

**Oranga Tamariki (Youth Justice Demerit Points)
Social Services and Community Committee**

Te Ope Whakaora – The Salvation Army New Zealand Fiji Tonga and Samoa Territory Submission

General Comments:

1. The Salvation Army was disappointed at the short timeframe that was originally given to respond to this Bill. But we are very glad that this has been extended. It is very positive that there are moves to try and reform parts of this youth justice system. And although this is a system that The Salvation Army is not working directly in, there are very clear links between our Christian spiritual and social services with young people and their whānau involved with the youth justice system. We have in the past advocated for changes to this system, with a specific focus on calling for the restorative justice essence of this system to be strongly promoted and realised through Family Group Conferences (FGCs) and youth courts.
2. The Salvation Army has some more specific recommendations below outlined further in this submission. At this point, some of our general recommendations are:
 - a. There should be a comprehensive consultation process with the youth sector, and in particular those involved in youth offending, to inform this policy development and any future reviews of this system;
 - b. We call for a more comprehensive review of the youth justice system that should be done with key actors in the sector stated above. The Youth Crime Action Plan 2013–2023, released in 2013, is nearing the end of its cycle. It is timely to review this plan based on the current and emerging developments and trends in the system;
 - c. More investigation into how (if the Bill progresses) a demerit points system will interact with the Rangatahi and Pasifika Courts that are generally producing some very positive outcomes for young offenders.

Background:

3. The mission of The Salvation Army is to **care for people, transform lives and reform society through God, in Christ and by the Holy Spirit's power.**¹ The Salvation Army is a Christian church and social services organisation that has worked in New Zealand for over one hundred and thirty years. It provides a wide range of practical social, community and faith-based services around the country.
 - a. The combined services of Te Ope Whakaora The Salvation Army provided support to around 120,000 people in 2019. These services included over 57,000 food parcels to more than 28,000 families and individuals, providing some 2,400 people with short- or long-term housing, nearly 7,000 families and individuals supported with social work or counselling, just over 17,000 addictions counselling sessions, more than 5,500 families and individuals helped with budgeting, other practical assistance to

¹ <https://www.salvationarmy.org.nz/church-community/resources>

over 6,000 families and individuals, 6,500 hours of chaplaincy support, and some 9,000 victims, defendants and families supported at court.

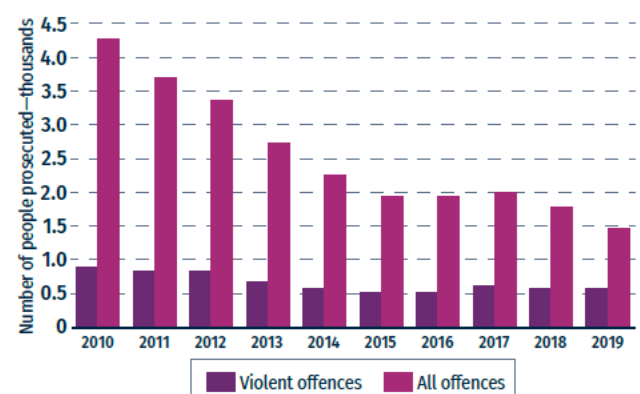
- b. As alluded to above, generally, we are not directly involved in the youth justice sector. However, through our Corps (churches), various youth programmes and some government contracts, there are clear links. The Salvation Army has a long involvement with the justice sector, primarily through our Court Chaplains, Addictions and Reintegration services, and justice policy reform and advocacy through the Social Policy and Parliamentary Unit (SPPU).
4. This submission has been prepared by SPPU. The SPPU works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand. This submission has been approved by Commissioner Mark Campbell, Territorial Commander of The Salvation Army’s Aotearoa New Zealand Fiji Tonga and Samoa Territory.

Responses to the Bill

5. Important context

- a. In our annual State of the Nation reports, we include some measurements related to youth offending. In our 2020 report, *Tangata Whenua, Tangata Tiriti, Huia Tangata Kotahi*, we noted that youth offending declined again, continuing the trend over the past decade. Youth offending is now at its lowest level for more than 25 years. The number of offences is now around one-third of what it was a decade ago. Rates of offending and the number of children and youth going through the court system have both decreased significantly. However, we did note that there has been a rise in the proportion of violent offending among those recorded. Therefore, violent offending is now making up more of a proportion of youth offending. The figure below from our 2020 report illustrates these trends.

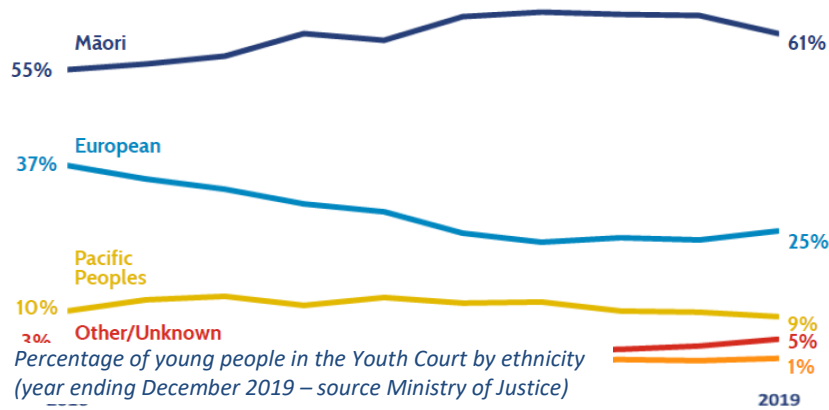
Figure 3: Number of recorded offences committed by 12- to 16-year-olds—2010–2019¹³



- b. The Ministry of Justice’s (MOJ) Infographic on *Statistics for children (aged 10-13) and young people (aged 14-16) in Youth, District and High Courts in the year ended December 2019* also depicts these key trends.² For example, less young people are going to the youth court, only the most serious offending is going to the Youth Court, the proportion of Māori rangatahi going to the Youth Court is declining (although Māori remain disproportionately represented overall), and most offence types have decreased in the year ending December 2019 (except for assaults).

² <https://www.justice.govt.nz/assets/Documents/Publications/8k33f8-Children-and-young-people-infographic-dec2019-v1.0.pdf.pdf>

The percentage of Māori in court has decreased



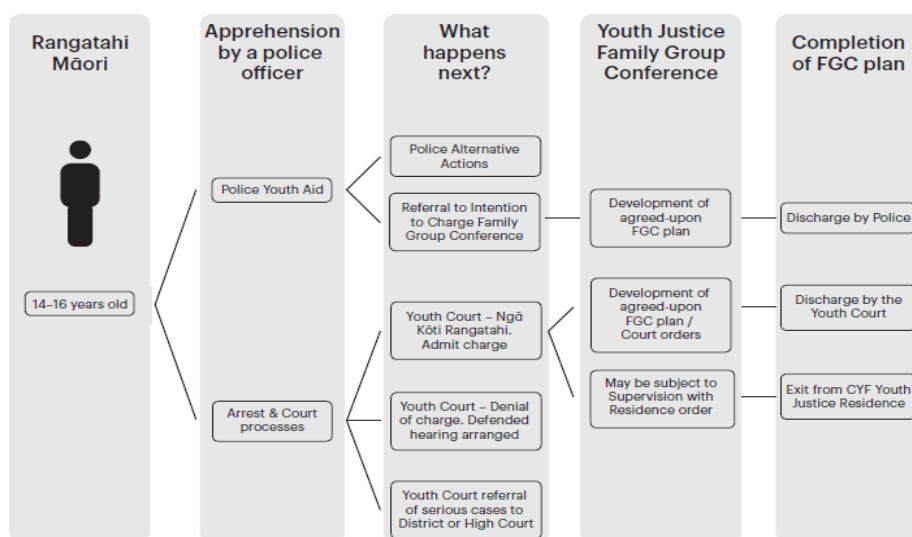
c. In our view, this context is very important. The Bill’s sponsor, MP Darroch Ball, has described the system as *complex and largely ambiguous*. Additionally, the General Policy Statement details some troubling statistics from existing diversion practices. We welcome the attempts to reform this system. But given the trends discussed in this section, we do not necessarily believe this

type of demerit points reform is what is needed right now to help further reduce all youth offending and reduce the numbers coming through the Youth Courts.

- d. We submit that a key focus of any strong review of the youth justice system should focus on ensuring restorative justice for both the victim and the youth offender is central to the system. Furthermore, the impact of the Rangatahi and Pasifika courts, and the connection to restorative justice, should be central to a wider review of the system, particularly the Youth Crime Action Plan 2013–2023.

6. Specific comments on the Bill

- a. General Policy Statement** – We welcome the intentions and sentiment behind this Bill, particularly the desire to reduce re-offending from young people. In our view, the youth justice system can often be very complex. But given the challenges around the age and backgrounds of many young people in the system, we can understand the complexity of trying to systemically address these challenges. The introduction of a demerit points scheme will probably offer some clarity for offenders and those involved in the system. Still, we are unsure of whether these points will be big enough deterrent to reoffending which is a clear focus of this Bill. Additionally, we submit that reviewing the current system and then refining key parts of the systems like FGCs or youth justice residences are preferable rather than a major revamp of the system by introducing a brand new element into system.
- b. Justice Seriousness Scale** – The Salvation Army is unsure how this scale will effectively translate to the youth justice system. The scale has some clear benefits and positive aspects, especially as it inputs into the Risk of re-Conviction/Risk of re-Imprisonment model (RoCRoI) for the Dept. of Corrections, and for monitoring the effectiveness of interventions. There are some clear connections between the scale and youth offending. But there are also limitations to the scale. A 2016 FAQ on the scale notes that *in short, because we can't directly measure true seriousness of actual offences (not least because it's far from clear what that is), instead we measure severity of sentences imposed (as an indicator of seriousness). Differences between true seriousness of offending and seriousness scores inevitably result in limitations and possible misinterpretation.*³ Finally, the scale is, in our view, hugely complex itself. Adding this complex system to the youth system that is, according to the Bill, already *complex and largely ambiguous* does not seem the most rational approach.
- c. Clause 210A Purpose** – Punishment is a core aspect of our justice system. There must be consequences to crime. We support any change that adds greater clarity and consistency to a system. But we question whether a points system is the greatest deterrent to young people reoffending. The *Rangatahi Māori and Youth Justice: Oranga Rangatahi* in 2018 outlines the youth justice pathway for Māori rangatahi (which is relevant to all youth offenders) in the image on the left. In our view, strengthening the FGC process and developing other strengths-based, culturally appropriate interventions might serve as stronger curbs to youth reoffending. The Rangatahi and Pasifika courts are examples of these kinds of interventions.



³ <https://www.justice.govt.nz/assets/Documents/Publications/2016-FAQs-Seriousness-Scores2.pdf>, pages 5 and 6.

- d. **Offending Bands** – If this Bill progresses and passes, then we submit more work is needed in connecting the bands identified in the Bill with current youth development and youth justice research, and also connect with the youth work sector directly to develop this scale. Also, we have referred above to some of the limitations to the Seriousness Scale that are relevant here.
- e. **Clause 210C Actions required** – This clause makes logical sense. If this Bill passes, we submit that stronger consultation is needed with Police youth aid, alternative action providers and other key actors to ensure these pathways and actions are the most appropriate to fulfil the goals of the Bill and the principles that govern the youth justice system.
- f. **Clause 210D Limited Service Volunteer Programme (LSV)** – If this Bill progresses, we support the offering of participation in the LSV programme, or a similar programme. The Ministry of Defence notes in the 2019 review of LSV that:
- i. *The review found that after the programme more than half of trainees gain work or enter training. For those who remain on benefit, ongoing barriers to training or employment include maintaining positive habits after returning to their home environment; a return to substance abuse; a return to a dysfunctional or unsupportive home environment, or unwillingness to change. The review found that improving post-programme mentoring and support could enhance outcomes, and that such support should be consistently available across New Zealand; adaptable to trainees' needs long-term; connected into the trainee's whānau/family, and includes opportunities for peer-to-peer support.*⁴ Clearly, there are some limits to LSV. But there are positives too, especially given the difficult backgrounds of many of those joining the programme.
 - ii. The reoffending rates for Māori and Pasifika going through Pasifika and Rangatahi Courts is lower than reoffending rates through the Youth Court. Programmes offered to address youth reoffending should reflect this and cater to the level of offence or the young people, particularly for Māori as they are disproportionately represented. We understand that many LSV staff are Māori and Pasifika which is very encouraging. At the same time, we wonder if a case can be made for LSV-type programmes particularly designed by and implemented by Māori and Pasifika for young offenders with these same backgrounds could generate even better outcomes for these young people. These might be initiatives run in and through local iwi, or through Pacific churches and other faith-based organisations such as Te Ora Hou or even The Salvation Army's Blue Mountain Adventure Centre in Raurimu.
 - iii. The Salvation Army does not have a clear position yet on LSV. But we are supportive of programmes offering and delivery strong outcomes for young people, whether it is LSV or the Youth Employment Training and Education programme, or some new initiative that emerges in this space. These options, as well as those offered in local communities where the young

⁴ <https://www.defence.govt.nz/what-we-do/assessing-the-defence-system/limited-services-volunteer-programme-review/>

person comes from, are interventions we submit can reduce youth offending and reoffending. In the past, we have noted that LSV can be especially effective when the young people can be placed in employment or training as soon as they return home, to ensure the momentum gained during LSV can continue for the young person as they re-enter their normal life.

- g. Section 209 and section 210 Delete 'young person'** – The purpose of the bill is to prevent reoffending therefore we recommend that the youth justice demerit point system be applied to repeat offenders as opposed to first time-offenders. The repeal of 'young person' from section 209 and 210 nullifies a young person's chance to receive a warning separate from the demerit system.

 - i.** The Bill does account in section **210(C) (2)(a)(i)** to warn the young person for demerit accumulated between 1-40 however the programmes provided in **210(D)** to be apart of LSV is from 1-80 demerits. The level of offence at 1-10 demerit points is vastly different for the level of offence at the 70-80 end. The LSV programme takes on a one size fits all whereas the offending levels are not the same. Furthermore, **210D (4)** only allows the clearance of a young person's record cleared of youth justice demerit points once. Young people who are first time offenders should not have to utilise their one chance to clear their record on a first-time offence.
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