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We know enough about brain development to know youth offending reforms probably won't work

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The coalition government's majority will no doubt ensure its proposed solutions to youth offending will pass into law. But evidence and past experience suggest these reforms are unlikely to succeed.

The [Sentencing \(Reform\) Amendment Bill](#) will introduce a rule that an offender's age can be a mitigating factor only once after they turn 18. (Judges will have some leeway to avoid a manifestly unjust outcome, and to take account of remorse – but again, only once.)

The [Oranga Tamariki \(Responding to Serious Youth Offending\) Amendment Bill](#) will allow police to apply to the Youth Court to have someone aged 14 to 17 who has committed two or more serious offences designated a “young serious offender”.

The Youth Court will also be able to make a “military-style academy order” when sentencing a young serious offender aged 15 to 17. This will send them to a “boot camp” for their sentence.

The political rationale is that a “short, sharp shock” will deter future antisocial behaviour. As has been regularly argued elsewhere, however, the evidence and data do not support a more punitive approach to young offending.

Crime and the young brain

So, what does the evidence indicate? Firstly, most people never get involved in serious criminal offending. But the teenage-to-young-adult years are a peak time for those who do.

We know why this happens. Science has shown how the brain is being rewired during adolescence and up to the age of 25. The last area to mature is the frontal lobe, from where rational thinking and critical decision-making are controlled.

New Zealand currently has no Chief Science Advisor. But in 2018 the then adviser published a useful report about approaches to preventing youth offending. This highlighted that during this developmental stage,

[young people are] impulsive, temperamental and immature, finding it difficult to consider the feelings of others or the consequences of their actions [and they] undertake more risk-taking behaviour.

The courts, being rational bodies which follow the evidence, have recognised this. In 2023, the Court of Appeal (in a case called Dickey v R) said judges should take into account several factors when sentencing adolescents and young adults.

Looking back at the offence and the culpability of the young person, judges should recognise the biological explanations for risky behaviour and limited self-regulation.

But judges should also recognise that the plasticity of the developing brain means there are higher prospects of rehabilitation. Even for very serious offences, this means young people should not be given sentences that risk turning them away from rehabilitation.

Policy backfires


Some young people in the criminal justice system have other factors influencing their behaviour, including fetal alcohol spectrum disorder or autism spectrum disorder.

Overall, tackling criminal behaviour through therapeutic approaches is more likely to work and be more cost-effective. But the government’s proposed once-only discount for youth and remorse overlooks these biological influences on immature and risky behaviour lasting into the mid-20s.

Given this, we can expect the serious young offender label to become a mark of status and peer esteem for the misguided young brain. This was what was found in the United Kingdom when “antisocial behaviour orders” were introduced in 1999.

The same problem applies to boot camps, which the Chief Science Advisor stated in their 2018 report “have been shown not to work”.


The report also pointed to research showing efforts to scare young people onto a straight path can actually increase criminal behaviour because thrill-seeking and peer esteem outweigh societal disapproval and deterrence.




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The government has been warned its moves on youth crime could lead to teenagers glorifying the "young serious offender" category it is setting up.

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Dogma versus data

Judges can still take this information into account, including the recent Royal Commission on Abuse in Care report which showed [what can go wrong with boot camps](#).

They might also be mindful of the regulatory impact statements issued about the bills now before parliament.

For example, the Ministry of Justice advised against the once-only discounts for age and remorse. Among the problems it identified was the potential impact on victims if cases were delayed in order to combine them to qualify for the once-only discount.

Also, the ministry warned that reducing the mitigating factor of an offender showing remorse could undermine victim recovery.

Oranga Tamariki-Ministry for Children was also cautious about the proposals. If there had to be change, it preferred more modest sentencing amendments, noting that the young serious offender category and military-style academies risk entrenching young people in the criminal justice pipeline.

The bills are now before the select committee and open for submissions. But if they pass in their present form, the risk is that politics will have trumped the abundant evidence that these approaches don't work. And when dogma wins out over data, we can't expect positive results.