



18 March 2010

**Submission to the Inquiry in to the identification, rehabilitation and care and protection of child offenders.**

**To the Social Services Committee**

**Introduction**

This submission is from the Aotearoa New Zealand Association of Social Workers (ANZASW).

ANZASW is the professional body for Social Workers in Aotearoa New Zealand. It was formed in 1964 and currently has over 4000 members. Its members work across the spectrum of social work workplaces.

The ANZASW operates under a bicultural model in accordance with Te Tiriti o Waitangi. Some components of this include: the Tangata Whenua Takawaenga o Aotearoa (Māori caucus), a parallel Niho Taniwha (kaupapa Māori model) competency assessment tool and process, and principles of partnership, participation and protection of rights woven into and throughout the organisational structure. Through this, ANZASW is unique amongst professional bodies in its ability to provide specialist support to Māori members.

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We would be happy to appear before the Committee to speak to our submission.

The submission is drafted following comments received from ANZASW members, following a global invitation for members to comment on the Inquiry's terms of reference.

### **Summary**

ANZASW regrets the enactment of the Children, Young Persons, and Their Families (Youth Court Jurisdiction and Order) Amendments Act 2009 (10/2) in which 12 and 13 year-old offenders who commit serious crimes can be referred to the Youth Court. The Amendments Act is a backward step in the treatment of children who commit serious crimes – effectively criminalising children, contrary to the advice about what works emanating from research. Essentially, it does little to offer long term rehabilitation to the child as the determination from Youth Court is finite. The interventions necessary for the child to avoid future criminal behaviour will often require longer term interventions.

Labelling of the person must not occur. These are children who have offended not “child offenders”.

Children who offend have learned the behaviour from close adults or experience developmental delays/deficits where pro-social learning is difficult. The learned behaviours can be unlearned – good international evidence of structured cognitive behavioural approaches and learning theories to support this.

The criminalisation of children must not occur through entry into a “justice and court system”.

Work with this group is challenging and specialised.

Multi-systems approaches and interagency co-operation are necessary and most likely to be required for services to be sustained.

Extreme behaviours can be noticed at an early age and on presentation need intense and age-appropriate responses early to avoid increased escalation.

## **Specific comments to individual elements of the terms of reference**

- 1. Determine what, if any, are the identifiers of potential child offenders, and how services provided by the Ministry of Social Development could minimise the likelihood of future offending.***

### **Known identifiers of potential children who offend.**

- Truancy.
- History of parental Alcohol and Drugs abuse which leads to supervisory neglect.
- Mental Health history of both the parent(s) and the child.
- Poor or lack of parenting skills.
- Behavioral problems exhibited in early ages.
- Exposure to criminal activities/culture within the family and/or the community.
- Parents who are isolated from the wider community/or extended whanau.
- Exposure to or experience of cruelty
- Learning difficulties arising from early childhood exposure to abuse such as fetal alcohol syndrome, shaken baby syndrome etc.
- Exposure to inappropriate sexual activity or experience of same
- Health issues e.g. ADHD – precursor to mental health / special education/ suspension rates)
- Imprisonment of parent/or parents.

### **Services provided by MSD which could minimize the likelihood of future offending:**

Early identification of potential offenders and access to programmes to challenge these behaviours is required alongside with formal education and support for parents/caregivers of these children about how to manage the child's behaviours.

### **The need for intensive intervention programmes.**

Children who offend do not offend overnight. They are the product of years of neglect and exposure to detrimental environment. Therefore, more intensive interventions are required to undo the harms. We would support MSD offering to children who offend (who have been brought into the care of the Ministry by the Police through the Family Court and the Youth Courts), to be provided with secured placements and wrap-around, intensive rehabilitation programmes which isolate and protect the children from further influence from their old connections, either through friends or family.

The programmes however need to have a strong family/whanau orientation to ensure that the links between the child and the family/whanau are maintained and strengthened. Parents must be involved in the rehabilitative process as much as possible, with a goal to return the child home if possible.

The rehabilitative programmes cannot work effectively when delivered in isolation. Multi-systems approaches and interagency co-operation are necessary and most likely to be required for services to be sustained. The caregivers also need to work in co-operation with the rehabilitative programme provider to both monitor behaviour and provide consistency of the approach.

### **Providing suitable residential placements**

The biggest challenge faced by social workers when dealing with children who offend who are “in care” is finding suitable placement. Experience has shown that children who offend are very capable of moving around and absconding from placements, however they all gravitate towards home. As children can be easily influenced by their environment, a stable placement is the key to any effective intervention. A lot of time is wasted on tracing these children who abscond, and dealing with parents who are resistant to interventions. The Ministry should review children’s placements to ensure that they are secured and safe placements. If not provided, no intervention is likely to be effective. These children do not want to stay in the community placements provided by the Ministry, and are not allowed to return to their homes. This will produce greater risks for the children as while they are “on the run”, they are more likely to associate with negative peers or be exploited by non-protective adults.

If the children are not placed with their extended whanau who they identify with and have a sense of belonging to, then they should be placed in residences as defined by the Act, or be placed in residential rehabilitation providers such as YouthLinks, or places like Waipareira Specialist Family Home which prevents the children from absconding and provides them with protection and opportunities to settle down and to engage with professionals or other positive adult figures.

More emphasis and resources into the area of children who offend, and if possible, specialist residences should be established to meet the needs of these children.

### **Strategy development in CYF**

Such children have always been present in society and have been managed within the various funding streams with variable outcomes. With the greater separation out of the specific business units within MSD of Youth Justice and Care and Protection, this group does not have specific champions. It is possible for these children to fall between the

two relevant branches. Whilst they experience interlinked issues, it must be recognised they are a distinct group that require particular strategies for them (i.e. build strategies that fits the offending issue and care and protection issues of the individual).

The specific and focussed work for Youth Justice with the Youth Offending strategy with an independent advisory group has positioned CYF to have more clearly and targeted interventions and service delivery. A similar model could apply for children but as the focus is on earlier interventions and a desire to keep them out of the "court" system this must continue to be managed as children in need of care and treatment. To process through a court system where there are imposed sanctions runs the risk of finite orders which will probably not coincide with the treatment needs which often required longer term interventions to ensure change is sustainable.

The work of programmes for both children and youth who sexually offend in NZ attests to this approach. Very high levels of successful programme outcomes are in evidence.

### **Multi-department approaches**

CYF is the government department mandated with the primary responsibility to work with children who offend. However, the management of these children also lies within other agencies, such as health (for those with diagnosis of ADD, Conduct Disorder, OCD as well as those who experience early substance abuse problems as well as head injury and alcohol/drug impairment from birth (foetal alcohol etc). In addition there are those with developmental delays and intellectual disabilities who present challenging behaviours that are unlawful and need to be managed.

The behaviours they exhibit cause management problems in settings such as pre-school, and all levels of schooling. Violence, substance intoxication and inappropriate sexual acting out are the most frequent reasons used for school exclusion at a young age.

Multi-systems approaches and interagency co-operation are necessary and most likely to be required for services to be sustained.

Programmes such as the Safe Programme should be resourced nationally to enable them to increase the range of availability of the programme in NZ.

- 2. consider the evidence-based rehabilitative programmes provided by the Ministry of Social Development for child offenders, and assess their effectiveness in changing offending patterns.**

The Association agrees that this is an area for evaluation.

- 3. examine the correlation between the timeframes for referral of children into the care and protection system by the Family Court and the effectiveness of the rehabilitation programmes in addressing the underlying behaviour, and consider options for streamlining the referral process.**

The Association agrees that this is an area that needs further research.

- 4. consider whether the care and protection model is effective in meeting the needs of key stakeholders and whether improvements could be made.**

Historically, under Part 4 of the Act, children who offend are dealt with in the same way as young persons who offend, up to the court process. Therefore, any child of 10+ notified as having committed an offence may be referred for a Youth Justice FGC (provided there is a public interest issue - s.208(a)) and the FGC is empowered to make a plan, decision or recommendation. The only distinction between children and young persons in the way their offending is managed is where there needs to be a resort to court (i.e. the issue is beyond the scope or capability of the FGC). In the case of YP's, the competent court is the Youth Court. In the case of children, the competent court is the Family Court.

There is no evidence that this system is not functioning as it should and the Association is disappointed that further legislation has directed children aged 12/13 to the Youth Court. Offence apprehensions for children at 2006 were down in all categories (Ministry of Justice data) - the only age group where this was so and this continues a pattern that has been measured since 1996.

The Care and Protection model is only effective when it is adequately resourced with the supports social workers need to rehabilitate these young people.

The foster care system is vital in this, both whanau placements and CYFS placements. However, this system requires a review. Caregiving needs to become recognised for the expertise that is required to do it. Caregivers need professional ongoing training to manage the children they are caring for, they need to be paid well and valued in the same way as social workers, counsellors, etc, all who have a part to play. They must have the right to access known information about that child if they have been identified as an offender. This will help protect other children in the home who may be vulnerable.

## Recommendations

- Rehabilitation programmes must have multi system and interagency co-operation alongside strong Whanau/family support.
- Ministry should review children's placements to ensure that they are safe and secure placements
- The Care and Protection model is only effective when it is adequately resourced with the supports social workers need to rehabilitate these young people.
- More emphasis and resources into the area of children who offend, and if possible, specialist residences be established to meet the needs of these children.
- Specific strategies are developed for dealing these children, as they fall between Youth Justice and Care and Protection.
- A review of the foster care system is undertaken.
- Research be undertaken to examine what constitutes 'good' out of home care for such children.

Yours sincerely

Lucy Sandford-Reed  
Chief Executive

Some references for consideration:

**NZEI: Physical and Verbal Aggression Towards Primary and Intermediate Staff report**

<http://www.nzei.org.nz/site/nzeite/files/annual%20meeting/2007/Physical%20and%20Verbal%20Aggression%20Towards%20Primary%20and%20Intermediate%20Staff%20-%20Report%20to%20AM%202007.pdf>

**Getting it right - An evaluation of New Zealand community treatment programmes for adolescents who sexually offend Ka pu te ruha, ka hao te rangatahi :Summary report: CYF**

<http://www.cyf.govt.nz/documents/about-us/news/gettingitright.pdf>