

# Anti-smacking Referendum | 31 July - 21 August 2009

"Should a smack as part of good parental correction be a criminal offence?"

# vote NO



## FACT SHEET: Answers to all your questions regarding the Referendum

### Why is it called the "anti-smacking" law?

This is what the architect of the law change (Green MP Sue Bradford) called it! Groups who supported it such as Barnardos, Plunket, and the Children's Commissioner have all been calling for a ban on smacking.



### What does the law actually say?

#### 59 Parental control

- Every parent of a child and every person in the place of a parent of the child is justified in using force if the force used is reasonable in the circumstances and is for the purpose of—
  - preventing or minimising harm to the child or another person;
  - preventing the child from engaging or continuing to engage in conduct that amounts to a criminal offence; or
  - preventing the child from engaging or continuing to engage in offensive or disruptive behaviour; or
  - performing the normal daily tasks that are incidental to good care and parenting.
- Nothing ... justifies the use of force for the purpose of correction.
- To avoid doubt, it is affirmed that the Police have the discretion not to prosecute complaints ... where the offence is considered to be so inconsequential that there is no public interest in proceeding with a prosecution. (Abbreviated)

### What does this mean?

Yes it is confusing, but basically, a parent cannot use physical contact or force to **correct** their child's behaviour, only to **prevent** bad behaviour. But "the distinction between prevention and correction is unclear in many cases. Preventing particular actions will often amount to correcting them."

The law "also creates confusion with its reference to police discretion .... Citizens have a right to know what the law requires and not to be subject to arbitrary enforcement. In addition, it refers only to police discretion. It does not apply to any other agency, such as Child, Youth and Family (CYF)."

Source: Explanatory Note to Private Member's Bill to amend s59 Crimes Act.

### Is all "correction" deemed bad, or just smacking?

Interesting question! At a recent Early Intervention Association conference, they were told "time out" and the "naughty chair" are unprofessional and in breach of the United Nations (UN) Declaration of the Rights of the Child. Perhaps other forms of appropriate and effective parental correction like "time out" will be banned.

### Some people say that all smacking is banned, others say that it's not.

And that is part of the problem. The supporters of the anti-smacking law have confused the public by trying to mask its real effect. For example, compare these quotes from Green MP Sue Bradford:

2007 "... it is already illegal to smack children."

2008 "Smacking has never been a criminal offence, and still isn't."

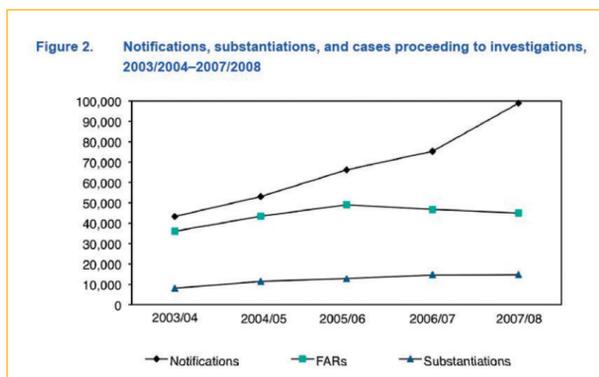
2008 "... parents need to accept that it is no longer legal to hit children."

### Didn't 113 MPs vote for the law change?

Yes they did. It was supposed to be a "conscience vote" but the two major parties - Labour and National - were "whipped" by their leaders (had to vote along party lines) to vote for the law.

### But isn't the law working?

Definitely not. As predicted, good families have become victims of unwarranted investigations and even prosecutions by police and temporary removal of children by CYF. For example, the number of notifications to CYF has seen an explosion of over 30% in the year since the passing of the law (see top line of graph) yet the number of cases requiring further investigation (FARs middle line) has decreased. We are wasting valuable police and CYF resources investigating cases that simply aren't abuse.



### But the police aren't investigating people for smacking, are they?

Once again, not true. A police six month review early last year showed a 200% increase in families being investigated for "smacking" and "minor acts of physical discipline" yet less than 10% were serious enough to warrant prosecution. Over just a six month period, four "minor acts of physical discipline" were prosecuted.

### Do you have examples of good parents being investigated, prosecuted, and children being removed from families?

Yes, unfortunately. There are plenty of examples on our website [www.familyfirst.org.nz](http://www.familyfirst.org.nz). These are just the ones that we are aware of. There will be plenty of others that we don't know about (as suggested by the CYF investigation figures above).

### Why is a referendum being held on this issue?

More than 300,000 signatures were gathered on a petition demanding a referendum on the law change, and under the Citizens Initiated Referenda Act, this forced a referendum to be held.

### Hasn't the law helped stop child abuse?

Unfortunately, no – and this comes as no surprise to Green MP Sue Bradford. In an interview in late 2007 as the child abuse death rate continued, she said, "The epidemic of child abuse and child violence in this country continues – sadly. My bill was never intended to solve that problem." Since the passing of the anti-smacking law, there have been 12 child abuse deaths – continuing the same rate as before the anti-smacking law was passed.

### So what are the causes of child abuse?

UNICEF reports (2003) (2007) and a CYF report (2006) listed factors most commonly associated with the maltreatment of children including:

- drug and alcohol abuse
- family breakdown
- poverty and stress
- poor housing
- low maternal education
- low maternal age at birth
- children not living with biological parents
- single-parenthood / weak family ties

In the UNICEF report, of the 10 top countries which were deemed safest and promoted the highest level of wellbeing for children, six hadn't banned smacking.

### What does the research say about smacking and child abuse?

A 2007 Otago University study found that children who were smacked in a reasonable way had similar or slightly better outcomes in terms of aggression, substance abuse, adult convictions and school achievement than those who were not smacked at all. And a study by the Christchurch School of Medicine found there was no difference in outcomes between no smacking and moderate physical punishment. They said, "It is misleading to imply that occasional or mild physical punishment has long-term adverse consequences."

### Sweden banned smacking in 1979. What effect did that have?

Research has shown that the Swedish smacking ban has done more harm than good. Since the ban on smacking, there has been more than a 15-fold (1505%) increase in physical child abuse against children under the age of seven, and more than 24 times as many charges of criminal assaults by youth against other youth.

### Why do groups like Barnardos and Plunket support the anti-smacking law?

These organisations mistakenly think that banning smacking will help reduce child abuse in New Zealand. Of course they're right to be concerned about our rates of child abuse—we can all agree on that—but a light smack for correction is not the same as abuse. Their focus is in the wrong place. They should oppose a law that makes criminals out of good parents and that takes the focus away from where it should be—the real causes of child abuse. Their frontline workers know this.

## So what's the solution?

- Fix the current law so that good parents who use a non-abusive smack for the purpose of correction are not deemed to be committing a criminal offence in the eyes of the law and liable to potential investigation and interrogation by police and/or CYF.
- Appoint a Royal Commission to identify and address the wider causes of family breakdown, family violence and child abuse – for more details see [www.stoptheabuse.org.nz](http://www.stoptheabuse.org.nz)

In the end what matters most is that the voices of ordinary New Zealanders are heard! The Referendum means that the politicians must listen to your views.

Protect good parents. Tackle the *real* causes of child abuse.

visit [www.voteNO.org.nz](http://www.voteNO.org.nz) for more info on all these questions