashion.
- e. Literacy and numeracy skills are best acquired within mainstream education where youth remain exposed to pro-social role models. Youth Horizons agrees with Chief Youth Court Judge (Andrew Becroft) that the education system should end the ease with which suspensions can be made for troublesome young people²⁰.

¹⁹ Chamberlain, P., Ray, J, and Moore, K. (1996). Characteristics of Residential Care for Adolescent Offenders: A Comparison of Assumptions and Practices in Two Models. *Journal of Child and family Studies*, Vol. 5, No. 3, pp 285-297.

²⁰ Comment from presentation made at the New Zealand February, 2009 forum: *Addressing the Underlying Causes of Offending: What is the evidence?*

- f. Hold CYF accountable with meaningful and timely effectiveness reports written for the courts and ensure that the Act mandates the State to fund evidence-based treatments.
- g. Ensure that activities be undertaken close to the offenders' community and involve the young person's family whose participation is key to any meaningful and effective rehabilitation.

6.0 New sentencing Orders Responding to Underlying Causes of Offending

Youth Horizons supports the use of these orders as a method of improving recidivism rates, but again, only if they are part of a properly planned, evidence-based and monitored programme of action.

6.1 Youth Horizons concerns are:

- a. While interventions for the under 10 year olds can succeed through single modality interventions (eg. parent education courses)²¹, these are relatively ineffective for youth who need a multi-modal approach that addresses the multiple drivers of offending behaviour (of which family risk factors are key but within a wider cluster of issues).
- b. The effective interventions for high risk youth are well evidenced in the international and New Zealand literature. These treatments are Functional Family therapy, MST and Multi-dimensional Treatment Foster Care. There is no evidence that mentoring or substance abuse treatment reduces crime in the high risk adolescent population.
- c. A focus on "underlying causes" is also problematic as it may lead social workers to prescribe ineffective counselling-type therapies for historical issues, as opposed to the evidence based therapies which all aim at "here-and-now" drivers of offending.

6.1 Youth Horizons' recommendations:

- a. That the wording 'underlying causes of offending' be changed to 'current drivers of offending.'
- b. To improve the efficacy of this law change we believe that all youth on remand before the youth court should have an assessment of offence risk as well as drivers of (what maintains) their offending, so the social workers and judiciary have expert opinion to guide their decision making. This action will recognise the complexity of trying to determine the drivers of offending and enable appropriate allocation of available resources.
- c. That an investment must be made in integrated, evidence-based programmes which work to address these multiple drivers, based on a specialist assessment.
- d. That for high risk 12 and 13 year olds, intensive treatments targeting offence drivers (especially family factors) are ordered, and that this is best achieved via the Family Court.

²¹ Ibid 3

7.0 New Sentencing Options for Repeat Offenders and those who do not Comply with Community Based Orders

7.1 Spotlight Intensive Supervision Orders

There is little evidence that intensive surveillance alone reduces crime²². At best, surveillance evidences a very small positive effect on crime (6% reduction)²³. However, positive uses for "spotlight" or intensive supervision orders are when:

- a. this option provides an alternative to non-evidence-based and potentially harmful group residential care.
- b. electronic monitoring is not used as a stand alone option but used to support evidence-based community treatment interventions that do work to reduce crime.
- c. electronic monitoring supports and does not interfere with the ability of adolescents to engage in supervised, pro-social community-based activities (eg. sport, recreation, cultural).
- d. It facilitates judicial monitoring as a mechanism to ensure that agencies accountable for the support and guidance responsibilities in an order are performing.
- e. electronic monitoring by the state doesn't replace the onus remaining on the young person's family to monitor and supervise their young people.
- f. it isn't applied in a blanket manner, as there is evidence that in some cases electronic monitoring can increase crime²⁴, and therefore needs to be assessed regarding its applicability on a case-by-case basis.

7.2 Military-Style Activity Camp Programmes

Intensive activity programmes are, in our view (and the view of evidence-based researchers and practitioners throughout the world), unlikely to be successful whether or not they are supported by mentoring and alcohol and drug treatment²⁵. While at best, positive behaviour change may be achieved in group residential/camp options, these behaviours tend not to generalise or transfer to their community living situation. Furthermore, if the government is going to pursue military-style activity programmes they should be delivered with the following in mind:

Intensive Activity Camp programmes may be more useful for those who:

- need to desist their offending immediately and where community-based electronic monitoring is unsuitable

²² Ibid 2

²³ Ibid 6

²⁴ Cassidy, D et al (2005). *Understanding Electronic Monitoring of Juveniles on Bail or Remand to Local Authority Accommodation*. Home Office on-line Report (21/05)

²⁵ Ibid 2

- need a short period of drug/alcohol detoxification
- are unable to engage in community-based education and/or treatment, including treatment foster care

Intensive activity camps may also be useful where there is evidence that they are less harmful than the current practice of clustering of high risk young people in CYF residences for several months.

Research is clear that group residential programmes can minimise harm (iatrogenic effects), if they include^{26 27}:

- no clustering of moderate and high risk youth or youth of different developmental levels
- small numbers of youth
- short programme duration (weeks not months)
- highly structured with clear policy and procedures
- programmes that are designed and supervised by trained clinicians
- close staff supervision
- programmes are independently monitored and audited
- 24/7 line of sight supervision of young people
- well-trained specialist youth workers who use positive, non-coercive practices to engage and motivate young people and change behaviour
- separate bedrooms for each youth and surveillance of young people at night
- proven, effective, positive, incentive-based behaviour management system
- teaching of skills that can easily generalise to their home environment, including engagement in education
- strong cultural elements to the programme
- location in the community the young person will be returning to
- concurrent engagement of the young person's family
- close integration with and followed-up by a community-located, evidence-based treatment

²⁶ Lipsey, M (1999). Can Rehabilitative Programmes Reduce the recidivism Of Juvenile Offenders? A Inquiry into the effectiveness of Practical Programmes. *Virginia Journal of Social Policy and the Law*, 6,611-641.

²⁷ Ibid 18

8.0 Conclusion

Youth Horizons' approach to dealing with young offenders and to reducing recidivism is based on an adherence to the principles of the Child, Youth and their Families Act (1989) and on evidence-based research findings.

Our recommended response is to apply a stepped approach, where low level, least intrusive and least expensive interventions are attempted first before more intensive options. To facilitate such decision making, all youth undergo a risk assessment to establish what level of intervention is most suitable:

1. Parents/family take full responsibility within a first level supervision order, then if necessary;
2. engagement with offender and family in an intensive community, evidence-based intervention programme (Functional Family Therapy or MST), through extended supervision with activity orders, then if necessary;
3. Treatment in a one-on-one, out of home evidence-based treatment option (Multi-Dimensional Treatment Foster Care), then if necessary;
4. "Spotlight"- type surveillance, as an adjunct to one of above options, then if necessary;
5. Group residential or group intensive activity programmes, followed by monitored, evidence-based treatment in the community (FFT, MTFC or MST).

All of the above to be managed through Court processes with funding to deliver appropriate evidence-based interventions.

This approach – evidence-based, intensive, community and family oriented, court sanctioned, properly resourced and enforced - offers an excellent chance of reducing recidivism and improving the lives of families and our communities.

April 8th, 2009