



Petition of Eric Knight and 156 others Justice and Electoral Committee

The Salvation Army New Zealand Fiji and Tonga Territory Submission

BACKGROUND

1. The Salvation Army is an international Christian and social services organisation that has worked in New Zealand for over one hundred and thirty years. The Army provides a wide-range of practical social, community and faith-based services, particularly for those who are suffering, facing injustice or those who have been forgotten and marginalised by mainstream society.
2. We have over 90 Community Ministry centres and Churches (Corps) across the nation, serving local families and communities. We are passionately committed to our communities as we aim to fulfil our mission of caring for people, transforming lives and reforming society through God in Christ by the Holy Spirit's power¹.
3. This submission has been prepared by the Social Policy and Parliamentary Unit of The Salvation Army. This Unit works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand.
4. This submission has been approved by Commissioner Robert Donaldson of The Salvation Army's New Zealand, Fiji and Tonga Territory.

THE SALVATION ARMY PERSPECTIVE

5. The Salvation Army **supports** the petition of Eric Knight and 156 others, which requests that the House amend the Criminal Records (Clean Slate) Act 2004 to apply to individuals who have been sentenced to a custodial sentence of 12 months or less, once a period of twenty years has passed since the date of last sentencing.
6. The Salvation Army notes that there was cross-party support in the original select committee report for the concept of the Biblical cycles of renewal and forgiveness.² These concepts are particularly cogent for The Salvation Army Reintegration Services which works with ex-offenders who have limited or no other means of support in their Reintegration journey. The Salvation Army hopes to offer the Select Committee a grounded view that is not naïve but

¹ <http://www.salvationarmy.org.nz/our-community/mission/>

² Criminal Records (Clean Slate) Bill (select committee report) at 3.

also one that is not fatalistic, by always maintaining the hope in people's ability to live meaningful and healthy lives beyond their past engagement in the criminal justice system.

The link between state care and engagement in the criminal justice system

7. The life experiences outlined in the personal submission of Eric Knight in support of his petition illuminates an all too common journey for our children who are failed by the system and are later imprisoned as adults: Child Youth and Family (CYFs) care, first offending as a young person and extended periods of homelessness. It was recently highlighted by the Principal Youth Court Judge (and newly appointed Children's Commissioner) Andrew Becroft that up to **83 percent of prison inmates under 20 have a care and protection record with CYFs**. He stated that "There's really a staggering and profoundly concerning link between care and protection issues and adverse life outcomes, shall we say, in the criminal justice system."³
8. Such statistics and the experience of Mr Knight highlight the structural causes of crime and the urgent importance of both investing early in our children and protecting them adequately. The Salvation Army acknowledges the vital review of CYFs that is currently taking place. We believe that this reform also needs to be done concurrently with a raise in the Youth Court age. Currently 17 year olds go straight into the adult criminal justice system and are locked out of the Youth Court. Given the high number of inmates with care and protection records, it is submitted that the Youth Court environment provides significantly better opportunities to address these needs in a way that promotes sustainable change for the young person to prevent re-offending. It is notable that Mr Knight's first offending occurred at 17 and resulted in a prison sentence.
9. Given the above, the particularly cogent point in relation to this particular petition is that many ex-offenders like Mr Knight have been victims to circumstance which has led to their offending and imprisonment at a young age. Against the odds and despite their trauma, many have shown significant bravery and resolve and have gone on to become law-abiding citizens and lead productive lives. Yet their punishment for their crimes has not ended with the completion of a sentence many years ago. Rather, the stigma associated with their convictions has perpetuated their disadvantage and prevented them from finding employment to support themselves and their families.

The non-custodial sentence threshold for the clean slate regime

10. This petition asks that the non-custodial threshold be waived in the event that:
 - a. An individual's original custodial sentence was of a period of 12 months or less, and;
 - b. They have had a 20 year "rehabilitation period" of no offending.
11. In defending the non-custodial threshold, the select committee stated in their original report on the clean slate legislation in its Bill form that "most of us do not think it appropriate to enable convictions which attracted a custodial sentence to be concealed, on the basis that

³ Radio New Zealand "Staggering link between CYF care and crime <www.radionz.co.nz>.

custodial sentences are generally used as a *sentence of last resort for serious or recidivist offenders*.⁴

12. The Salvation Army submits that this reasoning does not apply in this case. Firstly, a custodial sentence does not necessarily indicate that past offending has been “serious”:
 - a. The Sentencing Judge is tasked with a broad discretionary judgment that can include giving a sentence of imprisonment for a relatively minor offence to give a “short sharp shock”. As was noted by the minority opinion in the select committee report: “Information from ministerial correspondence indicates that in past decades, custodial sentences have been imposed for a number of relatively minor offences such as disorderly behaviour, the cultivation of cannabis and failing to report to a work centre. Furthermore, all the Australian jurisdictions in the table in Appendix C to this report include some custodial sentences in their clean slate schemes, as does the UK Rehabilitation of Offenders Act 1974.”⁵
 - b. The current clean slate threshold is also inconsistent with areas such as immigration and travel, where there is not a blanket ban on those with convictions that have resulted in a short custodial sentence. For example, as Mr Knight has alluded, individuals with convictions can still travel to Australia if they don’t have a “substantial criminal record”. A factor in assessing whether a person is deemed to have a substantial criminal record is if they have been “*sentenced to a term of imprisonment for 12 months or more*.” Thus, a short term of imprisonment is not considered indicative of the seriousness of an offence.
13. Secondly, it is submitted that an individual has demonstrated that they are clearly no longer a “recidivist offender”, despite their original custodial sentence, if they have not offended in over 20 years. The rationale for the public or other agencies knowing about their convictions on the basis of a high risk of reoffending is no longer compelling.

Reducing re-offending

14. The underpinning rationale behind the clean slate legislation was the recognition that punishment for a crime does not necessarily end with the completion of a sentence; the stigma of a criminal record may follow people for years after they have ‘paid’ for their offence. This is consistent in the experience of The Salvation Army’s Reintegration Service. Salvation Army Reintegration clients face significant hurdles in employment and stigma in other areas of life, like a landlord asking about criminal convictions when they’re flat hunting, or that insurance costs are often much higher for people with criminal convictions.
15. The Department of Corrections has identified that people in regular employment are less likely to offend or re-offend, yet *due to their criminal histories* and often limited education,

⁴ Criminal Records (Clean Slate) Bill (select committee report) at 6.

⁵ Criminal Records (Clean Slate) Bill (select committee report) at 7.

many prisoners experience significant difficulty in finding jobs upon release.⁶ Addressing this difficulty has been identified as “vital to achieving success in reducing re-offending.”⁷ The Salvation Army submits that it is therefore in the interests of the Government’s Better Public Services “Reduce Re-offending” target to re-examine the scope of the clean slate regime.

CONCLUSION

16. The Salvation Army supports this petition and suggests that this is an opportunity for Parliament to assess the effective operation of the clean slate regime. We hope that the principles of renewal and forgiveness are held at the forefront, in addition to an evidence-based understanding of the causes of crime, imprisonment, and what contributes to effective measures in reducing re-offending.

⁶ Department of Corrections *Annual Report: 1 July 2014 – 30 June 2015* at 33.

⁷ At 33.