



# People Against Prisons Aotearoa

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## *Submission to the Social Services and Community Committee on the Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill*

People Against Prisons Aotearoa (PAPA) is a prison abolitionist organisation working for a fairer, safer, and more just Aotearoa. Established in 2015, PAPA advocates for people in prison to ensure their human rights are met. We also push for changes to the Aotearoa New Zealand criminal justice system to create more just outcomes.

People Against Prisons Aotearoa is submitting in strong opposition to the entirety of the Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill (“the Bill”). We recommend that the committee reject this Bill and that the government pursue evidence-based alternatives that will not cause further harm.

This submission was prepared on behalf of People Against Prisons Aotearoa by Tom.

## Introduction

1. The Young Serious Offender (“YSO”) and military-style academies (“MSAs”) introduced by this Bill will, at best, be ineffective at reducing recidivism or improving outcomes for affected young people. At worst, they will lead to abuse and create a cohort of traumatised young people who will go on to cause harm to themselves and others throughout their lives. This Bill ignores all the best evidence and best practice around how to help young people and improve outcomes for them, and must be rejected in its entirety.
2. People Against Prisons Aotearoa oppose this Bill on the following grounds:
  - It is ineffective in the approach it takes to reducing the harm caused by the affected young people;
  - It will disproportionately affect rangatahi Māori and is inconsistent with *Te Tiriti o Waitangi*;
  - It opens the door for abuse of a group of young people who are already at risk.
3. Finally, we have one recommendation for the Bill around use of force. This is offered in acknowledgement that the Bill is likely to pass into law regardless of strong opposition from experts, advocates, community groups and government officials. The recommendation is that the Bill include significantly tighter regulation of use of force by Oranga Tamariki as well as third parties, and a ban on seclusion practices. We provide more detail on this in [24]-[31].

## Ineffective, outdated and debunked approach

4. The purpose of this Bill is to “reduce youth offending” by ensuring “[y]oung people who offend will be held to account”.<sup>1</sup> The Bill does this by creating a “YSO declaration”, made through the Youth Court, that unlocks additional powers for both the Court and Police.
5. These powers include:
  - Removing eligibility for early release from a residence;
  - Longer supervision orders;
  - Greater monitoring;
  - Great powers for police to arrest; and
  - Eligibility for a military-style academy order.
6. Many of these are an attempt to deter crime or reoffending through the threat of more severe punishments. This theory of deterrence lacks any evidence for its efficacy, while **lengthier incarceration for young people can actually increase the risk and severity of future offending**.<sup>2</sup>

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<sup>1</sup> New Zealand Government. *Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill 2024*. 99-1. (2024). <https://www.legislation.govt.nz/bill/government/2024/0099/17.0/d18686280e2.html#LMS1007343>

<sup>2</sup> Mendel, Richard. “Why Youth Incarceration Fails: An Updated Review of the Evidence – the Sentencing Project.” The Sentencing Project. (2023).

<https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>.

Lambie, Ian, and Isabel Randell. “The Impact of Incarceration on Juvenile Offenders.” *Clinical Psychology Review* 33, no. 3 (2013): 448–59. <https://doi.org/10.1016/j.cpr.2013.01.007>.

Silver, Bex. “Being ‘Tough on Crime’ Is Too Easy – and Ignores the Evidence.” Newsroom. Newsroom. (September 21, 2023). <https://www.newsroom.co.nz/being-tough-on-crime-is-too-easy-and-ignores-the-evidence>.

7. Meanwhile the experience of similar policy in Australia suggests that it could have the opposite effect, where young people glorified the YSO label.<sup>3</sup>
8. Even the young people who do not glorify the label are nonetheless likely to internalise it. The YSO label forms a negative group identity and establishes a community and sense of belonging that is rooted in harmful, anti-social behaviour. People with experience in the youth justice system who are now in prison as adults have written to us describing this process, and how they found community among others in the same circumstances as them.
9. Young people affected by this Bill are not carefully considering the consequences of their actions. Young people are more likely to be impulsive than adults, and most are still developing the future planning and self regulation skills that adults take for granted.<sup>4</sup> Almost all young people exhibit reward-seeking and risk-taking behaviour, and this is the key motivation of most young people who have offended.<sup>5</sup> The threat of more severe consequences will not enter into the decision-making process behind such behaviour.
10. Many of the young people entering our justice system are also neurodivergent. This includes dyslexia, attention-deficit/hyperactivity, autism spectrum disorders, foetal alcohol syndrome and cognitive impairments.<sup>6</sup> Traditional deterrent approaches are particularly ineffective with these young people.<sup>7</sup>
11. Meanwhile the “boot camp” approach of the military-style academies introduced by this Bill is worse than a failure. Abundant evidence suggests that not only is this approach ineffective, but **boot camps actually leave young people more likely to offend than no intervention at all.**<sup>8</sup> This alone should be reason to reject this Bill outright, but we discuss further concerns over the MSAs in [21]-[23].

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Pratt, Travis C., Francis T. Cullen, Kristie R. Blevins, Leah E. Daigle, and Tamara D. Madensen. ‘The Empirical Status of Deterrence Theory: A Meta-Analysis’. In *Taking Stock: The Status of Criminological Theory*, 367–95. Advances in Criminological Theory. Piscataway, NJ, US: Transaction Publishers, (2006).

<sup>3</sup> Pennington, Phil. “Government warned ‘young serious offenders’ could be glorified.” RNZ. (3 September 2024). <https://www.rnz.co.nz/news/national/526873/government-warned-young-serious-offenders-could-be-glorified>

<sup>4</sup> Steinberg, Laurence. 2010. “A Dual Systems Model of Adolescent Risk-Taking.” *Developmental Psychobiology*, (April 2010). <https://doi.org/10.1002/dev.20445>.

Lynch, Nessa, and Huhana Ginty. 2022. “Young Adults in the Criminal Justice System in Aotearoa New Zealand: A principled framework for reform.” *Michael & Suzanne Borrin Foundation*, April 2022.

<https://www.borrinfoundation.nz/wp-content/uploads/2022/05/Young-Adults-in-the-Criminal-Justice-System-in-Aotearoa-NZ-report.pdf>

Lambie, Ian. “What Were They Thinking? A Discussion Paper on Brain and Behaviour in Relation to the Justice System in New Zealand.” *Auckland.ac.nz*, (January 2020). <http://hdl.handle.net/2292/51311>.

<sup>5</sup> Ioane, Julia. “Pasifika People in Youth Justice System Report.” Massey University School of Psychology, *Health Research Council of New Zealand*. (2023).

<https://pasefikaproud.co.nz/assets/Uploads/Pasifika-People-In-Youth-Justice-System-Report-2023.pdf>

<sup>6</sup> Lambie, What Were They Thinking?

<sup>7</sup> Gibbs, Anita, and Kesia Sherwood. “Putting Fetal Alcohol Spectrum Disorder (FASD) on the Map in New Zealand: A Review of Health, Social, Political, Justice and Cultural Developments.” *Psychiatry, Psychology and Law*, 24, no. 6. (2017): 825-842. <https://doi.org/10.1080/13218719.2017.1315784>.

<sup>8</sup> Farrington, David P, Hannah Gaffney, and Howard White. “Effectiveness of 12 Types of Interventions in Reducing Juvenile Offending and Antisocial Behaviour.” *Canadian Journal of Criminology and Criminal Justice* 64, no. 4 (2022): 47–68. <https://doi.org/10.3138/cjccj.2022-002>.

12. This Bill will potentially unlock certain supports that may not have been available previously due to funding and eligibility restrictions. We argue that these options should be more widely available and funded for all young people who might need them, rather than gated behind specific sentencing.

### **Impact on rangatahi Māori and inconsistency with *Te Tiriti o Waitangi***

13. This Bill will disproportionately impact on rangatahi Māori. The regulatory impact assessment suggests 85% of the people eligible for a YSO declaration will be Māori. This Bill therefore places the Crown in breach of *Te Tiriti o Waitangi*, and is at odds with the principles of the Treaty of Waitangi.
14. Specifically this Bill breaches the requirements for good governance, because it ignores abundant evidence and advice not to proceed. It breaches the Crown's duty to protect Māori. Finally, it violates the guarantee of tino rangatiratanga.
15. Of particular concern to us is the discretion given to police in this Bill. The Bill empowers police to decide when and for whom to apply for a YSO declaration. This introduces yet another avenue for already heavily biased policing decisions to treat Māori more harshly than Pākehā.
16. **Māori are already treated more harshly than Pākehā throughout the justice system.**<sup>9</sup> This is particularly true at the entry point to the justice system, namely contact with police, and decisions by police around whether to arrest, prosecute and what charges are brought.<sup>10</sup>
17. Our police force is a deeply racist institution, as the police's own research has revealed.<sup>11</sup> The illegal, nation-wide surveillance program operated by police against Māori children until 2022 provides a glimpse of the kind of structural racism involved in routine, operational policing.<sup>12</sup>
18. The overrepresentation of Māori in the cohort of young people eligible for a YSO declaration is itself a result of systemic bias against Māori. However it is clear that placing YSO declarations at the discretion of police will result in a disproportionate number of Māori designated as YSOs, even beyond the relative numbers that are eligible.

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<sup>9</sup> Te Uepū Hāpai i te Ora. *Turuki! Turuki! Transforming Our Criminal Justice System*. Wellington, Te Uepū Hāpai i te Ora: The Safe and Effective Justice Advisory Group, (2019);

Quince, Khylee. 'Maori and the Criminal Justice System.' in *Criminal Justice in New Zealand*, eds. Julia Tolmie and Brookbanks, Warren J. Wellington: LexisNexis. (2007). 333–58.

<sup>10</sup> Zealand Department of Corrections, *Over-representation of Māori in the criminal justice system: An exploratory report*. Wellington, Department of Corrections. (2007).

<sup>11</sup> Leonard, Catherine and Paul Brown. *Understanding Policing Delivery: Phase One Report*. Ihi Research. (2024). <https://www.police.govt.nz/sites/default/files/publications/upd-ihl-phase-one-report.pdf>

<sup>12</sup> Cardwell, Hamish. "Police illegally photographing youth, Māori a 'widespread practice', investigation finds". RNZ. (September 8, 2024).

<https://www.rnz.co.nz/news/national/474366/police-illegally-photographing-youth-maori-a-widespread-practice-investigation-finds>

## Harms of the youth justice system, and the risk of abuse

19. Our youth justice system is already unfit for purpose. **Our youth justice residences make frequent use of harmful isolation practices and have a high frequency of assaults.**<sup>13</sup> **There are insufficient mental health and disability services, a high proportion of unaddressed mental health needs, and a lack of capacity among staff to respond to the complex needs of the young people entering the system.**<sup>14</sup>
20. Research published just this year has called attention to the lack of capacity at Oranga Tamariki to deliver trauma-informed care in its residences and group homes.<sup>15</sup>
21. Even if these issues were overcome by the additional resourcing enabled by this Bill, rehabilitation outcomes are likely to be very poor because they are coming far too late for these young people.<sup>16</sup> MSAs will further hinder rehabilitation because these are not rehabilitative environments; **by nature they exclude the critical features of effective rehabilitation programs for young people.**<sup>17</sup>
22. Meanwhile experience in the youth justice system is correlated with life-long poorer mental and physical health outcomes.<sup>18</sup> These experiences, particularly the long stays at MSAs introduced by this Bill, create barriers to education and workforce participation, and prevent the formation of positive social relationships during crucial development years.<sup>19</sup> The lengthier stays and more severe sentences created by this Bill will further exacerbate these outcomes.

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<sup>13</sup> Walker, Grace, Joseph Boden, David Fergusson, and John Horwood. 2019. "Examining the Associations between Offending Trajectories in Adolescence/Young Adulthood and Subsequent Mental Health Disorders." APA PsycNet. (2019). <https://psycnet.apa.org/record/2018-46117-001>.

Mana Mokopuna: Children & Young People's Commission. 2023. "UN Calls out New Zealand's Youth Justice Record." Mana Mokopuna. (August 1, 2023).

<https://www.manamokopuna.org.nz/publications/media-releases/un-calls-out-new-zealands-youth-justice-record/>.

McVilly, Keith, Molly McCarthy, Andrew Day, Astrid Birgden, and Catia Malvaso. 2022. "Identifying and Responding to Young People with Cognitive Disability and Neurodiversity in Australian and Aotearoa New Zealand Youth Justice Systems." *Psychiatry, Psychology and Law*. (November 1, 2022).

[https://www.tandfonline.com/doi/abs/10.1080/13218719.2022.2124548?casa\\_token=kybhoMFuTIAAAAA%3A882C2c9yI-10Eu8CKpUvPc73gNle8HBIHRsdsABSpkOOyRh7HxgPb5KVO-1PzK-AxZjaoZ9jEeSmuA](https://www.tandfonline.com/doi/abs/10.1080/13218719.2022.2124548?casa_token=kybhoMFuTIAAAAA%3A882C2c9yI-10Eu8CKpUvPc73gNle8HBIHRsdsABSpkOOyRh7HxgPb5KVO-1PzK-AxZjaoZ9jEeSmuA).

Montgomery, Jennifer. "Feathers in the Wind: The Need for Culturally Safe Trauma-informed Care in Oranga Tamariki Care and Protection Residences and Group Homes in Aotearoa". Thesis. Open Access Te Herenga Waka-Victoria University of Wellington, (2024). <https://doi.org/10.26686/wgtn.27644301>.

<sup>14</sup> Mana Mokopuna, UN Calls out New Zealand's Youth Justice Record.

Montgomery, Feathers in the Wind.

<sup>15</sup> Montgomery, Feathers in the Wind.

<sup>16</sup> Johnstone, Charlotte. *Are we failing them? An analysis of the New Zealand criminal youth justice system: how can we further prevent youth offending and youth recidivism?* Thesis, Massey University. 2015.

<http://hdl.handle.net/10179/7420>

<sup>17</sup> Farrington, Effectiveness of 12 Types of Interventions.

<sup>18</sup> Barnert, Elizabeth S, Rebecca Dudovitz, Bergen B Nelson, Tumaini R Coker, Christopher Biely, Ning Li, and Paul J Chung. 2017. "How Does Incarcerating Young People Affect Their Adult Health Outcomes?" *Pediatrics* 139 (2).

<https://doi.org/10.1542/peds.2016-2624>.

Walker, Grace, Joseph Boden, David Fergusson, and John Horwood. 2019. "Examining the Associations between Offending Trajectories in Adolescence/Young Adulthood and Subsequent Mental Health Disorders." APA PsycNet. 2019. <https://psycnet.apa.org/record/2018-46117-001>.

<sup>19</sup> Mendel, Why Youth Incarceration Fails.

23. The predecessors of MSAs all resulted in cruel, degrading, abusive and traumatising treatment of the young people involved.<sup>20</sup> In many cases this abuse was criminal, in others it was sanctioned as part of the program. Many of the young people in our justice system are heavily traumatised by their early life experiences.<sup>21</sup> This makes them particularly vulnerable to the kinds of abuse carried out in these facilities, and creates unacceptable risk.

### **Use of force and seclusion**

24. Of particular concern are provisions in this Bill that, in certain circumstances, give private contractors and staff the ability to use force against young people.
25. Concerns about use of seclusion and improper use of force at Oranga Tamariki has already been raised by numerous reports from the Human Rights Commission, Mana Mokopuna and Aroturuki Tamariki.<sup>22</sup> Expanding this power to third party providers opens the door for further abuse, trauma and the possibility for serious harm. These providers lack the expertise or training needed to meet the complex needs of the young people in these academies.
26. This reaffirms our belief that no young people should be sent to MSAs, and that the government should be working towards ending all youth justice residences and over time devolving the responsibilities of Oranga Tamariki back to whanau, hapū and iwi Māori. Anything short of this breaches *Te Tiriti o Waitangi* and inevitably adds to the trauma and abuse suffered by rangatahi Māori in state care.
27. However, at an absolute minimum this Bill must include significantly more restriction on, and monitoring of, the use of force by Oranga Tamariki. Seclusion practices must be banned outright.
28. At present the provisions around use of force appear to be focused more on avoiding legal liability for staff than on preventing harm to young people.
29. We therefore recommend that the committee review the current legislation and policy settings around use of force at Oranga Tamariki in its entirety, and ensure that these reflect best practice. We note that particular regard here needs to be given to the inalienable rights, dignity and mana of young people. Section 99 of the Education and Training Act 2020 sets out restrictions that could serve as a starting point.
30. We recommend that across Oranga Tamariki legislation and/or policy should specify:
- That no seclusion practices be used;

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<sup>20</sup> Abuse in Care Royal Commission of Inquiry. "Boot Camp: Te Whakapakari Youth Programme A case study of State-funded violence and abuse of children and young people needing care and protection." (2024). <https://www.abuseincare.org.nz/reports/whanaketia/case-studies/case-study-whakapakari/executive-summary/>

<sup>21</sup> Mana Mokopuna, UN Calls out New Zealand's Youth Justice Record. Mendel, Why Youth Incarceration Fails.

<sup>22</sup> Bradley, Anusha. "Insufficient data on restraint and seclusion of children in Oranga Tamariki facilities, watchdogs say". RNZ. (November 21, 2024). <https://www.rnz.co.nz/news/in-depth/534361/insufficient-data-on-restraint-and-seclusion-of-children-in-oranga-tamariki-facilities-watchdogs-say>

- That force be used only to prevent greater harm to the young person or someone else;
  - That force only be used when there be no other options available to prevent greater harm;
  - That any use of force be the minimal amount required by the circumstances;
- That the use of force and the circumstances around it be reported to the family, whānau or guardian of the young person as soon as is practical.
31. Further, we recommend that anyone authorised to use force must have completed training on:
- Safe ways to do so;
  - Ways to avoid use of force, such as prevention and deescalation;
  - The specific circumstances in which they are allowed to use force.

### Alternatives

32. Our other recent submissions have extensively covered alternatives to the approaches taken in this Bill, in particular our submissions to the Justice Select Committee on the Ram Raid Offending and Related Measures Amendment Bill 2023<sup>23</sup> and the Sentencing (Reform) Amendment Bill 2024<sup>24</sup>. We have reproduced the relevant sections from these submissions here, with only minor changes.
33. To address the problem of repeat serious offending, many justice experts advocate for what is known as a transformative approach to justice. Transformative justice takes a holistic approach to crime and offending and seeks to transform the underlying structures and systems that contribute to offending.<sup>25</sup>
34. The drivers of crime are well understood. They include things like poverty and inequality; alienation; harms from drug and alcohol dependence or misuse; barriers to participation in communities, the workforce or education; inadequate and precarious accommodation; and poor access to healthcare, particularly mental health services.
35. **The most effective way to reduce offending is to address the drivers of that offending.** This prevents people from causing harm in the first place, rather than merely waiting until they have done so and finding the best way to punish them.
36. For whanau Māori, many of these factors are coextensive with ongoing processes of colonisation that have seen them disconnected from their whakapapa, culture and history; railroaded into low wage jobs; and denied fair treatment in the education, health and justice

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<sup>23</sup> People Against Prisons Aotearoa, 'Submission to the Justice Committee on the Ram Raid Offending and Related Measures Amendment Bill'. (2023).

<https://papa.org.nz/wp-content/uploads/2023/10/People-Against-Prisons-Aotearoa-Submission-on-Ram-Raid-Offending-and-Related-Measures-Amendment-Bill-2023.pdf>.

<sup>24</sup> People Against Prisons Aotearoa. 'Submission to the Justice Select Committee on the Sentencing (Reform) Amendment Bill 2024'. (2024).

<https://papa.org.nz/wp-content/uploads/2024/12/Submission-on-Sentencing-Reform-Amendment-Bill-2024.pdf>.

<sup>25</sup> Zionov, Aaliyah, and Mackenzie Valgre. "Transformative Justice Workshop: Practical Ways of Solving Interpersonal Harm and Conflict in Our Communities." Auckland: People Against Prisons Aotearoa, 2018.

systems.<sup>26</sup> More broadly, many of the social problems that we seek to address by incarcerating people, including with legislative changes like this Bill, arise from breaches of *Te Tiriti*.

37. By upholding *Te Tiriti*, and enabling genuine tino rangatiratanga and mana motuhake, we can most effectively address these social issues for Māori, and end legal bias against Māori. This would involve a system in which Māori control the laws, values, processes and outcomes. It will require considerable work on the part of the Crown, including constitutional changes and addressing historical breaches of *Te Tiriti*, which are extensive.
38. The *Turuki! Turuki! Transforming our criminal justice system* report by Te Uepū Hāpai i te Ora Safe and Effective Justice Advisory Group details a range of other options for transformative justice that the committee could consider instead of this Bill.<sup>27</sup> However it is worth noting that this report is out of date, and does not necessarily reflect current best practice or approaches. It would be well worth undertaking a new report on transformative justice in Aotearoa.
39. For young people currently in the youth justice system, as well as for young people who are at risk of engaging in dangerous or criminal risk-taking behaviours, reducing offending starts with their environment. Experts have commented that a significant problem for many young people already in the justice system is that they get out and the environment they return to, which prompted them to offend in the first place, is usually still there and unchanged.<sup>28</sup>
40. It is also important to understand what individual factors can lead to young people engaging in criminal offending. Factors like economic stress, poor mental health and boredom all contribute to the kind of risk-seeking behaviour that is involved in much offending.<sup>29</sup>
41. Solutions must address both individual and environmental factors. We need to ensure young people have opportunities to engage in society, have a voice in their community, and that they have healthy and supportive relationships with the people in their lives.<sup>30</sup> Having a stable family life, as well as broader social stability, economic stability, and positive connections to the community, such as through a church or sports club, are all known to reduce the chances that a young person will offend.<sup>31</sup>

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<sup>26</sup> Jackson, Moana. "He Whaipanga Hou – Māori and the Criminal Justice System: A New Perspective, Part 2." Wellington, New Zealand: Policy and Research Division, Department of Justice, 1988;

Te Ohu Whakatika. "Hui Māori: Ināia Tonu Nei." Wellington: Ministry of Justice, 2019.

<sup>27</sup> Te Uepū Hāpai i te Ora. *Turuki! Turuki!*

<sup>28</sup> Hatton, Emma. 'Defining Issues: What Is the Youth Crime Problem We're Trying to Solve?' Newsroom. Newsroom. (September 21, 2023).

<https://www.newsroom.co.nz/defining-issues-what-is-the-youth-crime-problem-were-trying-to-solve>.

<sup>29</sup> Ioane, Julia. 'Pasifika People in Youth Justice System Report.' Massey University School of Psychology, *Health Research Council of New Zealand*. (2023).

<https://pasefikaproud.co.nz/assets/Uploads/Pasifika-People-In-Youth-Justice-System-Report-2023.pdf>.

<sup>30</sup> Hatton. 'Defining Issues'.

<sup>31</sup> Ioane. 'Pasifika People in Youth Justice System Report.'



42. Appropriate resourcing is therefore needed for parents, schools and communities to engage with and support young people. Programmes specifically aimed at supporting parents to have more consistent, positive interactions and greater emotional communication with their children help to reduce the chances of children offending as teenagers.<sup>32</sup> More broadly, reducing the economic and social stressors on parents will ensure all families are positive, supportive environments that nurture healthy young people.<sup>33</sup>
43. Finally, support and resourcing is needed for schools and teachers to implement positive behaviour management plans, focused on ensuring regular attendance and avoiding stand-downs, which are both known to contribute to youth offending.<sup>34</sup>
44. Truancy measures should involve building trusting and supportive partnerships between whānau and schools, and identifying any barriers to regular attendance. Truancy measures cannot merely rely on fines or punishments for parents, because these act only to further disadvantage students.<sup>35</sup>
45. Avoiding stand-downs involves supporting positive behaviour and engagement with learning before any significant harm is caused.<sup>36</sup> Accessing the existing support for students at risk of these behaviours is currently a long process that involves burdensome amount of time for teachers and school leaders. The kind of full, wrap-around support that is needed for continuity between home and school in some cases remains unavailable. Many schools also need support to implement restorative practice programmes, which can avoid stand-downs by helping to address harmful behaviour before it escalates.<sup>37</sup>
46. Schools also need more resourcing and support to address young people's increasingly complex learning, social and emotional needs, to ensure that all young people experience success. Success at school is associated with a raft of positive outcomes that reduce offending.<sup>38</sup>

## Conclusion

47. This Bill goes against all evidence and advice. It is a significant injustice that opens the door for another generation of abuse and trauma at the hands of the state.

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<sup>32</sup> Gluckman. *It's never too early, never too late*.

<sup>33</sup> Sampson, R. J., and J. H. Laub. 'Urban Poverty and the Family Context of Delinquency: A New Look at Structure and Process in a Classic Study'. *Child Development* 65, no. 2 Spec No (April 1994): 523–40.

<sup>34</sup> Gluckman. *It's never too early, never too late*.

<sup>35</sup> Ministry of Education. 'Improving Attendance: Case management of truancy and the prosecution process'. *Ministry of Education*. (2010).  
<https://www.education.govt.nz/assets/Documents/School/Running-a-school/Managing-students/Managing-student-attendance/ImprovingAttendance2010.pdf>.

<sup>36</sup> Ministry of Education. 'Positive Behaviour For Learning'. n.d. Accessed 21 October 2024. <https://pb4l.tki.org.nz/>.

<sup>37</sup> Restorative Practices Development Team. 'Developing Restorative Practices in Schools: A Resource'. *School of Education, University of Waikato*. (2010).  
[https://www.waikato.ac.nz/\\_data/assets/pdf\\_file/0018/240903/Restorative Practices for Schools A Resource-1.pd](https://www.waikato.ac.nz/_data/assets/pdf_file/0018/240903/Restorative_Practices_for_Schools_A_Resource-1.pd)

<sup>38</sup> OECD. 'Education at a Glance 2021.' OECD Indicators. n.d. Accessed 21 October 2024.  
<https://www.oecd-ilibrary.org/content/publication/b35a14e5-en>.

48. Ultimately, assurances from the government that this time we have learned our lesson are inadequate. That this Bill has been introduced to parliament only a handful of weeks after the government formally apologised to the survivors of abuse in state care is a powerful indication that the government has learned nothing from the mistakes of the past.
49. We close our submission with a quote from a recent piece written by journalist Aaron Smale, who has spent years investigating and writing about abuse in care. Despite reassurances from the Minister responsible for this Bill that the MSAs will be “trauma-informed”, Smale’s words here sum up the deficient, trauma-led assumptions made by this government. It is these racist assumptions, not evidence or a “trauma-informed” approach, that have informed the design of this Bill. The Bill simply repeats the tragic mistakes of the past, and should be rejected in its entirety.

*My assessment, from years of research and dissecting the [Abuse in Care: Royal Commission of Inquiry’s] work, is that the High Court judgment reinforces the long-held assumption that there are some categories of families – particularly those who are poor and/or brown – that are incorrigible and in need of punitive measures.*

*The assumption seems to be that these families and their children are to be contained and controlled by a benevolent state because they are unfit or suffer from some immutable disorder.<sup>39</sup>*

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<sup>39</sup>Smale, Aaron. “Crown cover-up? ‘Embarrassing, not traumatic’”. Newsroom. (October 17, 2024). <https://newsroom.co.nz/2024/10/17/crown-cover-up-embarrassing-not-traumatic/>.