

Briefing: Advice on the Introduction of Military Academies

To	Hon Karen Chhour, Minister for Children		
Date	19 December 2023	Deadline	23 January 2024
Briefing number	B-0029	Priority	Medium
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Security	In-Confidence		

Purpose

This report:

- seeks your direction on whether you wish to progress work on military academies for young offenders.
- provides options for the introduction of military academies.

Executive Summary

This report is the third in a series of papers relating to youth justice to inform your approach to a work programme.

As part of its 100-Day Plan, the Government has committed to begin work exploring options to crack down on serious youth offending, including the possible establishment of Young Offender Military Academies.

The youth justice system is working for most children and young people with offending behaviour. However, existing responses have not been sufficient for the small cohort of children and young people with serious and persistent offending behaviour who commit a large portion of the total offences and continue to re-offend despite interventions.

These young people have very high and complex needs and are likely to have experienced trauma, abuse, and family violence, have a disability, have issues with addiction and mental health, and/or poor outcomes in education. Providing rehabilitative support to these young people while they are taking part in, and following the completion of, any programme is considered essential. This is likely to help the young person improve their outcomes and help address re-offending risk.

Other factors that need to be in place in a response to young serious offenders include effective partnerships with hapū, iwi, Māori and Pacific communities, transition planning and transition support for the young person, support for the guardian/parent of the young person, and staff with the right skills, training, and support.

International research has shown that 'boot camps' are one of the least effective interventions when it comes to reducing offending and antisocial behaviour among young people. Research has concluded that "it seems likely that a military regime itself is not effective in reducing recidivism". An evaluation of a previous military academy programme delivered in New Zealand found that it was an expensive programme that showed some positive impact but overall produced no better results in terms of re-offending than placement in a youth justice residence.

The research does show that "boot camps for juvenile offenders that included counselling, and boot camps with a primary focus on rehabilitation, were significantly more effective than other types of boot camp".

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This research suggests that introducing the components that make up current best practice for responding to serious offenders into a military academy programme would give the programme the greatest chance of success – implementing a programme without these components runs the risk of limited benefit realisation.

Alternatively, the components that make up current best practice for responding to young serious offenders could be delivered through an activity-based programme that does not involve a military component or the New Zealand Defence Force (NZDF), but still involves community and iwi organisations.

If you wish to progress with military academies, we recommend that the military academy is delivered as a programme required to be completed as part of a (existing) Supervision with Activity (SWA) order.

This would not fully deliver the programme in the way envisaged in the National Party manifesto as it would be limited in duration and would not be delivered by the Ministry of Justice (MoJ), in partnership with the NZDF. Implementing something that is more in line with the manifesto proposal would require legislative change.

A military academy as a programme required to be completed as part of a (existing) SWA order would consist of a military component that lasts up to 6 months, and the potential for continued supervision for a further period of up to 6 months. The military component of the course would be delivered in a non-secure location, as a supervision with activity order is a community-based order that does not provide a legal basis for detention. As such, the programme would target young serious offenders that the court determines can safely be placed in a non-secure community setting.

Significant additional investment will be needed to deliver a military academy as the costs are higher than general programmes due to the involvement of NZDF. This cost will be higher if the programme is delivered in a residential setting vs a non-secure community setting.

The benefits of delivering a military academy as a programme required to be completed as part of a (existing) Supervision with Activity (SWA) order are that it provides:

- The greatest flexibility for delivery, as it is not limited to secure facilities (Oranga Tamariki Youth Justice facilities are currently at full capacity and NZDF does not have a suitable secure facility available).
- A less-restrictive option compared to custody in a secure facility, which is consistent with the youth justice principles of the Oranga Tamariki Act 1989 (the Act) which include supporting placement of young offenders in the community as far as practicable.
- A pathway for escalation if a young person does not participate.
- Greater connection to community and transitional supports including the opportunity for partner agencies and organisations to be directly involved day-to-day.
- Adequate time to realise the benefits of a military academy programme.

However, a risk of the recommended approach is that, delivering the programme in a non-secure setting means there is a higher risk of absconding, in comparison to placing a young person in a secure setting. This increases the potential risk of harm to the public. For a military academy programme for Young Serious Offenders (YSOs), more intensive casework, monitoring and multi-agency support would mitigate the risks of absconding and non-compliance to the greatest degree operationally possible.

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Recommendations	
It is recommended that you:	
Agree to direct officials to: <ul style="list-style-type: none"> Proceed with the introduction of a military academy programme for young offenders. 	YES / NO
AND / OR <ul style="list-style-type: none"> Investigate the delivery of activity-based programmes that do not involve the NZDF, but still involve community and iwi organisations. 	YES / NO
Indicate which option (if any) you would like to use to introduce a military academy programme: <ul style="list-style-type: none"> Option 1: military academy as a programme required to be completed as part of a (existing) Supervision with Activity order (no legislative change required) (Recommended). 	YES / NO
OR <ul style="list-style-type: none"> Option 1a: military academy as a programme required to be completed as part of an enhanced (e.g., longer duration and greater range of eligible providers) Supervision with Activity order (requires legislative change). 	YES / NO
OR <ul style="list-style-type: none"> Option 2: military academy as a programme required to be completed as part of a (existing) Supervision with Residence order (no legislative change required). 	YES / NO
OR <ul style="list-style-type: none"> Option 2a: military academy as a programme required to be completed as part of an enhanced (e.g., longer duration and greater range of eligible providers) Supervision with Residence order (requires legislative change). 	YES / NO
OR <ul style="list-style-type: none"> Option 3: military academy programme as a new standalone Youth Court response to offending (requires legislative change). 	YES / NO
Note that if you wish to proceed with an option that requires legislative change, then this legislation would be implemented alongside the introduction of a legislative YSO category or targeted changes to the Act to strengthen the Youth Court response, as presented in the paper titled Options for a Young Serious Offender Category (B-0028).	
Note that regardless of the option chosen, we will report back to you in late February/early March regarding the process for working through the more detailed design of the programme.	
Note that the cost of establishing any military academy programme is likely to be significant and cannot be funded from within baselines.	YES / NO
Agree that should you wish to proceed with these proposals, a Budget bid be prepared for investment in the funding of military academies.	YES / NO
Note that we recommend that you consult with relevant Ministers regarding this advice, in particular the Minister of Defence, as there will be a particular impact on the NZDF if its personnel are to be involved in a military academy programme responding to young serious offenders.	
Agree to refer this briefing to the Ministers of Defence, Justice, Police and Corrections.	YES / NO

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 meeting
 23/1/24

Sign-off Oranga Tamariki	Sign-off Minister
	
Phil Grady Deputy Chief Executive, System Leadership Date signed: 19 December 2023	Hon Karen Chhour Minister for Children Date signed: 24/1/2024

Minister comments

Satisfaction

Please select your level of satisfaction with this briefing

Outstanding Good Acceptable Poor Unacceptable

Briefing: Advice on the Introduction of Military Academies

PART ONE: BACKGROUND AND EVIDENCE

We understand the Government wants to introduce Young Offender Military Academies

- 1 According to the National Party manifesto, the military academies will be for 'young serious offenders' (YSOs) who are aged 15 to 17. Under the approach proposed in the manifesto:
 - The YSO will be ordered to attend by a Youth Court Judge.
 - The academies will provide discipline, mentoring and intensive rehabilitation to make a decisive intervention in these young offenders' lives.
 - The academies will be run by the MoJ, in partnership with the NZDF and other government agencies, with support from community organisations or iwi with a track record of delivering programmes that reduce youth re-offending.
 - The academies will see young repeat offenders removed from the negative environment that is driving their offending.
 - The academies will act as a circuit breaker so these young people can receive intensive rehabilitation in a monitored facility.
 - While in the academy, YSOs will receive schooling, vocational training, counselling, drug and alcohol treatment, mentoring, and cultural support.
 - Parents or guardians will be assigned a case worker through either Whānau Ora, the Ministry of Social Development, or a community provider to implement a plan to reintegrate the YSO once they complete their time at an academy.
- 2 The manifesto explains that the intended purpose of the academies is to introduce more significant consequences for serious repeat offenders, and support to help them turn their lives around.

What we know about young offenders and military-based approaches

The system is not always delivering the outcomes needed for a small cohort of young people with serious and persistent offending, who have the highest needs

- 3 A relatively small group of children and young people consistently carry out a large proportion of youth offending. A quarter (1,374) of young people apprehended for offending in 2021/22 were required to appear before the Youth Court. A third of those who appeared in Youth Court re-offended within 12 months. For this group, the youth justice system is not effectively reducing re-offending.
- 4 While the cohort of young people with serious or persistent offending is relatively small, they have the highest needs and the poorest outcomes. Rangatahi Māori are also significantly overrepresented in the population (six in ten). Young people in this cohort are likely to have:
 - Either a confirmed or suspected mental health or disability related diagnosis (eight in ten)¹.
 - Attempted to end their life (two in ten).
 - Significant learning difficulties (nine in ten).
 - Been physically harmed more than three times in the past year (over half of the boys and a quarter of the girls).
- 5 Further detail on this cohort was provided in the report: recent improvements to youth justice responses and previous work on legislative amendments (B-0027).

¹ Sources from an internal case review using available CYRAS information of young people in Youth Justice Residences over four weeks (October 2021)

Wider support for these young people and their guardians/parents are key components of a response to serious offenders

- 6 There is good evidence of what works to address serious offending by children and young people. Key themes in the evidence base focus on:
- Early intervention.
 - Family-focused interventions.
 - Education and skill-building programmes.
 - Restorative justice.
 - Mentoring and positive role models.
 - Community-based support that is culturally appropriate.
 - Collaboration and coordination.
- 7 A review carried out by the Justice Sector Chief Science Advisor Ian Lambie² also found that there are other factors that need to be in place to drive success in any response to young serious offenders. This includes effective partnerships with hapū, iwi, Māori and Pasific communities, transition planning and transition support for the young person, support for the guardians/parents of the young person, and staff with the right skills, training, and support.

A military academy programme could take various forms

- 8 'Boot camp' approaches have been defined by researchers as "programmes [that] emphasise military-style discipline, military drills and ceremonies, and rigorous physical exercise. They are based on the idea that the routine, discipline, and interaction with programme staff may teach offenders self-control and respect, and also shock them into behaving in a respectful and obedient manner."³
- 9 Military-based responses to young offenders can have a greater or lesser focus on rehabilitation, transition, and other support. Some approaches are heavily focused on discipline, others are more tailored to the needs of the young offenders. They can also have a greater or lesser involvement from the military itself.
- 10 The NZDF has been supporting the development of young people for more than 30 years through multiple programmes delivered in partnership with other agencies and community providers. To deliver these programmes, the NZDF has a specialised unit (the Youth Development Unit/YDU) comprised of staff appropriately vetted and trained to interact with this age group (currently around 100 personnel).
- 11 Programmes the NZDF contributes to include the Blue Light Ventures (BLV) initiative to empower youth considered at-risk or disadvantaged, the Limited Service Volunteer course (LSV), where young people aged 18-25 take part in a range of activities to help them move on to a job, training or study, and the Services Academies (SA) programme run within secondary schools, which aims to support future pathways for priority students through improvement of NCEA qualifications and development of leadership and life skills. The young people who participate in these programmes are volunteers and are not compelled to participate.
- 12 Using a military-style methodology, NZDF personnel provide training aimed at building young peoples' skills, such as self-discipline, teamwork, resilience, fitness, time management, problem-solving, communication and leadership abilities. Within the programmes they deliver, the NZDF focus is on outdoor education, marching drills, physical training, good conduct, mess etiquette, and relationship skills development. The end goal is to help youth at risk to make positive lifestyle choices.

² Youth Justice Secure Residences: A report on the international evidence to guide best practice and service delivery, Lambie, I (2016)

³ Farrington, D., Gaffney, H., and White, H. Effectiveness of 12 Types of Interventions in Reducing Juvenile Offending and Antisocial Behaviour. Canadian Criminal Justice Association, 2022.

International and local evidence shows that military academies alone are not effective at reducing re-offending

International evidence aligns with the New Zealand experience with the Military-style Activity Camp

- 13 International evidence has shown that 'boot camps', in and of themselves, are one of the least effective interventions when it comes to reducing offending and antisocial behaviour among young people. The research shows that "boot camps for juvenile offenders that included counselling, and boot camps with a primary focus on rehabilitation, were significantly more effective than other types of boot camp... therefore, it seems likely that a military regime itself is not effective in reducing recidivism".⁴
- 14 This conclusion is supported by a report produced by the Prime Minister's Chief Science Advisor (Sir Peter Gluckman) which concluded that "Boot camps do not work... young offenders can find the "thrill", or emotional "high" of violent offending, and the social rewards (such as admiration from their peers), more important to them than concerns about being caught or facing social disapproval".⁵
- 15 The Military-style Activity Camp (MAC) programme was delivered in New Zealand from 2010 to 2016. The programme aimed to target the most serious and persistent young offenders and was delivered as a partnership between Child, Youth and Family (CYF) and the NZDF, based at Te Puna Wai o Tūhinapō Youth Justice Residence in Christchurch.
- 16 The programme included:
 - A nine-week CYF residential component as part of Supervision with Residence Order⁶ and utilisation of NZDF adventure-based learning facilities which combined military-type activities and a residential programme to deliver therapeutic and educational interventions. This included a one-week wilderness camp.
 - Transition back to their community on a six-to-twelve-month Supervision Order supported by a youth justice social worker (following graduation and Youth Court-approved early release).
- 17 The broad design of the MAC programme in New Zealand sought to limit the extent of the military component, as compared with similar programmes overseas, and increase the use of educational programmes and programmes with a youth focus.
- 18 An evaluation of the MAC⁷ concluded that it was an expensive programme that showed some positive impact but overall produced no better results in terms of re-offending than the Supervision with Residence Order cohort that didn't participate in MAC. At the time the MAC was by far the most expensive youth justice programme in New Zealand.
- 19 It was found that the residential component of the MAC improved the attitude and motivation of young people to address their offending. Most young people respected the NZDF - using teamwork and a mix of structured and routine activities, the NZDF staff helped break down barriers and promote the principles of equity, respect for authority, and self-discipline in the young people. Eighty percent of MAC participants successfully graduated the residential programme.
- 20 However, the lack of robust support (that addresses the causes of the young person's offending), meant improved outcomes were not realised to the extent they might have been. A community-based programme may also be required once the young people leave the residence, to provide enough time for effective support to be delivered.

⁴ Farrington, D., Gaffney, H., and White, H. Effectiveness of 12 Types of Interventions in Reducing Juvenile Offending and Antisocial Behaviour. Canadian Criminal Justice Association, 2022.

⁵ It's never too early, never too late: A discussion paper on preventing youth offending in New Zealand, Office of the Prime Minister's Chief Science Advisor (2018)

⁶ Supervision with residence is the most intensive order in the Youth Court that involves placement in a youth justice residence, while in the custody of the Chief Executive of Oranga Tamariki.

⁷ Ministry of Social Development (2013). Evaluation Report for the Military-style Activity Camp (MAC) Programme. Ministry of Social Development: Wellington, New Zealand.

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- 21 A lack of transitional support and intervention with family and whānau were also identified as shortcomings - transitioning young people back to their families and communities from Christchurch was cited as a particular difficulty, as 73 percent of those on the programme were from the North Island.
- 22 MAC numbers fell away during 2015/16 in line with a reduction in the number of cases reaching Youth Court and a corresponding decrease in custodial orders.
- 23 The MAC programme ended in December 2016. It had become difficult to fill places on the programme, the NZDF costs were unsustainable, and the NZDF had concerns about the safety of their personnel. The MSD evaluation outcomes prompted discussion of an alternative model of delivering the MAC, such as being a programme component of a Supervision with Activity order. However, this did not come to fruition, and the MAC programme ended.

Traditional military-based approaches for those who have experienced trauma or have a disability will not lead to better long-term outcomes.

- 24 Approximately eight in ten young people who reside in a youth justice residence have a disability and/or mental health diagnosis, either formally diagnosed or in the process of being diagnosed.
- 25 Almost all young people, 97 percent, in Youth Justice Residences in October 2021 had a Care or Protection history. The majority of young people's history included significant and chronic physical abuse, exposure to family violence, neglect, sexual abuse, and exposure to adults with mental health issues and substance misuse.
- 26 The way young people respond to military-style training depends on their specific needs and on the approaches used in the programme. Traditional 'boot camp' models of strict discipline are likely to be detrimental to young people with a history of abuse and family violence.⁸ Some boot camp approaches have an initial 'breaking down' phase that tends to be confrontational, which poses greater risk to those with such histories. As more serious offenders in the New Zealand youth justice system are likely to have experienced at least two 'traumatic events'^{9,10}, therapeutic components, trauma-informed approaches¹¹, and increased support during the initial phase of any proposed programme, are recommended.
- 27 Both international and New Zealand based-research shows that military-style training will not be an effective intervention for disabled young people. Many disabled young people including those who are neurodiverse¹², will struggle to succeed in an environment where the ethos is based on achieving expectations through learning from consequences and compliance – their brain does not work that way.¹³ Some common challenges for neurodiverse young people include difficulty communicating, memory and recall difficulty, impulsivity, confabulation, and cognitive limitations.¹⁴ In addition, some disabled young people will experience sensory overload in this environment causing significant distress.¹⁵ There will be some disabled young people who do well with the known structure element of military-style training, however the research says that they cannot transfer these learnings afterwards unless they have access to lifelong supports.¹⁶

⁸ MacKenzie, D.L., Wilson, D.B., Armstrong, G.S., & Gover, A.R. (2001). Impact of boot camps and traditional institutions on juvenile residents: Perceptions, adjustment, and change. *Journal of Research in Crime and Delinquency*, 38(3), 279-313.

⁹ Ministry of Social Development (2016). *Youth Justice Secure Residences: A report on the international evidence to guide best practice and service delivery.*

¹⁰ Office of the Prime Minister's Chief Science Advisor (2018). *It's never too early, never too late: A discussion paper on preventing youth offending in New Zealand.*

¹¹ Liddle, M., Boswell, G., Wright, S., Francis, V. & Perry, R. (2016). *Trauma and youth offenders: a review of research and practice literature.* Beyond Youth Justice.

¹² Neurodiversity includes many different disabilities including FASD, ASD, ADHD, and learning disabilities like dyslexia.

¹³ Riley, E., Clarren, S., Weinberg, J., and Jonsson, E., (2011). *Fetal Alcohol Spectrum Disorder Management and Policy Perspectives of FASD*

¹⁴ Lynch, N. (2016). *Neurodisability in the youth justice system in New Zealand: how vulnerability intersects with justice.* Victoria University of Wellington & Dyslexia Foundation of New Zealand (DFNZ). *Neurodisabilities Forum: Wellington, New Zealand.*

Wozniak, J. R., Mueller, B. A., Mattson, S. N., Coles, C. D., Kable, J. A., Jones, K. L., Boys, C. J., Lim, K. O., Riley, E. P., Sowell, E. R., & CIFASD (2017). *Functional connectivity abnormalities and associated cognitive deficits in fetal alcohol Spectrum disorders (FASD).*

¹⁵ Miller, A. A., Therrien, W. J., & Romig, J. E. (2019). *Reducing Recidivism: Transition and Re-entry Practices for Detained and Adjudicated Youth with Disabilities.*

¹⁶ Ministry of Social Development (2013). *Evaluation Report for the Military-style Activity Camp (MAC) Programme.* Ministry of Social Development: Wellington, New Zealand.

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- 28 If a military academy programme is introduced, an alternative or significant adaptations will need to be made to the design including supportive structure, to mitigate the known issues for disabled young people and minimise additional harm caused. Appropriate assessment is necessary to understand and meet their needs.¹⁷

Introducing components of best practice into a military academy programme would give that programme the greatest chance of success – alternatively best practice could be delivered without the military component

- 29 The research suggests that introducing the components that make up current best practice for responding to serious offenders into a military academy programme, would give the programme the greatest chance of success. Doing so is likely to capitalise on the potential benefits shown in the MAC programme.
- 30 As an alternative, the components that make up current best practice for responding to young serious offenders could be delivered through an activity-based programme that does not involve the military component or the NZDF, but still involves community and iwi Māori organisations. These programmes could either be delivered in the community or in a secure residence.
- 31 There are a variety of possible approaches to 'activity-based' programmes for youth. These tend to mostly be outdoor or wilderness-based interventions, interventions that encourage creativity through music or drama¹⁸ or sports-based programmes interventions.¹⁹
- 32 The most successful programmes in reducing re-offending in young people have been found to include behavioural or cognitive-behavioural techniques, followed by social skill development, while the least successful programmes focused on job-related skills. Interventions that focus on character-based skills and non-violent norms were also found to be effective in reducing recidivism.²⁰
- 33 The most researched of these approaches are wilderness-based programmes. Like military academies, outdoor programmes were found to have no significant effect on reducing recidivism for serious institutionalised and non-institutionalised young offenders.²¹ However, they are likely to be a more affordable vehicle for delivering best practice components than a military academy.
- 34 In considering the use of wilderness-based activity programmes, thought would need to be given to the voice of the survivors of historic abuse who have given testimony during the Abuse in Care Royal Commission of Inquiry, regarding abuse they suffered in wilderness-based programmes such as Whakapakari camp.

PART TWO – OPTIONS FOR INTRODUCING A MILITARY ACADEMY

If you wish to proceed with the introduction of a military academy programme, we have identified five options for delivering this

- 35 Under the Oranga Tamariki Act 1989 we already have legislative settings that enable the delivery of supervised programmes for young offenders, including Supervision with Activity (SWA) and Supervision with Residence (SWR) orders. This gives Oranga Tamariki or providers the ability to provide initiatives that require a young person to participate in an overnight programme. Consequences are available under the law if the young person fails to comply with their order (including the ability to seek substitution of a more restrictive sentence).
- 36 We have identified the following options for delivering a military academy (some operate within current settings and others require legislative change):

¹⁷ Ministry of Social Development (2013). Evaluation Report for the Military-style Activity Camp (MAC) Programme. Ministry of Social Development: Wellington, New Zealand.

Oray, N.E., How to divert someone you cannot confront without an explosion? – Case Studies in FASD, (2009), Canada

¹⁸ Adler et al. (2016). What works in managing young people who offend? A summary of international evidence. Ministry of Justice Analytical Services, UK.

¹⁹ Manica, M. (2022). Effectiveness of Approaches to Prevent Re-offending in Young People: A rapid review of the Evidence. Scottish Violence Reduction Unit.

²⁰ Ibid.

²¹ Ministry of Justice. (2017). Outdoor Programmes: Evidence Brief. Ministry of Justice.

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- military academy as a programme required to be completed as part of a (existing) Supervision with Activity order (Option One).
 - military academy as a programme required to be completed as part of a (existing) Supervision with Residence order (Option Two).
 - military academy as a programme required to be completed as part of an enhanced (e.g., longer duration and greater range of eligible providers) Supervision with Activity order (Option One a).
 - military academy as a programme required to be completed as part of an enhanced (e.g., longer duration and greater range of eligible providers) Supervision with Residence order (Option Two a).
 - military academy as a programme delivered under a new stand-alone Youth Court response to offending (Option Three).
- 37 For all options we are assuming that you want the programme to have a residential (overnight) component, rather than a programme that is run as a day programme.
- 38 See **Appendix Two** for a summary of the analysis of all five options.
- 39 Note that further options to strengthen the Youth Court's response to young people with serious or persistent offending behaviour are presented in the paper titled Options for a Young Serious Offender Category (B-0028). A number of these options would be complimentary to the delivery of a military academy programme, including options to allow the Police to arrest a young person breaching conditions of a Youth Court order, improve access to electronic monitoring, and improve the availability of judicial monitoring of court orders in a wider range of circumstances for persistent young offenders.

Determining the approach you take requires you to make initial decisions on some aspects of the military academy, whereas other decisions can wait

- 40 In determining which approach is taken, you will need to make initial decisions on the duration of the academy, who will run the programme (e.g., Oranga Tamariki or a registered community provider vs. MoJ or NZDF), where it is physically facilitated (e.g., in the community, in an Oranga Tamariki residence, or in another secure location), and where it is positioned in the hierarchy of possible responses to young offenders.
- 41 Other decisions can be made at a later date, including:
- What other Crown agencies (e.g., the Ministry of Education, the Ministry of Social Development, the Ministry of Health), are involved in the design and delivery of any military academy programme, and their roles.
 - What iwi organisations, community organisations, and subject matter experts (e.g., academics or clinical specialists) are involved in the design and delivery of any programme, and their roles.
 - The types of services and support provided to the young person during and following the academy programme, and the type of support offered to the young person's parent/guardian(s).
 - Whether the programme is focussed on both male and female offenders, or male offenders only – the vast majority of young serious offenders will be male and the logistics of including very small numbers of females into military academy programmes with males will be challenging to manage. Based on evidence from the MAC programme, additional protections would need to be put in place to protect female participants from abuse.
 - The timeline for implementing the programme.
 - The process for seeking funding for the programme.
 - How success would be measured and evaluated.

Options for delivering a military academy programme without legislative change (Options 1 and 2)

Military academy as a programme required to be completed as part of a (existing) Supervision with Activity order (Option 1) - Recommended

- 42 Implementing a military academy as a programme required to be completed as part of a (existing) Supervision with Activity order would allow you to deliver a programme:
- That targets YSOs who the Court determines can safely be placed in a non-secure setting.²²
 - That the young person is required to attend as a condition of their order for a period of up to 6 months.
 - That must be delivered by the Chief Executive of Oranga Tamariki or an approved community or iwi organisation (a section 396 provider).²³
 - That we would recommend involves the young person being placed in the custody of the Chief Executive of Oranga Tamariki or an approved community or iwi organisation (a section 396 provider).
 - Where NZDF could provide an aspect of the programme (i.e., training aimed at building young people's skills, such as self-discipline, teamwork, resilience, fitness, time management, problem-solving, communication and leadership abilities).
 - Other government agencies and community or iwi organisations could provide support to the young people while they are in the programme (e.g., through schooling, counselling, drug, and alcohol treatment etc.) and as they transition back to home, and to their parents, guardians, or caregivers (the participation of parents and guardians would be on a voluntary basis).
 - That is delivered through a mechanism (SWA order) that is the third-highest response currently available to the Youth Court (see **Appendix 1** for an overview of the hierarchy of responses).
 - That could be followed by a supervision order of up to 6 months (under section 283k) of the Act (currently at the discretion of the Youth Court), which would provide an avenue for delivering transitional support to the young person.
- 43 This option would be similar to the previous MAC programme discussed above, the main point of difference being that it would be delivered in the community rather than in a secure residence. However, we would recommend a stronger focus on transitional support and intervention with family and whānau to improve the benefits of the programme as compared to the delivery of MAC.
- 44 Around 25 Oranga Tamariki staff were required to deliver the MAC, along with 10 NZDF staff and two teachers. The NZDF anticipates there would be more personnel required for similar programmes as the MAC ratios were considered insufficient.
- 45 We are assuming that you would want the programme to have a residential (overnight) component. If the programme was run as a day programme, then the requirement for the programme to be delivered by the Chief Executive of Oranga Tamariki or an approved community or iwi organisation (a section 396 provider) would not apply. This would allow the NZDF and/or the MoJ to deliver the programme.

Military academy as a programme required to be completed as part of a (existing) Supervision with Residence order (Option 2)

- 46 Implementing a Military Academy as a programme required to be completed as part of a (existing) Supervision with Residence order would allow the delivery of a programme:

²² In making this decision the Court must have regard to factors such as the nature and circumstances of the offence proved to have been committed by the young person, the young person's involvement in that offence, the personal history, social circumstances, and personal characteristics of the young person, and the response of the young person's family, whānau, or family group to the offending by that young person and to the young person himself or herself as a result of that offending.

²³ Under current settings, only the Chief Executive of Oranga Tamariki or providers approved under section 396 of the Act can provide section 290A residential components of a specified programme of activity.

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- That targets YSOs who the Court determines require placement in an Oranga Tamariki residence – i.e., the nature of their offending, or their risk of absconding/further offending precludes a community-based order.
 - That the young person is required to attend as a condition of their order for a period not exceeding 6 months.
 - That would be a programme delivered within an Oranga Tamariki youth justice facility, where the young people participate in limited trips offsite (e.g., to visit an NZDF base or an outdoor adventure centre).
 - That is delivered by the Chief Executive of Oranga Tamariki or an approved community or iwi organisation (a section 396 provider).
 - That involves the young person being placed in the custody of the Chief Executive of Oranga Tamariki or an approved community or iwi organisation (a section 396 provider).
 - Where NZDF could provide an aspect of the programme (i.e., training aimed at building young people's skills, such as self-discipline, teamwork, resilience, fitness, time management, problem-solving, communication and leadership abilities).
 - Other government agencies and community or iwi organisations could provide support to the young people while they are in the programme (e.g., through schooling, counselling, drug and alcohol treatment etc.) and as they transition back to home, and to their parents, guardians or caregivers (the participation of parents and guardians would be on a voluntary basis).
 - That is delivered through a mechanism (SWR order) that is the second-highest response (other than transfer to the District or High Courts for sentence or decision) currently available to the Youth Court.
 - Where the period in the youth justice facility is followed by a 6–12-month supervision order under section 283k of the Oranga Tamariki Act, which would provide an avenue for delivering transitional support to the young person and the family, and an overall programme length of up to 18 months.
- 47 This option would be similar to the MAC programme discussed above. However, we would recommend a stronger focus on transitional support and intervention with family and whānau to improve the benefits of the programme as compared to the delivery of MAC.
- 48 Around 25 Oranga Tamariki staff were required to deliver the MAC programme, along with 10 NZDF staff and two teachers. The NZDF anticipates there would be more personnel required for similar programme as the NZDF considered the MAC ratios were insufficient to produce good outcomes.

Options for delivering a military academy programme with legislative enhancements

A military academy as a programme required to be completed as part of an enhanced Supervision with Activity order (Option 1a)

- 49 The following enhancements could be made (via legislative change) to the Supervision with Residence order to remove some of the current limitations:
- Extending the length of the order (either or both activity and supervision components) to allow for an YSO to be required to attend a military academy programme for a period of up to 12 months and to receive ongoing monitoring and transitional support for up to 12 further months while they are subject to the adjoining supervision order.
 - Expanding the options for who can deliver any residential (overnight) component of a programme beyond the Chief Executive of Oranga Tamariki or an approved community or iwi organisation, to allow the NZDF and/or the MoJ to deliver the programme.

A military academy as a programme required to be completed as part of an enhanced Supervision with Residence order (Option 2a)

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- 50 The following enhancements could be made (via legislative change) to the Supervision with Residence order to remove some of the current limitations:
- Extend the length of the order (either or both activity and supervision components) to allow for an YSO to be required to attend a military academy programme for a period of up to 12 months and to receive ongoing monitoring and transitional support for up to 12 further months while they are subject to the adjoining supervision order.
 - Expand the options for who is able to deliver any residential (overnight) component of a programme beyond the Chief Executive of Oranga Tamariki or an approved community or iwi organisation, to allow the NZDF and/or the MoJ to deliver the programme.

A military academy programme as a new standalone Youth Court response to offending, with more significant legislative change (option 3)

- 51 Implementing a military academy programme via a new standalone Youth Court response to offending would allow you to deliver a programme:
- That the young person is required to attend as a condition of their order for a period of up to 12 months.
 - That would be delivered within a secure residential facility (location to be determined, but we assume this would not be an Oranga Tamariki residence), where the young people participate in limited trips offsite.
 - That could involve the young person being placed in the custody of the Chief of the Defence Force or a community or iwi provider.
 - Would be situated in a new secure facility (as the NZDF does not have a facility that is sufficiently secure).
 - That could be run by the MoJ, in partnership with the NZDF and other government agencies, with support from community organisations or iwi.
 - That would be situated at the serious end of the hierarchy of possible responses, as the order is longer in duration than any of the current orders available to Youth Court Judges.
- 52 This option would be similar to a programme that the NZDF scoped in 2017, at the request of the then Government, but did not implement. In 2017, the NZDF carried out initial design of a programme that would provide a three-year residential military course to 50 participants per year. If a similar model was designed to respond to youth offenders, the NZDF estimates that more than 70 NZDF staff would be necessary to operate the programme.

PART THREE – CONSIDERATIONS, ADVICE AND NEXT STEPS

Oranga Tamariki will face challenges delivering a military academy programme, particularly within a youth justice residence

- 53 The MAC discussed above required a team of up to 25 Oranga Tamariki staff including residential youth workers, team leaders, a case manager and a programme co-ordinator who was the conduit between Oranga Tamariki and NZDF staff. Oranga Tamariki has been experiencing unprecedented recruitment and retention challenges post-Covid, resulting in staff shortages. We are experiencing a continuous cycle of recruiting and training of frontline staff and there is no capacity to release existing experienced staff for a military-type programme.
- 54 Delivering a military academy programme within a youth justice residence in particular, will consume a significant level of FTE and infrastructure resources. In the previous version of the MAC, the Ministry provided a 10-bed residential unit. Because the MAC operated as a closed group programme, the unit needed to be dedicated exclusively to the programme. It was effectively offline and not available to the wider youth justice system to meet demand for residential custodial beds (even if some of the beds remained unoccupied).

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- 55 In the current context, Oranga Tamariki does not have sufficient available bed capacity to deliver a similar 'behind the wire' military programme on a 24/7 365 day-a-year basis.
- 56 Across the five Youth Justice Residences, there is a maximum capacity of 171 beds. The operational capacity is currently limited to 135 beds due to staffing and infrastructure constraints. Most days the residences are operating at full or near operational capacity, however the number of available beds can fluctuate daily taking into account safe staffing, infrastructure impacts, and high-risk placements. Often capacity is taken up by young people who are on remand and then bailed or discharged from custody within a short period of time. More than 85 percent of the approximately 140 young people in Youth Justice Residences are currently on remand.

NZDF advise that it will be impacted by involvement in military academies and has signalled a preference for how a military academy programme could be delivered

There will be an impact on the NZDF and trade-offs will need to be made

- 57 NZDF advises that there will be considerable impact on it if its personnel are involved in a military academy response to young serious offenders. The extent of this impact is highly dependable on the design, location and duration of the programme, as these factors all have an impact on the number of NZDF staff required.
- 58 The NZDF further advises that it is currently facing intense workforce pressure due to high levels of attrition, among other factors. This is placing an increasing number of military outputs at risk of failure. Most areas are under-resourced in terms of headcount, with many personnel covering several roles. The NZDF YDU is currently running at 30 percent below the required capacity to meet agreed government outputs.
- 59 NZDF advises that directing it to be involved in a military academy response to YSOs would, at the highest level, require a choice between:
- Transferring YDU staff to a military academy response to youth offenders. Depending on the programme, this would involve shutting down (or downscaling) other voluntary initiatives for youth, such as the Service Academies and the Limited Service Volunteer programme (LSV). Around 2,000+ young people benefit from these courses each year.

OR

- Drawing, and then retraining, staff from the wider NZDF. Depending on the programme, this could diminish readiness for deployment, and potentially impact other domestic and international operations, such as NZDF responses to natural disasters (Humanitarian Assistance and Disaster Relief) and NZDF support to Operation Antarctica (Scott Base), as examples.

Other potential impacts on the NZDF need to be considered, including increased attrition rates and increased mental and physical harm to NZDF personnel

- 60 The NZDF anticipates that requiring personnel from outside of YDU to staff a military academy programme for young serious offenders will have a negative impact on staff morale and cause a rise in attrition, an issue that reached record levels after the Covid-19 response. Staff do not join the NZDF to work in the youth justice field as this is not a core trade of the NZDF.
- 61 The NZDF has also cited the risk of increased mental and physical harm as a concern. YDU staff have been presenting concerning levels of mental health issues due to a heightened number of youth considered "complex" engaging in current programmes. The NZDF has identified a sharp increase in staff requiring mental health support and a clear correlation with the higher complexity of the needs of participants. As it is expected that 100 percent of the serious offender cohort will be considered "complex", NZDF is of the view that its staff will likely be put under high risk.

NZDF advise that there are limitations with delivering military academies as proposed in the National Party manifesto

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- 62 NZDF informs us that being the lead agency and taking custody of YSOs is not recommended.
- 63 The NZDF does not currently have any legislative authority to operate an academy that involves members of the Armed Forces acting as custodial officers over minors. NZDF has advised that, should this option be pursued, legislative reform would be required to provide members of the Armed Forces with greater powers. As the NZDF is primarily raised and maintained for the purposes of protecting the Realm and NZ interests, extending the custodial powers of the Armed Forces over members of the domestic civilian population would engage significant constitutional considerations.
- 64 Additionally, the NZDF advises that taking custody of a YSO could be interpreted as "compulsory incorporation of minors into the armed forces", which NZDF would need to defend as not constituting recruitment of minors under International Humanitarian Law.
- 65 The NZDF also advises that there are limitations to delivering a military academy programme on NZDF property. It has informed us that it is not equipped to provide the wraparound requirements (e.g., overnight accommodation, food, and medical care for the young person), and that there are a number of health and safety issues that would need to be addressed. It also has concerns about placing a young in a Defence Area where they could potentially gain access to dangerous equipment and other restricted areas.

The NZDF has signalled a preference for the nature of its involvement

- 66 The NZDF seeks to support the Government in its proposed military academy programme in a way that delivers on objectives, whilst allowing NZDF to continue to conduct core tasks with minimal disruption. If Ministers decide to proceed with the introduction of a military academy programme that involves the NZDF, its preference would be for an approach where:
- The young person is not placed in the custody of the Chief of the Defence Force.
 - A safe environment is created to prevent staff from experiencing physical harm.
 - The academy is delivered from a small number of locations, that are close to a current NZDF site.

The Ministry of Justice advises that it is not naturally placed to deliver a military academy programme

- 67 MoJ has advised that 'running' the military academies (i.e., setting up and managing the contracting for the programme) would be a significant operational deviation from its current responsibilities. It is unlikely that MoJ would be able to do so without significant support from Oranga Tamariki, as MoJ currently does not have the professional and operational expertise and system knowledge required to effectively support young offenders. It considers that Oranga Tamariki may be better suited to leading this work.

There will be an impact on other departments and community and iwi organisations

- 68 There will be significant operational and cost implications for other agencies involved in the delivery of a military academy programme. Further work is required to fully understand the full operational and financial implications. Careful consideration must also be given to the sufficient lead time required to operationalise these proposals, should Ministers decide to proceed.
- 69 In the next stage of the work, we would need to engage with agencies such as the Ministry of Education, the Ministry of Social Development, the Ministry of Health, as well as community and iwi organisations, regarding their role in any military academy programme.

Delivering a military academy as a programme required to be completed as part of an existing Supervision with Activity order presents risks around absconding

- 70 Successful completion of a Military Academy Programme delivered as an existing SWA Order would rely (as it currently does) on a high degree of engagement, motivational preparation and buy-in from the young person and their key supports. Oranga Tamariki in partnership with our SWA providers currently

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experiences a low occurrence of absconding through this relational approach and through programmes that maintain positive engagement.

- 71 Equally, the response to absconding or non-compliance with conditions of the SWA Order (Military Academy) would be addressed in current legislation by way of close social worker monitoring and where necessary an on-notice application to the Youth Court that the young person has failed to comply with the conditions and subsequent applications to vary, suspend or cancel the order.
- 72 For a military academy programme for YSOs, more intensive casework, monitoring and multi-agency support would mitigate the risks of absconding and non-compliance to the greatest degree operationally possible.

Financial and timing considerations

- 73 Significant investment will be needed to deliver a military academy as the costs are higher than general programmes due to the involvement of NZDF. This cost will be higher if the programme is delivered in a residential setting compared to a community setting. However, further investigation and clarification of the preferred option and design is needed to provide an accurate estimate of the cost to deliver any military academy programme.
- 74 Oranga Tamariki currently provides funding for residential, supervision and intensive wraparound support programmes to a limited number of providers and has previously delivered the MAC, which gives some indicative sense of scale of cost.
 - The average cost of a 7-week residential (overnight stay) provider-run supervision with activity programme is currently \$67,000 per participant. Extrapolating this would result in a cost of \$230,000 per person for a 6 month programme. The cost of NZDF resource would be in addition to these costs.
 - The current cost of a placement in a Youth Justice residence is approximately \$300,000 per person for 6 months.
 - A 2013 evaluation of the MAC found that the programme cost \$18,000 *more* per person than the standard residence cost at the time. This cost will have risen significantly since 2013.
 - A 6-12-month post-placement intensive wrap around support programme (non-residential) costs approximately \$32,000 per participant.
- 75 As a further point of reference on costs, the initial work NZDF carried out in 2017 estimated that a programme that would provide a three-year residential military course to 50 participants per year would have a set-up cost to NZDF of \$40 million (in addition to annual operational expenditure). These costs would have significantly increased since 2017. The design indicated that it would take three to five years to build capacity to deliver this type of programme within a new secure facility.
- 76 We would need to seek new funding through Budget 2024 to deliver a military academy, as costs are likely to be significant and cannot be funded from within our baseline.
- 77 The timeframe for a successful operational launch of military academy programmes under a new or extended SWA Programme cannot precisely be determined, and is contingent on the following critical factors:
 - Programme location: The programme's location plays a pivotal role in identifying suitable providers capable of collaborating with the NZDF. Presently, only two nationwide providers execute SWA orders with both the residential experience and operational expertise to deliver these new initiatives in a short-medium timeframe.
 - Provider engagement: The willingness and capacity of providers to embrace this novel initiative are essential considerations. This involves assessing their existing contractual commitments, ability to onboard new staff, and overall preparedness for the endeavour, notwithstanding the significant risk this entails for their staff.

- Residential component characteristics: The approval and accreditation required to provide a residential programme (or care service) is at a very high standard and will require longer than the accreditation process required to deliver a contracted service or day programme. Providers lacking this status would require several months to attain it.

Initial modelling by the Ministry of Justice indicates a small number of young people with serious repeat offending receive SWA or SWR orders each year

- 78 The number of young people who may be eligible to attend a military academy will depend on whether or not you introduce a Young Serious Offender (YSO) category, and the eligibility criteria for the category if it proceeds. Introducing a YSO category would limit the number of young people who appear in the Youth Court who are eligible for a military academy.
- 79 Initial modelling by the MoJ has shown that if, for example, the YSO criteria were 'two proven offences with a seven year or greater maximum sentence'²⁴ that 85 children and young people would have been categorised as a YSO in 2022/23.²⁵ Noting that the original proposal for military academies proposed them for 15 to 17-year-olds only, the modelling showed that 97 percent of those 85 children and young people were aged 15-17-years-old at the time of offence. However, only a small number received higher tariff orders, with 26 receiving a SWR Order and 10 receiving a SWA Order.
- 80 Early indications for 2023/24 are showing an increase (up 19 percent) in Court numbers for youth offenders. MoJ provisional data also shows that there was a 22 percent rise in the number of individual young people appearing in court in 2022/23 compared with the previous year – most of whom will have their cases finalised in 2023/24 and so are not yet factored into the numbers in the scenario above. This could lead to an increase in expected numbers of young people receiving a SWA or SWR order (who could then be eligible for a military academy programme if progressed).
- 81 The original proposal was modelled on an estimate of up to 60 young people per year attending a military academy. There could be challenges in reaching a 60 person per-year target either through an existing SWA or SWR order, or through a new order. Once decisions on the YSO category are known, officials can provide further advice on estimated numbers that could be eligible for a military academy programme, and any issues this may give rise to regarding the viability of different programme options.

It is at the discretion of the Youth Court as to what order is used, which will impact on overall numbers

- 82 Section 283 of the Oranga Tamariki Act sets out the possible orders the Youth Court can make in response to a proven charge. These are in groups, ranked from less restrictive (discharge without penalty or record) to most restrictive (conviction and transfer to the District or High Court for decision or sentencing).
- 83 It is the role of the Youth Court to determine what order to make. In doing so the Youth Court must have regard to the youth justice principles/considerations set out in section 4A(2), section 208, and the general principles in section 5 of the Oranga Tamariki Act. These include a requirement that any response to offending should take the least-restrictive form that is appropriate in the circumstances, and that children who offend should be kept in the community unless that would undermine public safety.
- 84 Further, the Act places an express requirement on the Youth Court to assess the restrictiveness of a sentencing response in accordance with the hierarchy of orders in section 283, and further provides that the Youth Court must not impose such an outcome unless satisfied that a less-restrictive outcome would in the circumstances be clearly inadequate (section 289). The higher the military academies are in the

²⁴ More specifically, the criteria used was two or more section 283 Youth Court orders for offences. Orders were used as charges in the Youth Court must be proven (either by admission or defended hearing) for an order to be made.

²⁵ The low numbers are partly because a discharge (under section 282 of the Act) cannot count as a 'offence'. A discharge outcome must be treated as if the charge was never laid in Court. Section 282 discharges, after successful completion of an FGC plan by a young person, were the most likely Youth Court outcome in 2022/23: approximately 800 young people. The possibility of a discharge is a key behavioural incentive for young people to complete FGC plans.

hierarchy of orders, the fewer orders are likely to be made given the emphasis in the Act on considering less-restrictive outcomes.

- 85 We have provided you with options for the placement of a military academy programme within this hierarchy of orders. The options propose placement of a military academy programme into an existing or enhanced version of a SWA order (the third-most restrictive order), or an existing or enhanced version of a SWR order (the second-most restrictive order), or within a new, standalone order (which would become the most restrictive response available within the youth justice system).

Treaty of Waitangi / Te Tiriti o Waitangi analysis

- 86 Oranga Tamariki is required to recognise and provide a practical commitment to the principles of Te Tiriti o Waitangi.
- 87 As the proposed changes will have a disproportionate impact on the rights and interests of Māori due to the high proportion of tamariki and rangatahi Māori in the youth justice system, under the active protection and partnership principles, there is a strong Te Tiriti o Waitangi-based argument that Māori should be consulted and actively participate in the design, development, and implementation of solutions.
- 88 Due to timing constraints, officials have not had the opportunity to engage with Māori/iwi and other affected partners on these options. Oranga Tamariki would need to consult Māori/iwi on any proposed changes to practice or to legislation, following your direction on the options outlined in this paper.

Human Rights implications

- 89 Depending on the design of the military academies, or alternative programmes, various rights under the New Zealand Bill of Rights Act 1990 (BORA) may be impacted (by limiting them). These may include such rights as freedom of movement and freedom of association (particularly where there is a residential component), and freedom of expression. Criminal procedure rights, such as the right of a child or young person to be dealt with in a manner befitting their age may also be impacted, depending on the purpose of the programme and how it applies.
- 90 We understand that the purpose of the academies is to introduce more significant consequences for serious repeat offenders, and support to help them turn their lives around. While this purpose is partially punitive, the proposed focus on rehabilitation of young people and prevention of re-offending is likely to be sufficiently important objectives to justify some limits on rights.
- 91 The limited evidence around the effectiveness of military academies means that there is a risk that limits on rights may be difficult to justify. Designing a programme that represents best practice and provides support to help reduce re-offending and transition young people back into the community may assist with the justification for the limitation of BORA rights. How the scheme is operationalised will also affect how it impacts rights. For example, flexibility to tailor approaches to young people with disabilities would mitigate against the potential for discriminatory outcomes.

There is a potential issue regarding detention of a child or young person, which is broader than military academies, but is relevant to their delivery

- 92 If a child or young person is not free to leave their place of residence and is subject to control and supervision that goes beyond reasonable parental control, this may be challenged as being unlawful detention unless detention has been expressly authorised in legislation.
- 93 Depending on the military academy programme settings (i.e., how restrictive the settings are on a young person's liberty) there may be a need to expressly authorise detention in legislation. This may be necessary even if the military academies are to be delivered within an existing order, (i.e., supervision with activity or supervision with residence).
- 94 This is an issue that is broader than military academies and is something Oranga Tamariki will provide you with advice on separately.

Our advice

If you wish to proceed with the introduction of a military academy programme we recommend delivering this as a programme required to be completed as part of a (existing) Supervision with Activity order (Option one)

- 95 The benefits of delivering a military academy as a programme required to be completed as part of a (existing) SWA order are that:
- It provides the greatest flexibility for delivery as it does not involve the use of secure residence locations (Oranga Tamariki Youth Justice facilities are currently at full capacity and NZDF does not have a suitable secure facility available) – the programme could be delivered at outdoor activity facilities, the conservation estate or in direct partnership with iwi.
 - There is a pathway for escalation if young person does not participate in the programme (i.e., the young person could be referred back to the Youth Court and a judge could consider making a SWR order requiring them to spend a period of time in a youth justice residence - by way of example).
 - It provides a 'less restrictive' option (compared to placement in the Oranga Tamariki Chief Executive's custody in a youth justice residence) that remains an equally high-tariff response – which is more likely to be used by the Youth Court in line with principles of the Oranga Tamariki Act.
 - Greater connection to community and rehabilitative, personal development and transitional supports including opportunity for partner agencies and organisations to be directly involved day-to-day.
 - A three-six month period for the delivery of an academy is likely to be sufficient to achieve benefits, as benefits were realised within a nine-week MAC programme run previously. A subsequent supervision order of up to six months would then provide sufficient time to deliver transition support.
- 96 Delivering the programme in a non-secure setting means there is a higher risk of absconding, in comparison to placing a young person in a secure setting. The judge will take this factor into account when making a decision to place the young person into the programme.
- 97 We would not recommend the other options because:
- There is no evidence to suggest that the length of the military component of the programme needs to be up to 12 months.
 - They do not align as strongly with the principles of the Oranga Tamariki Act.
 - While options two and 2a would leverage existing infrastructure and staffing, pursuing these options would put significant additional pressure on youth justice residential capacity and operations – with potentially critical impact.
 - The NZDF does not have a suitable secure facility, so significant capital investment would be required to deliver option three.
- 98 All options for implementing a military academy programme carry the risk of limited benefit realisation if the components that make up best practice are not delivered as part of the package (i.e., if rehabilitative support, family and whānau support and transitional support is not delivered along the military academy). There will also be significant challenges in delivering a 60 person per-year military-style academy in any form.

Next steps

- 99 If you wish to progress with the introduction of a military academy programme and with an option that requires legislative change, then this legislation would be implemented alongside the introduction of a legislative YSO category or targeted changes to the Act to strengthen the Youth Court response. These options are presented in the paper titled 'Options for a Young Serious Offender Category' (B-0028).
- 100 Regardless of the option chosen, there will need to be a process for working through the more detailed design of the programme.

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- 101 We would recommend that, as a first step, a cross-agency working group is established (consisting of agencies such as Oranga Tamariki, the Ministry of Justice, New Zealand Police, the Department of Corrections, the Ministry of Health, the Ministry of Education and the Ministry of Social Development) with the task of carrying out the detailed design of the programme.
- 102 We would also recommend that an Expert Advisory Group is established (consisting of academics and provider experts – and iwi) to inform the cross-agency working group.
- 103 If this approach is taken, officials could report back to you in late February/early March with further information on:
- The make-up of the Expert Advisory Group.
 - Provider capability to deliver a military academy and potential locations, to provide you with reassurance that the preferred approach is feasible.
 - A timeline for implementation.
- 104 Announcements could be made in late February / early March outlining:
- The option that you have directed officials to investigate further (based on decisions made in response to this paper).
 - The make-up of the Expert Advisory Group.
 - The timeline for implementation.

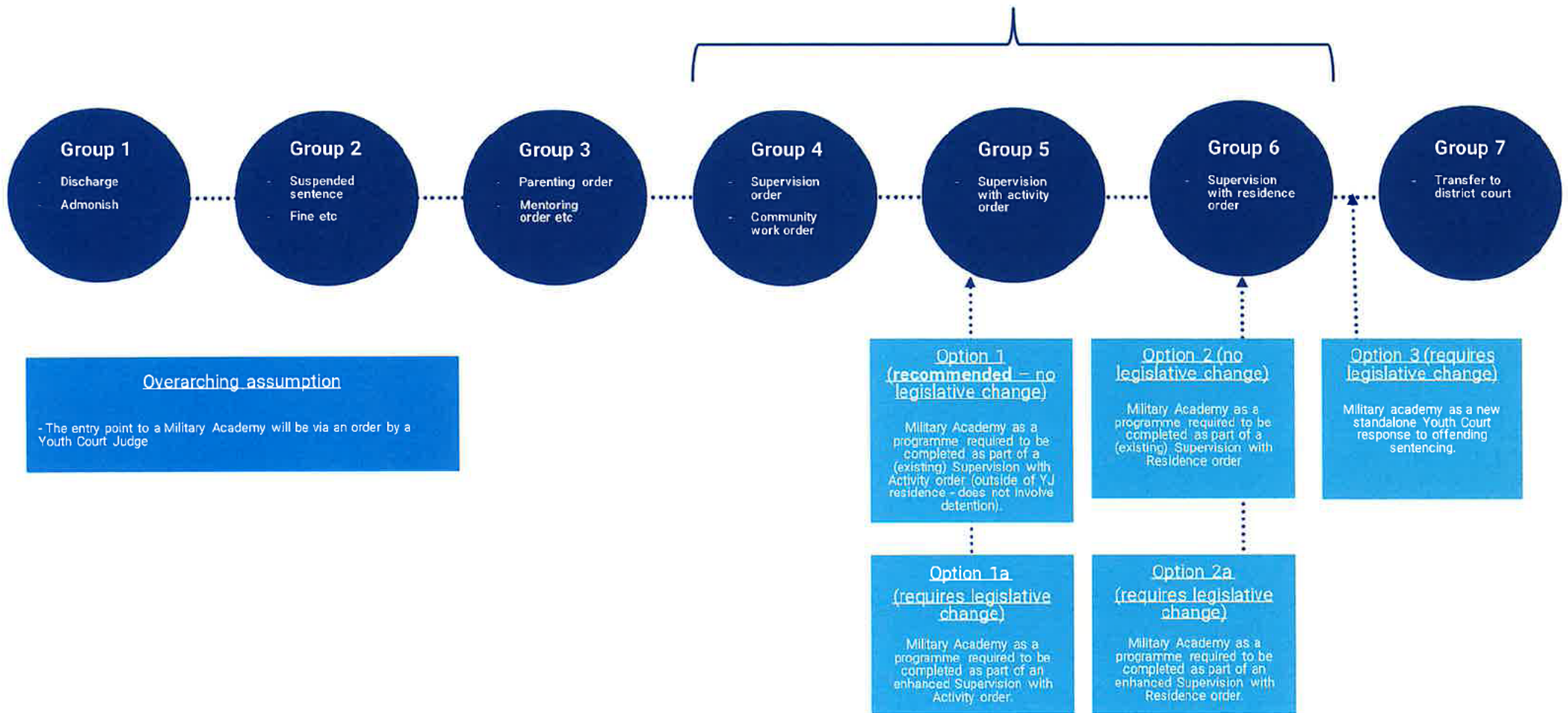
Appendices

- 105 All appendices referenced in this paper are outlined below:
- Appendix One: Options for the positioning of a Military Academy Programme.
 - Appendix Two: Options Analysis.

Appendix One: Options for the positioning of a Military Academy Programme

Tariff of Youth Court Outcomes – section 283 of the Oranga Tamariki Act

Target cohort for the Serious Young Offender Category



Appendix Two: Options Analysis

	Option 1	Option 1a
	Military Academy as a programme required to be completed as part of a (existing) Supervision with Activity order	Military Academy as a programme required to be completed as part of an enhanced Supervision with Activity order
<u>Duration</u>	<ul style="list-style-type: none"> Military academy aspect of the response lasts up to 6 months, followed by a Supervision Order if the Judge determines this is appropriate (up to 6 months). 	<ul style="list-style-type: none"> Military academy aspect of the response lasts up to 12 months, followed by a Supervision Order if the Judge determines this is appropriate (period of which to be determined).
<u>Location</u>	<ul style="list-style-type: none"> In the community – co-located with partners (NZDF, approved providers) 	<ul style="list-style-type: none"> Same as option 1.
<u>Target group and potential numbers</u>	<ul style="list-style-type: none"> YSO who the Judge determines can safely be placed in a community setting. In the last year, 10 young serious offenders were sentenced using a s283(m) supervision with activity order. However, it is at the discretion of the Youth Court as to what order is used, which will impact on overall numbers. 	<ul style="list-style-type: none"> Same as option 1.
<u>Legislative implications</u>	<ul style="list-style-type: none"> None. 	<p>Requires the Oranga Tamariki Act to be amend so that:</p> <ul style="list-style-type: none"> A YSO can be sentenced to a SWA order for a period of up to 12 months and receive support for a longer period if they are placed on a supervision order the programme could be delivered by the NZDF or another community organisation. The response to non-compliance is enhanced by making legislative changes to improve the extent to which we are able to enforce (with more immediate effect) the conditions of the supervision with activity order. The oversight of a supervision with activity order is enhanced, via regular judicial monitoring which would provide the youth court with the ability to regularly review progress and address any issues arising. We enable to use of electronic monitoring to mitigate risk of absconding where deemed appropriate.
<u>Impact on public safety and the rights of victims</u>	<ul style="list-style-type: none"> Non-secure setting provides a higher risk of absconding, in comparison to placing a young person in a secure setting. This increases the risk of harm to the public caused by the young person. 	<ul style="list-style-type: none"> Same as option 1.
<u>Effectiveness in reducing offending</u>	<ul style="list-style-type: none"> International evidence has shown that 'boot camps' are one of the least effective interventions when it comes to reducing offending and antisocial behaviour among young people. Rehabilitative support, transitional support, and support the guardian/parent currently make up current best practice – if these components accompany a military component, then this provides the best chance of reducing reoffending. A 3-6 month period for the delivery of an academy is likely to be sufficient to achieve any benefits. 	<ul style="list-style-type: none"> Same as option 2, except no evidence to suggest that the length of the military component of the programme needs to be up to 12 months.
<u>Feasibility</u>	<ul style="list-style-type: none"> Very unlikely that the intended number of YSO would be sentenced to commence the Academy at the same time – operationally difficult to implement. Provides flexibility to deliver a programme in a range of non-secure settings, which means there are more geographic options for delivery i.e. not limited to secure residence locations. Provides opportunity for connection to community and transitional supports including opportunity for partner agencies and organisations to be directly involved day-to-day. Will have an impact on the NZDF, which will vary depending on dependable on the design, location and duration of the programme. 	<ul style="list-style-type: none"> Same as option 1, except the impact on the NZDF will be greater due to the increased duration of the programme.
<u>Alignment with current principles of the Oranga Tamariki Act</u>	<ul style="list-style-type: none"> Relevant to the principles that 'any child or young person who has committed an offence should be kept in the community so far as is practical and in line with public safety' and 'any measures for dealing with offending should, as far as practicable, address the underlying causes of offending'. The option enables the judiciary to provide those who can be safely be kept in the community access to a programme that could potentially address the underlying causes of offending, rather than having to balance the access to the programme with the principle to place the child in the community (if the academy was placed in a secure residence). 	<ul style="list-style-type: none"> Same as option 1, however, does not align with principle that 'any sanctions should take the least restrictive form that is appropriate in the circumstances' as there is no evidence to suggest that the length of the military component of the programme needs to be up to 12 months.
<u>Cost/cost effectiveness</u>	<ul style="list-style-type: none"> Involvement of the NZDF in the delivery of a programme for young offenders comes at a significant cost in the form of NZDF time and resource. A more cost-effective approach would see the delivery of the programme independent from the NZDF, with involvement of community and iwi organisations. 	<ul style="list-style-type: none"> Same as option 2 except higher cost expected due to increased length of programme.
<u>Other considerations</u>	<ul style="list-style-type: none"> There is a pathway for escalation if young person doesn't participate – i.e. the young person could be referred back to the youth court and sentenced to a period in a youth justice residence. More likely to be used by the Youth Court in line with principles of the Oranga Tamariki Act, than a military academy placed in a secure residence under a SWR order or a new order. 	<ul style="list-style-type: none"> Same as option 1 except, is potentially less likely to be used by the Youth Court in line with principles of the Oranga Tamariki Act, than a SWR order, as the duration the young person would spend in the academy is longer than the period in which they can be sentenced to a secure residence (which is 3-6 months).

	Option 2	Option 2a
	Military Academy as a programme required to be completed as part of a (existing) Supervision with Residence order	Military Academy as a programme required to be completed as part of an enhanced Supervision with Residence order
Duration	<ul style="list-style-type: none"> Military academy aspect of the response lasts up to 6 months, followed by a Supervision order (up to 12 months). 	<ul style="list-style-type: none"> Military academy aspect of the response lasts up to 12 months, followed by a Supervision Order (period of which to be determined).
Location	<ul style="list-style-type: none"> In a secure YJ residence 	<ul style="list-style-type: none"> Same as option 2.
Target group and potential numbers	<ul style="list-style-type: none"> YSO who the Judge determines requires a secure / detention placement – nature of offending or risk of absconding / further offending precludes a community-based order as immediate sentencing outcome. In the last year, 24 young serious offenders were sentenced using a s283(n) supervision with residence order. However, it is at the discretion of the Youth Court as to what order is used, which will impact on overall numbers. 	<ul style="list-style-type: none"> Same as option 2.
Legislative implications	<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> Requires the Oranga Tamariki Act to be amended so that: <ul style="list-style-type: none"> A YSO can be sentenced to a SWR order for a period of up to 12 months and receive support for a longer period if they are placed on a supervision order the programme could be delivered by the NZDF or another community organisation.
Impact on public safety and the rights of victims.	<ul style="list-style-type: none"> High level of security and mitigation against absconding or reoffending while completing the Academy Programme, which reduces risk to public in comparison to a non-secure placement. 	<ul style="list-style-type: none"> Same as option 2.
Effectiveness in reducing offending.	<ul style="list-style-type: none"> International evidence has shown that 'boot camps' are one of the least effective interventions when it comes to reducing offending and antisocial behaviour among young people. Rehabilitative support, transitional support, and support the guardian/parent currently make up current best practice – if these components accompany a military component, then this provides the best chance of reducing reoffending. A 3-6 month period for the delivery of an academy is likely to be sufficient to achieve any benefits. 	<ul style="list-style-type: none"> Same as option 2, except no evidence to suggest that the length of the military component of the programme needs to be up to 12 months.
Feasibility	<ul style="list-style-type: none"> Very unlikely that the intended number of YSO would be sentenced to commence the Academy at the same time – operationally difficult to implement. Provides the ability to leverage existing infrastructure and staffing – however, it places significant additional pressure on YJ residential capacity and operations - potentially critical impact Will have an impact on the NZDF, which will vary depending on dependable on the design, location and duration of the programme. 	<ul style="list-style-type: none"> Same as option 1, except the impact on the NZDF will be greater due to the increased duration of the programme.
Alignment with current principles of the Oranga Tamariki Act	<ul style="list-style-type: none"> Relevant to the principles that 'any child or young person who has committed an offence should be kept in the community so far as is practical and in line with public safety' and 'any measures for dealing with offending should, as far as practicable, address the underlying causes of offending'. The option enables the judiciary to provide those who need to be held in a secure facility access to a programme that could potentially address the underlying causes of offending. 	<ul style="list-style-type: none"> Same as option 2, however, does not align with principle that 'any sanctions should take the least restrictive form that is appropriate in the circumstances' as there is no evidence to suggest that the length of the military component of the programme needs to be up to 12 months.
Cost/cost effectiveness	<ul style="list-style-type: none"> Involvement of the NZDF in the delivery of a programme for young offenders comes at a significant cost in the form of NZDF time and resource. A more cost-effective approach would see the delivery of the programme independent from the NZDF, with involvement of community and iwi organisations. 	<ul style="list-style-type: none"> Same as option 2 except higher cost expected due to increased length of programme.
Other considerations	<ul style="list-style-type: none"> Results in issues of mixed cohorting with less serious young offenders There is no further pathway for escalation within the YC, except transfer to the district court, should the young person choose not to participate in the academy 	<ul style="list-style-type: none"> Same as option 2.

Option 3

Military academy as a new standalone Youth Court response to offending sentencing

<u>Duration</u>	<ul style="list-style-type: none"> Military academy aspect of the response lasts up to 12 months, followed by a Supervision Order (up to 12 months).
<u>Location</u>	<ul style="list-style-type: none"> Location to be determined - assuming this is "detention" would be a YJ residence OR require another base or facility to be designated as secure residence or detention in legislation/ regulations.
<u>Target group and potential numbers</u>	<ul style="list-style-type: none"> YSO who the Judge determines cannot safely be placed in a community setting and have committed the most serious offences. It was not possible to model this option within the timeframe.
<u>Legislative implications</u>	<ul style="list-style-type: none"> Requires the Oranga Tamariki Act to be amend so that a YSO can be sentenced to a military academy for a period of up to 12 months , via the introduction of a new order, and can be placed in the custody of the NZDF or another community organisation There would be significant legislative change needed to the Defence Act to enable the delivery of a military academy that involved members of the NZDF being custodial officers over minors and to enable NZDF to hold YSO in a secure location on base.
<u>Impact on public safety and the rights of victims.</u>	<ul style="list-style-type: none"> Facility can be designed so there is a high level of security and mitigation against absconding or reoffending while completing the Academy Programme, which reduces risk to public in comparison to a non-secure placement.
<u>Effectiveness in reducing offending.</u>	<ul style="list-style-type: none"> International evidence has shown that 'boot camps' are one of the least effective interventions when it comes to reducing offending and antisocial behaviour among young people. Rehabilitative support, transitional support, and support the guardian/parent currently make up current best practice – if these components accompany a military component, then this provides the best chance of reducing reoffending. No evidence to suggest the length of the programme needs to be up to 12 months.
<u>Feasibility</u>	<ul style="list-style-type: none"> Very unlikely that the required number of YSO would be sentenced to commence the Academy at the same time – operationally difficult to implement. The NZDF does not have a suitable secure facility, so capital investment be required. Will have an impact on the NZDF, which will vary depending on dependable on the design, location and duration of the programme. Likely to be the greatest impact of all options. Would require investment in a new facility (as the NZDF does not have a facility that is sufficiently secure).
<u>Alignment with current principles of the Oranga Tamariki Act</u>	<ul style="list-style-type: none"> Enables the judiciary to provide those who need to be held in a secure facility access to a programme that could potentially address the underlying causes of offending Same as option 2, however, does not align with principle that 'any sanctions should take the least restrictive form that is appropriate in the circumstances' as there is no evidence to suggest that the length of the military component of the programme needs to be up to 12 months.
<u>Cost/cost effectiveness</u>	<ul style="list-style-type: none"> Involvement of the NZDF in the delivery of a programme for young offenders comes at a significant cost in the form of NZDF time and resource. A more cost-effective approach would see the delivery of the programme independent from the NZDF, with involvement of community and iwi organisations. Will have the greatest impact on both MOJ and NZDF of all options. Would require investment in a new facility (as the NZDF does not have a facility that is sufficiently secure).
<u>Other considerations</u>	<ul style="list-style-type: none"> New - clear sanction and response to SYO Able to design a bespoke order that provides the desired intensity and mix of response, intervention and accountability. Enabling members of the NZDF to be custodial officers over minors creates considerations as to what the appropriate role of NZDF is and whether they have the social licence for those activities). There is no further pathway for escalation within the YC, except transfer to the district court, should the young person choose not to participate in the academy. Is not "least restrictive" in the principles of OT Act so would be less likely used by the court if alternatives were available.