



SOCIAL POLICY AND  
PARLIAMENTARY UNIT

Working for the eradication of poverty in NZ

# BEYOND THE HOLDING TANK

PATHWAYS TO REHABILITATIVE AND RESTORATIVE PRISON POLICY



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“BUT WHAT DOES THE LORD REQUIRE OF YOU,  
BUT TO DO JUSTICE,  
AND TO LOVE MERCY,  
AND TO WALK HUMBLY WITH YOUR GOD?”

MICAH 6:8

“WHILE MEN GO TO PRISON, IN AND OUT, IN AND OUT,  
AS THEY DO NOW, I’LL FIGHT.”

WILLIAM BOOTH, 1890

“NO-ONE TRULY KNOWS A NATION UNTIL HE HAS BEEN INSIDE ITS JAILS.  
A NATION SHOULD NOT BE JUDGED BY HOW IT TREATS ITS HIGHEST CITIZENS  
BUT HOW IT TREATS ITS LOWEST ONES.”

NELSON MANDELA

# EXECUTIVE SUMMARY

## Encouraging rational debate

Public debate around prison policy is often based on rhetoric and emotion rather than experience and evidence. Individuals and groups tend to be polarised or labelled as supporting ‘offenders’ or ‘victims’ or being ‘soft’ or ‘tough’ on crime. The aim of this discussion document is to cut through these false dichotomies. Starting with some facts about the effectiveness of our current prison system on reducing recidivism, this document points the debate towards more positive and rehabilitative prison practice.

## Why The Salvation Army cares about prison

The Salvation Army has a historical and faith based imperative for involvement in the issue of prison. From its inception in the 1880s, The Salvation Army has provided services to assist inmates to reintegrate into society, and to prevent re-offending. This tradition of working with offenders continues within New Zealand today, with The Salvation Army providing chaplaincy services to many of the major courts, and for prisons and police.

The Christian faith that is at the heart and purpose of The Salvation Army also demands a concern with prison and inmates. The Bible is full of stories about prison and prisoners and has much to say about the nature of prison itself – all of it negative. Prison is never part of God’s way, instead both the Old and New Testament call people of faith to repentance, restoration, and forgiveness as the pathways to the healing of the effects of crime.

## New Zealand’s prisons – the current situation

New Zealand is imprisoning, in larger numbers than any other western developed nation apart from the United States, young men and women who are addicted or mentally ill, and who have limited education and life skills.

In 2005, 7,500 people were in prison at any one time. The majority of these inmates were male, aged between 20 and 40 years, and of Maori or European ethnicity. For 73 percent of inmates their education finished at Year 11 (Form 5) or below. Research has found that 60 percent of inmates have a diagnosable personality disorder, and of this group 90 percent have suffered or are suffering from a substance abuse problem. One quarter of inmates have suffered a major depressive episode and a small percentage suffer from schizophrenia, bipolar or a related disorder.

New Zealand's increasing imprisonment rate is not due to increased levels of crime. Crime overall has in fact been declining. Rather changes to legislation, and improved police clearance rates have resulted in more offenders going to prison and serving longer sentences. The number of convicted offenders who receive a prison sentence has increased every year since 1997, those on remand have nearly doubled over the decade 1994 to 2003, there has been a decline in the use of community based sentences, and sentence length has increased.

The majority of offenders are given a sentence of 1 to 2 years in length. The next largest group face 3 to 5 years in prison. Nearly 15 percent of inmates face sentences of 10 years or more.

Once in prison very little is offered by way of work, training, addiction or other rehabilitative programmes. In 2004/05 only 141 inmates underwent a residential drug and alcohol programme. As at September 2005, only 31 percent of inmates were in employment and the majority of these were employed for only a few hours per day. Between 2002 and 2005, 23 work programmes within prisons closed and the percentage of inmates in employment fell by 10 percent.

Little is done to assist the approximately 8,000 inmates who are released from prison every year. A limited number of reintegration officers and community organisations are available to assist some inmates, but these resources are stretched.

The lack of rehabilitative and reintegrative assistance results in high levels of recidivism. Nearly three-quarters of all inmates are re-convicted within two years of release. Thirty-seven percent are re-imprisoned within two years and 51 percent within five years.

This leaves New Zealand in an unsustainable situation. The demand for prison beds is consistently outstripping supply. As soon as we build new prisons the beds are full.

### **Why prisons don't work to reduce offending and re-offending**

Building more prisons even if economically viable, will not result in a safer society. Research has shown that punishment is ineffective in changing behaviour. If all prison does is punish, and offers little or nothing by way of rehabilitation, then it will fail to deal with



the underlying causes of crime and is likely in fact to exacerbate them. When offenders enter prison they lose housing, employment and family connections, and when they are released the stigma of prison makes it difficult for them to reintegrate.

Imprisonment levels are rising not because there is more crime or because prison works to deter crime, but because the general public lacks understanding about the reality of crime, sentencing and prison, and politicians find public pressure to 'get tough on crime' difficult to resist.

### **Pathways to more positive prison policy**

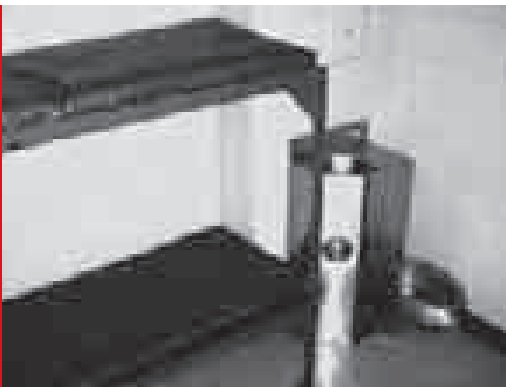
There are more effective ways to deal with offenders, both before and within prison, ways that can reduce the number of offenders who enter and return to prison.

### **Finland – a positive decision to change**

Finland provides a model for the reorganisation of sentencing and prison policy around the goal of reducing prison numbers and recidivism. In the 1960s Finland made a conscious decision to change the direction of its prison policy. Fines, conditional sentences, community service and victim-offender reconciliation programmes became central to sentencing. For those who are sentenced to prison, employment, training, rehabilitation and reintegration are the focus, with 62 percent of Finnish inmates involved in employment. Physical recreation is well organised and inmates are encouraged to develop hobbies.

The results of these changes were a reduction in the rate of imprisonment and a reduction in the fear of crime. The numbers in prison fell by 38 percent from 1976 to 2005 and the rate of imprisonment declined by two-thirds from 200 per 100,000 in 1950 to 66 per 100,000 in 2005. A survey in 2005 found that fear of being a victim of crime had reduced across all potential areas of offending with the exception of violence against women at work.

Victims are an important focus of the Finnish system, with Finland having the most comprehensive victim compensation system in the world. Fines from offenders are used to offset the cost of this compensation.





Key factors in the ability of Finland to make these changes were: a public and political acknowledgement that Finland's rate of imprisonment was a problem and needed to change, the development of a multi-party accord that de-politicised justice policy, a non-emotive, factual approach to crime reporting on the part of Finnish media, and the use of international and national experts to design new justice policy.

### **Restorative Justice**

Restorative Justice is already being practised in the New Zealand justice system, primarily through the operation of the Children, Young Persons and their Families Act, but in a more limited way for adult offenders through a Restorative Justice pilot project.

The focus of the Restorative Justice pilot is on restoring, through a facilitated process that brings together victims, offenders and their families, the dignity and well-being of those involved in, and harmed by, a criminal incident. The Restorative Justice process aims to assist victims to heal and move forward and offenders to face their crimes and change their behaviour.

Youth Justice operates with Restorative Justice values. The foundation of the Youth Justice system is the Family Group Conference that brings the young person and the victim and their families together. Young people must face up to what they have done, apologise and agree to repair the damage (as far as is possible) by paying reparations, doing community work, and/or undertaking programmes.

Evaluations of both the Youth Justice Family Group Conference and the adult Restorative Justice pilot indicate that a restorative approach can be effective for both victims and offenders. Many victims report feeling positive about being able to meet and hear from the offender. There are signs that a restorative approach can also reduce re-offending, especially for medium or high-risk offenders.

### **Faith or culture based units within prison**

New Zealand and international research shows that religious beliefs have a significant influence in motivating offenders to turn from a life of crime and remove themselves from anti-social influences. Reconnection with cultural identity and values has also been shown to positively impact on offender recidivism rates.

### **Educational, vocational and employment programmes in prison**

Evidence shows that vocational and employment opportunities in prison are significant in reducing violence and depression within prison. Employment of inmates while in prison also improves the ability of inmates to reintegrate in society upon release, and avoid re-offending.

### **The way forward for New Zealand**

Changes are required if New Zealand is to reduce the number of people who are sentenced to, and return to, prison. We need politicians with the courage to stop using crime as a political football, to resist ill-informed calls for harsher penalties and who seek to debate and design prison policy based on research and expert advice.

To support such leadership New Zealand requires a public education campaign that will provide factual information about the causes of crime, the reality of prison and the likelihood of victimisation, so that the public can have a better understanding of the issues and less fear of crime.

In terms of prison policy and practice, the focus of commitment and resources must move from yet more prisons to support restorative and rehabilitative practices, and shift them from being marginal to mainstream.

New Zealand must come to recognise that our incarceration rate is a choice we make. As a society we can choose to go down the path of more costly prisons, or we can take a different path, one that promotes restoration, rehabilitation and hope.

## Recommendations

In light of the issues raised in this discussion document, The Salvation Army recommend the following:

1. That the Government initiate the development of a multi-party accord on crime and justice with the aim of shifting all political debate to issues of researched fact and policy. That this accord be agreed prior to the next general election.
2. The Government initiates a public education programme that provides high quality, user-friendly data and information about the New Zealand justice and prison system, with the aim of encouraging better debate and less fear of crime.
3. That the Government establish an expert advisory board to implement and audit the following recommendations.
4. That the Government initiate a review of the implementation of the Sentencing Act 2002, the Bail Act 2000, and the Parole Act 2002 with a view to reducing the number of offenders who are remanded or sentenced to prison.
5. That the Government increase the availability of Restorative Justice, Faith and Cultural based prison units and other rehabilitative and restorative models/pilots with the aim of making these available nationally.
6. That the Government direct the Department of Corrections to develop a plan that will enable all inmates to be actively involved in employment and/or vocational training by the year 2010.





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# INTRODUCTION

Methodist Minister, William Booth, founded The Salvation Army in 1865. Booth strongly believed that the fighting of poverty and social injustice were vital aspects of Christianity. Therefore through the years The Salvation Army has been at the 'coal-face' of care for many of those facing injustice, those who are forgotten and in need of support in society, including people who are in prison. "The Salvation Army believes that every person has intrinsic value and this drives our commitment to chaplaincy."<sup>1</sup>



Commenting on the prison system of his own day Booth (1890) said:

Our Prisons ought to be reforming institutions, which should turn men out better than when they entered their doors. As a matter of fact they are often quite the reverse. There are few persons in this world more to be pitied than the poor fellow who has served his first term of imprisonment or finds himself outside the gaol doors without a character, and often without a friend in the world. Our people, thank God, have never learnt to regard a prisoner as a mere convict. He is ever a human being to them, who is to be cared for and looked after as a mother looks after her ailing child.

In response to what Booth perceived to be the lack of assistance for prisoners, both during and after their term of imprisonment, Booth established a range of services to assist prisoners and their families. In 1883 The Salvation Army started its prison ministry by holding chapel services inside prisons. They then began meeting offenders at the prison gate as they were released and took them back to Salvation Army members' homes or to other places of shelter. Prison Gate Homes began in the 1880s offering housing, food, clothing and assistance with finding employment. Wherever The Salvation Army went in the world it developed programmes for inmates including: in Australia the opening of the first Prison Gate Home, in the United States the founding of the Volunteer Prison League, in France work to assist the inmates and later to get closed, the notorious penal colony of Devil's Island, and in Canada pioneering work in the development of probation.<sup>2</sup>

The Salvation Army in New Zealand continues with Booth's tradition. The Salvation Army has chaplains, (known as Court and Prison Officers) in 16 of the major Courts in New Zealand. The Salvation Army also has two prison chaplains and one police chaplain. The Court and Prison Officers are in a unique position within the justice and prison system. Unlike any other professional staff in the system, the Court and Prison Officers work with everyone; court and prison staff, judges, lawyers, police, offenders, victims, offender's families, victim's families.

1. The Salvation Army, UK, 2004, p. 5.
2. For further information see:  
[www.abc.net.au/lighthouse/docs/bios/3\\_1\\_7.html](http://www.abc.net.au/lighthouse/docs/bios/3_1_7.html)  
[www.extramile.us/honorees/booth.cfm](http://www.extramile.us/honorees/booth.cfm)  
[www.sacollectables.com/devils.html](http://www.sacollectables.com/devils.html)  
[www.npb-cnrc/about/part1\\_e.html](http://www.npb-cnrc/about/part1_e.html)

Salvation Army Court and Prison Officers get to see all sides of an issue, and are immersed in the reality of the criminal justice system. In 2004, when The Salvation Army established its Social Policy and Parliamentary Unit, staff of the Unit travelled throughout New Zealand and asked front-line Salvation Army staff about the key social issues as they experienced them. Court and Prison Officers, and other social service staff, expressed concern about growing prison rates, and what they perceived to be high rates of recidivism despite harsher penalties.

A quick look at the statistics confirms Salvation Army staff concerns. In October 2005 there were over 7,500 in New Zealand's prison population, a number equivalent to the population of Thames. And the prison population numbers are predicted to continue to grow. The Salvation Army could, and will, continue to provide practical support for this growing prison population, and others affected by this trend. But we recognise that while essential, it is 'band aid' work. If New Zealand wants a safer society, a society in which fewer people commit crime, and especially in which fewer people continue to commit crime even after they have been caught and imprisoned, then we need to do more than stick on band aids.

William Booth (1890) said:

Absolute despair drives many a man into the ranks of the criminal class, who would never have fallen into the category of criminal convicts if adequate provision had been made for the rescue of those drifting to doom. When once he has fallen, circumstances seem to combine to keep him there. As wounded and sickly stags are gored to death by their fellows, so the unfortunate who bears the prison brand is hunted from pillar to post, until he despairs of ever regaining his position, and oscillates between one prison and another for the rest of his days.

Since Booth's time, the challenge has been to find and implement new ideas and new policies that really focus on reducing recidivism and the need for prison. And since Booth's time this has been a difficult task because it is done in an environment in which the general public is often unsympathetic. Today, the public debate is often framed around the issue of harsher penalties. Much of the debate is based on rhetoric, rather than experience and evidence. Emotions play a big part in any discussion of prison policy and individuals and groups tend to be polarised or labelled as supporting 'offenders' or 'victims' or being 'soft' or 'tough' on crime.

We hope that this discussion document can cut through these false dichotomies and, starting with some facts about the effectiveness of our current prison system on reducing recidivism, point the debate towards more positive and rehabilitative prison practice.

## METHODOLOGY AND SCOPE

This discussion document has been written to contribute to the debate in New Zealand surrounding the increasing number of people being imprisoned. The issues surrounding our justice system in general, and prisons in particular are complex. The question of New Zealand's imprisonment rate is inter-linked with many others. Issues relating to crime prevention, family and community functioning, values, and the structure and operation of our criminal justice system are relevant to any discussion about prison. Given this complexity it is probably not surprising that the literature surrounding the topic of prison is mountainous, the data complicated, and both are often not user-friendly to the non-expert. One discussion document cannot offer a comprehensive review of the literature, explain all the data, or cover all the issues pertinent to prisons and we have not attempted to do so. What we aim to do is offer an accessible discussion of the central concerns with respect to New Zealand's levels of imprisonment. This paper therefore provides some factual information about the reality of New Zealand's imprisonment rate, and using key New Zealand and international secondary research, identifies some of the problems with our current situation and potential alternatives to it. This discussion document is a starting point that invites further debate, research and action.

The issues and pathways forward identified in this document are informed by the reality of those who work in or are affected by the prison system. As part of the research for this document, staff of the Social Policy and Parliamentary Unit interviewed, (face-to-face or in small groups), 50 individuals who have contact with the prison system. Individuals interviewed included Salvation Army Courts and Prisons Officers, District Court Judges, criminal lawyers and QCs, probation staff, prison management and staff, police, restorative justice facilitators, prisoner's aid workers, victims and offenders.



The discussion document was peer reviewed by three external reviewers with academic, and justice/prison policy qualifications.

The document is divided into five sections:

- Section one introduces a Biblical rationale for Christian involvement in this debate.
- Section two examines the data around New Zealand's current imprisonment rate, prison population and prison system.
- Section three explores the evidence around the success of prison as a deterrent to crime and re-offending.
- Section four offers some examples of alternatives to imprisonment, or more effective ways of working within prison.
- Section five summarises the issues raised and makes recommendations for action.





## WHY CHRISTIANS CARE ABOUT THE PRISON SYSTEM

In the introduction to this discussion document we showed that The Salvation Army has a practical motivation for becoming involved in the debate about our prison system. The Salvation Army has historically, and continues today, to provide care for many caught up in the justice system. The involvement with the justice system, and in particular, offenders and their families, is not a matter of choice or chance. The Christian faith that is at the heart and purpose of The Salvation Army compels Christian people to be concerned for prisoners.

The Bible has a lot to say about prison, prisoners and our responsibility toward them.<sup>3</sup> The Bible also has a lot to say about issues of repentance, forgiveness, justice and restoration.<sup>4</sup> All of which point toward the necessity of people of faith, and Christian organisations, becoming involved in the care of prisoners and the debate about prison policy.

It needs to be acknowledged that the Bible was written in a different time, different culture, and for a different purpose than those addressed by this discussion paper. The Biblical authors were writing as pastors and theologians, not as experts in social policy, and they were writing for the community of faith, not for the general public or public policy. So it is not possible to simply transfer a blueprint of the perfect prison policy or criminal justice system from the Bible to 21st century society. But for Christian people and Christian organisations, the Bible forms the matrix of our thinking about moral and ethical issues, and it is important that we be explicit about the origins of our thinking when we apply such ethics to public debates and issues.



In the context of the debate about prisons, Christian tradition has much to offer us. The Bible is full of stories about prison and prisoners. In the Biblical stories many of those in prison were not necessarily criminals in our modern sense. Often they were people who had spoken out against injustice, were of a different faith, were poor or in debt, or had in some other way got themselves off side with the rulers of their time and place. Many of the prophets of the Old Testament, the disciples of Jesus and leaders of the early church spent time in prison.<sup>5</sup> On some occasions these prisoners are set free through divine intervention. In the stories about people being imprisoned in the New Testament, God is seen to be on the side of the prisoner. “The early church was actually led by a bunch of jail birds, and God was primary accomplice in their escape.”<sup>6</sup> This bias towards the plight of those in prison is an important reference point for Christians in thinking about prisons.

3. Marshall, 2002, p. 2.

4. Marshall, 2002, p. 2.

5. Dr Chris Marshall notes that Joseph, Samson, Jeremiah, Micaiah, Zedekiah, Daniel, John the Baptist, Peter, James, John, Silas, Paul, Epaphras, Aristarchus, Junia, Paul, Peter, John and even Jesus himself spent time in prison. See Marshall, 2002.

6. Marshall, 2001.

In addition to many stories about prison, the Bible has much to say about the nature of prison itself, all of it negative. The Bible gives prison very bad press. Prison in the Bible has three key characteristics: it is the source and cause of great suffering, it is used as a means of oppression, and it is identified with the spirit and power of death.<sup>7</sup>

Most marked in the Bible is the association of prison with death. Prisons in Biblical times were universally places of misery, disease, and death. Those who did not die from torture and execution routinely died from disease and starvation. Prisons were places of emotional and spiritual despair in which people lost hope and faith as well as life. In fact the Bible consistently equates prison with the spirit of death. To be in prison was to endure a kind of living death.

Nowhere in the Bible is there a divine endorsement of prisons. “Never, ever in any part of the Bible are prisons part of God’s way. Always they are used to oppress. Always they are an affront to the divine. There are no good prisons. None.”<sup>8</sup> The only good news about prison in the Bible is that God is shown as consistently wanting to set prisoners free. Jesus himself starts his ministry by confirming this when he states that he has come “to proclaim release to the captives” (Luke 4:16-20). Jesus also states that caring for prisoners is one of the marks of those who follow him, (“I was in prison and you visited me”), and caring for prisoners is a way in which disciples can experience Jesus after his death and resurrection (Matt 25:36). This was not just meant in the spiritual sense but also physically. The Greek word (*episkeptomai*) translated here as visit, means more than just spending time. It implies showing practical care for those incarcerated.

The Bible promotes restitution, redemption and forgiveness as the pathways to healing when a ‘crime’ has been committed. Biblical theology promotes a communal view of crime and its healing. The people of Israel were called to view the bad actions of an individual as representing something wrong not just with that person, but with the whole community, even the whole nation. When an act of wrongdoing took place, the whole community was called to repent and return to the ways of God. Jesus, and later Paul, warned followers to avoid the criminal justice system as a way of dealing with disputes and instead suggested seeking agreement and forgiveness before they got to court. (Matt 5:25, 40; Luke 12:57). Disciples are called to a different way of behaving than that represented by the corrupt, harsh and retributive pagan justice system. They are called to the way of the kingdom of God (Matt 5:21-38, 48).<sup>9</sup>

If the Biblical stories of God’s action in Christ are the guide to ethical thinking for Christian people and organisations, what does the Biblical view of prisons and God’s concern to set

7. Marshall, 2002.

8. M. Olson, “God who Dared” p. 14, quoted in Marshall, 2002.

9. Marshall, 2001, p. 18.

prisoners free mean for any discussion of prison in our current context? For as this discussion paper will show, we should not be deluded about the reality of the 21st century prison. Although in the Western developed world prisons may no longer be physical hellholes, they continue to be places of misery and despair. How could they not be? We send people to prison to punish, and simple logic would suggest that locking up together large groups of dysfunctional, hurting, mentally ill and drug addicted people is unlikely to result in anything positive.<sup>10</sup>

Clearly in this 21st century context Christian people are called to care. For us the option of prison being ‘out of sight and out of mind’ or ‘in someone else’s backyard’ is not possible. We are charged with real practical concern for those in prison. This also includes a concern for what happens when people leave prison, and for those who work in the prison system.<sup>11</sup>

Practical care is not the only task of the Christian. If we accept the Bible’s overwhelmingly negative view of prison we must link practical care with a public critique of society’s increasing reliance on prison. The God who sets the prisoner free calls us to be sharply critical of an expansion of the prison system and an increasing incarceration rate. If we cannot conclude that it is possible to do without all prisons (because of the need to protect society from the few very dangerous people), then we must at least be highly critical of prison when it is used extensively and inappropriately or seen as the only possible solution.

Finally, Christian people are called to offer, lobby for and implement alternatives to prison. Prison is based on an ethic that punishment and retribution will lead people to change their nature and their actions. Christian people know, through the actions of God in Jesus, that true change only occurs through redemption, restitution and forgiveness. Christian people also know that these things are not idealistic, but are real, possible and happening every day. We need to offer alternatives to prison and programmes within prison, that demonstrate our belief in the humanity, the image of God in every person. The key task of faith is to offer people, communities and nations hope “that there are new things that are not based on what is old and failed.”<sup>12</sup>

Christianity calls people of faith to offer hope, the reality of change, forgiveness, healing and mercy to all, including those in prison. Christians are called to care about prison.



10. See the demographics section for data on who is in our prisons.

11. See Acts 16:27-34 and Paul's care for the Philippian jailer.

12. Bruggemann, 2005.



## NEW ZEALAND'S PRISONS – THE CURRENT SITUATION

### New Zealand's rate of imprisonment

New Zealand has one of the highest rates of imprisonment in the developed world. In October 2005 there were over 7,500 men and women in New Zealand's prisons<sup>13</sup> on any given day, giving us a prison rate of 181 people in prison per 100,000 population.

The growth in New Zealand's prison population has been significant when compared to other western developed nations (see Table 1, page 24). Our imprisonment rate is significantly higher than nearly all the nations New Zealand uses to compare and benchmark our performance. Our imprisonment rate is higher than the United Kingdom, Australia, Finland, Germany, France, Sweden and Japan. We are only lower than the United States, whose imprisonment rate of 724 per 100,000 is the highest in the world. The United Kingdom has the highest prison rate in the European Union; however, it is still not as high as New Zealand's.

"A LOT OF PEOPLE JUST  
MAKE BAD CHOICES."

POLICE SERGEANT

"CRIMINAL JUSTICE SYSTEM  
IS THE AMBULANCE AT  
THE BOTTOM OF ALL  
SOCIETY'S CLIFFS."

JUDGE

13. New Zealand's Public Prison Service: Northland Region Corrections Facility, Auckland Prison, Mount Eden Prison, Mount Eden Women's Prison, Waikeria Prison, Tongariro /Rangipo Prison, New Plymouth Prison, Hawkes Bay Regional Prison, Wanganui Prison, Manawatu Prison, Rimutaka Prison, Arohata Women's Prison, Wellington Prison, Christchurch Prison, Christchurch Women's Prison, Rolleston Prison, Dunedin Prison, Invercargill Prison, Auckland Central Remand Prison integrated into the Public Prisons Service 2004/05.

**Table 1: Recent prison population trend**

	1995	2005	Percentage Change 1995-2005 (%)
USA			
Prison Population Total	1,585,586	2,135,901*	34.71
Prison Population Rate	600	724*	
GERMANY			
Prison Population Total	66,146	80,413	21.57
Prison Population Rate	81	97	
JAPAN			
Prison Population Total	46,622	76,413	63.90
Prison Population Rate	37	60	
FRANCE			
Prison Population Total	51,623	52,908	2.49
Prison Population Rate	89	88	
SWEDEN			
Prison Population Total	5,767	7,332*	27.14
Prison Population Rate	65	81*	
AUSTRALIA			
Prison Population Total	17,428	24,171**	38.69
Prison Population Rate	96	124**	
ENGLAND AND WALES			
Prison Population Total	51,047	77,749	52.30
Prison Population Rate	99	146	
SCOTLAND			
Prison Population Total	5,657	6,885	21.71
Prison Population Rate	110	135	
FINLAND			
Prison Population Total	3,018	3,446	14.18
Prison Population Rate	59	66	
NEW ZEALAND			
Prison Population Total	4,553	7,550	65.82
Prison Population Rate	128	181	

Source: International Centre for Prison Studies World Prison Brief: [www.prisonstudies.org](http://www.prisonstudies.org)

\* Figures 31/12/04

\*\* Figures 30/06/04



## Who is in our prisons? – Demographics of New Zealand prisons

### Ethnicity, gender and age of inmates

The November 2003 Census of Prison Inmates came up with very detailed information about those serving time in prison. At that time there were 335 women and 5,905 men in prison. The majority of those in prison were of Maori or European ethnicity, and aged between 20 and 35 years. Only a small number of inmates were aged under 20 years, and imprisonment declined from the age of 40 years.

Despite Maori making up 14 percent of New Zealand's total population they make up over half of the prison population. Pacific Peoples make up about 6.5 percent of New Zealand's total population, but are over 11 percent of the prison population.

“ITS NOT OFTEN PUBLISHED  
BUT VICTIMS TEND TO  
COME FROM THE SAME  
ETHNICITY AS  
THE OFFENDER.”

RESTORATIVE JUSTICE  
CO-ORDINATOR

**Table 2: Ethnicity of those sentenced and on remand in New Zealand prisons November 2003**

	Maori (%)	European (%)	Pacific Peoples (%)	Asian (%)	Other (%)	Unknown (%)
Women (remanded)	58.9	30.1	4.1	1.4	5.5	0.0
Men (remanded)	53.9	29.5	9.4	4.3	2.4	0.5
Women (sentenced)	56.5	35.1	6.1	1.9	0.4	0.0
Men (sentenced)	48.3	37.7	11.1	1.9	0.6	0.3

Source: Department of Corrections (2003). Census of Prison Inmates and Home Detainees. Wellington, New Zealand.

## Age

The majority of men and women in prison are aged between 20 and 40 years. Imprisonment rates decline significantly after 50 years of age.

**Table 3: Age of sentenced inmates in New Zealand prisons November 2003**

Age	Women		Men		Total	
	number	%	number	%	number	%
14-16	4	1.5	12	0.2	16	0.3
17-19	22	8.4	305	6.3	327	6.4
20-24	48	18.3	898	18.6	946	18.6
25-29	39	14.9	865	17.9	904	17.7
30-34	46	17.6	806	16.7	852	16.7
35-39	41	15.6	632	13.1	673	13.2
40-49	43	16.4	802	16.6	845	16.6
50-59	13	5.0	314	6.5	327	6.4
60+	1	0.4	134	2.8	135	2.6
Age not available	5	1.9	65	1.3	70	1.4

Source: Department of Corrections (2003). Census of Prison Inmates and Home Detainees. Wellington, New Zealand.

“ILLITERACY IS A BIG PROBLEM – THEY DON’T HAVE THE EDUCATION, THEY DON’T UNDERSTAND SO THEY LASH OUT.”

POLICE SERGEANT

## Educational background

Over 73 percent of those in prison in 2003 had an educational qualification of Year 11 (Form 5) or less, and over 23 percent having been in education only to Year 9 (Form 3). Less than 3 percent had educational attainment to Year 13 (Form 7) level.

**Table 4: Highest educational level attended by sentenced inmates in New Zealand prisons November 2003**

Highest Educational Level Attended	Women		Men		Total	
	number	%	number	%	number	%
< Year 9 (Primary School)	17	6.5	256	5.3	273	5.4
Year 9 (Form 3)	33	12.6	874	18.1	907	17.8
Year 10 (Form 4)	62	23.7	1,067	22.1	1129	22.2
Year 11 (Form 5)	88	33.6	1,338	27.7	1426	28.0
Year 12 (Form 6)	38	14.5	381	7.9	419	8.2
Year 13 (Form 7)	7	2.7	123	2.5	130	2.6
Tertiary	5	1.9	68	1.4	73	1.4
Not educated in NZ	5	1.9	61	1.3	66	1.3
Not recorded	7	2.7	665	13.8	672	13.2

Source: Department of Corrections (2003). Census of Prison Inmates and Home Detainees. Wellington, New Zealand.

### Employment and source of income

Nearly 58 percent of those who stated their source of income were in paid work before entering prison, and just over 38 percent were receiving an unemployment, sickness, invalids or domestic purposes benefit. Only 4 percent stated their source of income to be the “proceeds of crime.”

“BOREDOM IS A BIG FACTOR – THEY DON’T HAVE THE EDUCATION TO TAKE ADVANTAGE OF THINGS, OCCUPY THEIR TIME. DRUGS ALSO RUIN CONCENTRATION.”

POLICE SERGEANT

**Table 5: Source of income prior to entering prison of sentenced inmates in New Zealand prisons November 2003**

Source of Income	Women		Men		Total	
	number	%	number	%	number	%
Paid work	91	41.0	2178	58.9	2269	57.8
Unemployment benefit/ community wage	48	21.6	974	26.3	1022	26.1
Sickness or invalids benefit	27	12.2	324	8.7	351	8.9
Domestic purposes benefit	48	21.6	72	1.9	120	3.1
"Proceeds of crime"	8	3.6	151	4.1	159	4.1
Total	222		3699		3921	
Other/unknown	40		1134		1174	

Source: Department of Corrections (2003). Census of Prison Inmates and Home Detainees. Wellington, New Zealand.

"WE SEE A LOT OF ADDICTED PEOPLE WITH ABUSE IN THEIR CHILDHOOD."

DRUG AND ALCOHOL COUNSELLOR

### Health status

More than half of those in prison have a mental illness, personality disorder, or have drug and alcohol addictions. In 1999 Corrections and the Ministries of Health and Justice undertook a National Study of Psychiatric Morbidity in New Zealand Prisons. The results of this survey painted a picture of a prison population with significantly higher rates of mental disorder than in the community, particularly schizophrenia, bipolar disorder, major depression, obsessive-compulsive disorders, and post-traumatic stress disorder. Almost 60 percent of inmates had a major personality disorder and of those with a major mental disorder 90 percent also had a substance abuse problem. The study reported that a quarter of inmates had a major depressive disorder, and 10 percent were currently going through an episode of major depression. A recent investigation by the Ombudsman found that in Rimutaka prison alone 7 percent of inmates were currently prescribed psychiatric medication.<sup>14</sup>

The significantly higher rate of mental disorders among the prison population when compared to the wider community was especially evident for substance abuse with 90 percent of inmates having (or had) at some time a substance abuse disorder. The reality is that those in our prisons suffer from psychotic illnesses, major depression, bipolar disorder, obsessive-compulsive disorders, and post-traumatic stress disorders at a much higher rate than the wider community.

In the Department of Corrections 2005 Annual Report it stated that for many offenders, abuse of drugs and/or alcohol is an important component in the sequence of events leading to the commission of an offence. Assessments undertaken by the department have revealed that the use of alcohol and drugs was a significant factor in the offending of 73 percent of inmates sentenced to prison, and 61 percent of offenders serving community-based sentences.

In an acknowledgement of the health needs of those in prison, the Ministry of Health has commissioned a survey that will collect information from 400 prisoners in 13 locations.<sup>15</sup>

### **What are inmates in prison for? – Offence types**

In terms of the makeup of the prison population based on offences, approximately 58 percent of the prison population are violence and sex offenders. Those with driving convictions make up about 8 percent of the prison population (they generally makeup 21 percent of all receptions to prison, but their short sentences mean this reduces their percentage over the entire prison population on average). The largest sub-group of offenders tend to be those having committed property offences.<sup>16</sup>

“‘P’ IS COMING THROUGH  
THE SYSTEM. PEOPLE  
ARE UNPREDICTABLE ON ‘P.’”

SALVATION ARMY COURT  
AND PRISON OFFICER

“NO REHABILITATION  
IN PRISON SO WHEN  
PROBATION GETS THEM  
THEY’RE MORE MESSED UP.”

PROBATION SERVICE STAFF MEMBER

15. Department of Corrections, 2005b.

16. Department of Corrections, 2005a.

**Table 6: Major offence of sentenced inmates in New Zealand prisons November 2003**

Major Offence	Women		Men		Total	
	number	%	number	%	number	%
Violence	94	35.9	1,759	36.4	1,853	36.4
Property	83	31.7	1,048	21.7	1,131	22.2
Sex	9	3.4	1,096	22.7	1,105	21.7
Drugs	46	17.6	403	8.3	449	8.8
Traffic	22	8.4	398	8.2	420	8.2
Misc.	8	3.1	129	2.7	137	2.7

Source: Department of Corrections (2003). Census of Prison Inmates and Home Detainees. Wellington, New Zealand.

“THE REASONS BEHIND  
OFFENDING ARE NOT  
ADDRESSED THE FIRST TIME  
SOMEONE COMES TO COURT.  
THEY DON’T ASK ‘WHY IS  
THIS PERSON SHOPLIFTING?’”

SALVATION ARMY COURT  
AND PRISON OFFICER

### How long are people imprisoned for? – Sentence length

In 2003 the largest proportion of those in prison were facing a one to two-year custodial sentence, the next largest group were facing three to five-years. Nearly 15 percent of those in prison were facing a sentence of 10 years or more, about the same proportion (16 percent) had imposed on them a prison sentence of less than a year. Over 800 people in 2003 were sentenced to prison for less than 12 months.

**Table 7: Custodial period imposed on sentenced inmates in New Zealand prisons November 2003**

Custodial period imposed	Women		Men		Total	
	number	%	number	%	number	%
Up to 3 months	8	3.1	34	0.7	42	0.8
> 3 – 6 months	23	8.8	185	3.8	208	4.1
> 6 – 12 months	47	17.9	536	11.1	583	11.4
> 1 – 2 years	51	19.5	915	18.9	966	19.0
> 2 – 3 years	49	18.7	676	14.0	725	14.2
> 3 – 5 years	33	12.6	776	16.1	809	15.9
> 5 – 7 years	21	8.0	451	9.3	472	9.3
> 7 – 10 years	8	3.1	523	10.8	531	10.4
> 10 years	4	1.5	287	5.9	291	5.7
Preventive Detention	–	–	143	3.0	143	2.8
Life	18	6.9	299	6.2	317	6.2
Life and Preventive Detention	–	–	8	0.2	8	0.2

Source: Department of Corrections (2003). Census of Prison Inmates and Home Detainees. Wellington, New Zealand.

### How often do offenders go to prison? – Recidivism rates

The majority of men in prison in the 2003 Census of Prison Inmates<sup>17</sup> had been in prison previously. In 2003, only 21 percent had no previous sentences, 66 percent had more than 10 previous sentences, and 16 percent had over 50 previous sentences. The corresponding percentages for female inmates were 34 percent, 44 percent, and 16 percent. The Corrections Departments 2005

“ONE IN FOUR OFFENDERS ARE BACK IN THE DOOR AFTER PRISON. IF WE COULD EVEN GET THAT DOWN TO ONE IN FIVE THAT WOULD BE A PRISON WE WOULDN’T HAVE TO BUILD.”

PRISON SERVICE STAFF MEMBER

17. Department of Corrections, 2003.

“COST SPENT ON PRISONS  
SHOULD BE SPENT ON  
EDUCATION, FAMILY, TO  
PREVENT CRIME.”

PROBATION SERVICE STAFF MEMBER

Annual Report indicated that men are re-imprisoned at a higher rate (30%) than women (18%). The re-imprisonment rate for Pacific Peoples is 18 percent, for Maori it is 32 percent, and for European it is 27 percent. Those over the age of 40 are re-imprisoned at a third of the rate of those under 20 years of age. By comparison those offenders with a home-detention sentence had a re-imprisonment and reconviction rate of 10 percent, significantly lower than those receiving prison sentences.<sup>18</sup>

**Table 8: Number of previous sentences for inmates in New Zealand prisons  
November 2003**

Number of Previous Sentences	Women		Men		Total	
	Number	%	Number	%	Number	%
0	89	34.0	1,001	20.7	1,090	21.4
1–10	57	21.8	1,140	23.6	1,197	23.5
11–20	20	7.6	699	14.5	719	14.1
21–30	23	8.8	537	11.1	560	11.0
31–40	16	6.1	383	7.9	399	7.8
41–50	15	5.7	282	5.8	297	5.8
51–60	6	2.3	207	4.3	213	4.2
61–70	9	3.4	168	3.5	177	3.5
71–80	4	1.5	86	1.8	90	1.8
81–90	7	2.7	88	1.8	95	1.9
91–100	1	0.4	62	1.3	63	1.2
100–200	12	4.6	153	3.2	165	3.2
200+	3	1.1	27	0.6	30	0.6

Source: Department of Corrections (2003). Census of Prison Inmates and Home Detainees. Wellington, New Zealand.

18. Department of Corrections, 2005. It is recognised that Home Detainees should have a lower re-offending rate as to be eligible for home-detention offenders must be considered at low risk of re-offending.



## Rehabilitation and work opportunities in prison

Expenditure on rehabilitation makes up 7.4 percent of the \$637.299 million Corrections budget<sup>19</sup> for 2005/06. However rehabilitation and employment/training is available only to a small number of inmates. Programmes are not available for those doing prison sentences of less than 12 months. For those doing long stretches in prison programmes are only available once they have completed two-thirds of their sentence (called the 66 percent rule). The lack of availability of programmes means that often inmates are delayed in starting programmes until quite near the end of their sentence, if at all. Parole Boards often request that an inmate complete a certain course or programme before being paroled, but inmates may not be able to comply due to a lack of places on the course.<sup>20</sup>

## Drug and alcohol rehabilitation

Although a majority of inmates have drug and alcohol problems there is little early rehabilitation, or drug and alcohol help, and no programmes are available for those on remand. Many inmates will experience an enforced period of being drug free and sober while in prison,<sup>21</sup> however, this cannot be considered as rehabilitation as it does not deal with the underlying drivers of addiction. In prison programmes are only available to inmates with a minimum or low-medium security classification. If an inmate has a

“BIGGEST DRIVERS OF  
OFFENDING ARE ALCOHOL  
AND HARD DRUGS.”

POLICE INSPECTOR

“COURT ORDERS AROUND  
ALCOHOL SET OFFENDERS  
UP TO FAIL. JUDGE ORDERS  
THEM ON BAIL TO STAY  
AWAY FROM ALCOHOL, BUT  
THERE IS NO TREATMENT  
SERVICES AND THEY HAVE  
UNSAFE ACCOMMODATION  
SO IT IS INEVITABLE THAT  
THEY WILL FAIL.”

SALVATION ARMY COURT  
AND PRISON OFFICER

19. The Budget for Corrections for 2005/06 (New Zealand Treasury, 2005 “Vote Corrections.”) is \$637.299 million, and it is used in the following way:

- 4.5 percent on psychological reports remand pre-sentence reports, reparation reports, same-day reports, home detention reports and assessments, oral information reports and home leave and pre-release reports to prisons, and reports to the New Zealand parole Board.
- 10.6 percent on management and delivery of community-based sentences and orders through sentence management and sentence compliance services.
- 10.8 percent on custodial remand services and provision of facilities to hold people charged with offences, and offenders convicted but not yet sentenced.
- 1.1 percent on transportation of inmates to and from court and their custody while at Court.
- 58.8 percent (or over \$374 million) on custodial services, the provision of facilities, and administering sentences of imprisonment.
- 4.8 percent on inmate employment, including the provision and administration of work experience and training opportunities designed to help address the underlying causes of criminal re-offending.
- 7.4 percent on prison and community-based responsibility and rehabilitation programmes, reintegrative services and psychological services designed to address the underlying causes of criminal re-offending.
- 0.9 percent on services to the New Zealand Parole Board relating to the provision of administration, financial and secretariat services.
- 0.8 percent on the provision of advice, development of policies, and Ministerial servicing relating to the effective management of corrections services and a reduction in re-offending, and the review, evaluation and development of service standards.
- 0.2 percent on contract management, national systems, inspectorate services and custodial assurance.

20. Ombudsmen's Investigation, 2005, p. 52.

21. Corrections has not been able to eliminate all drugs and alcohol from prison.

“PRISON IS A WASTE  
OF TALENT AND  
SMART PEOPLE.”

PRISONERS AID WORKER

“IN PRISON 90% OF THE  
TIME A PRISONER DOES  
NOTHING. THERE ARE NO  
COURSES, NO WORK, SO  
MOST OF THE TIME THEY  
ARE BORED. MANY DON’T  
READ WELL AND SO AREN’T  
INTERESTED IN READING,  
SO WHEN LOCKED IN THEIR  
CELL THEY HAVE LITERALLY  
NOTHING TO DO.”

QUEEN’S COUNSEL

higher classification, or shows signs of recent drug use, they are ineligible. Corrections are funded to treat 174 inmates per year in specialist drug and alcohol rehabilitation services. This represents approximately 4 percent of those inmates likely to require this service. In the year 2004/2005, only 141 inmates underwent a residential drug and alcohol programme. The Christchurch Prison drug and alcohol unit has closed. The closest unit is now at Waikeria, but this is fully booked until 2008, leaving Christchurch inmates without access to a drug and alcohol programme.<sup>22</sup>

Many inmates with drug and alcohol problems have to wait for formal treatment when they are released. The waiting list for such programmes, however, can be up to two months, at which time the released inmate may no longer be willing to enter such programmes, as they are no longer drug and alcohol free. In the waiting period for treatment many inmates have little choice but to go back to a living environment that contains drugs and alcohol.

### Employment and vocational training

Corrections Annual Reports and Statements of Intent show that Corrections does aim to provide useful employment and vocational development for those in prison, with work including maintenance of the prison facilities, industrial production, work on farms, forestry/horticulture, and computing available to some inmates. However employment and training opportunities are not consistent and are available to only a small number of inmates. Since inmate employment was re-organised under a new section within Corrections called Corrections Inmate Employment (CIE), all prison employment programmes have to at least ‘break even’ and preferably show a profit. Even with the low wages paid to inmates (between 20 and 60 cents an hour), the additional costs of supervision required by working inmates means that it is very difficult for work programmes to be commercially viable. As a result many work programmes, including prison vegetable gardens, have been shut down. Between 2002 and 2005 23 work programmes within prisons were closed and the percentage of inmates in employment fell by 10 percent. As at September 2005, only 31 percent of inmates were in employment, and of these the majority were employed for only a few hours per day.<sup>23</sup>

22. Ombudsmen’s Investigation, 2005, pgs. 41 and 42.

23. Ombudsmen’s Investigation, 2005, p. 44. Answer to Written Question, Parliament, 2005.

In its 2005 investigation, the Office of the Ombudsman concluded:

For a significant majority of prisoners, there is no meaningful work available in prison industries. The few tasks on the prison floors such as cleaning and distribution of food occupy few prisoners for comparatively little time. In any event this work can hardly be described as rehabilitative. Workshops and industries where prisoners may learn skills as well as engaging in productive tasks are scarce.<sup>24</sup>

Combined with a lack of recreational activities (the Ombudsmen's Investigation stated that some prisons lack even a proper football to kick around), the low levels of employment lead to a situation in which most inmates have almost nothing to do all day. Staff and inmates themselves report that this "enforced idleness" leads inmates to drugs, is behind some of the violence in prison, destroys hope, and mitigates against the offender being able to reintegrate into society and employment upon release.<sup>25</sup>

### Specialist rehabilitation

There are some targeted rehabilitation programmes for offenders with specific behavioural or psychological problems. Child-sex offenders' programmes, and anger management programmes, for example operate in prison. The principal psychologist, Jim van Rensburg, at Te Piriti<sup>26</sup> (a child-sex offenders unit) said that without treatment about 21 percent of the men re-offend.<sup>27</sup>

### Culturally appropriate rehabilitation

Pacific inmates do not currently have services targeted at their needs, although it is proposed that the Springhill Corrections Facility (expected to open in 2007) will have a Pacific Unit. There are five Maori<sup>28</sup> units and these appear<sup>29</sup> to be successful in providing employment, training, and improving self-respect and self-discipline.<sup>30</sup> Places are limited, however, and only a very small number of inmates are able to access these. Outside of these five units there is very little focus on turning around the disproportionate number of Maori in prison.

"FOLLOW UP AFTER  
RELEASE IS EITHER  
NON-EXISTENT OR  
INADEQUATE."

SALVATION ARMY COURT  
AND PRISON OFFICER

"ONCE THEY GET OUT  
THEY CAN'T COPE UNLESS  
THEY HAVE FAMILY AND A  
GOOD SUPPORT GROUP"

PRISONERS AID WORKER

24. Ombudsmen's Investigation, 2005, p. 8.

25. Ombudsmen's Investigation, 2005, p. 43.

26. The programme is a nine-month course that costs around \$16,000 per inmate, most of the 700 child-sex offenders will go through the Te Piriti or Kia Marama programme at Rolleston Prison.

27. Nippert, 2005.

28. The Maori Units are open to all inmates but those who enter must accept and respect the values of tikanga Maori.

29. Corrections has not undertaken formal evaluations of these Units but staff and inmates report success and satisfaction with them.

30. Ombudsmen's Investigation, 2005, p. 46.

“PROBATION IS THE  
AMBULANCE BELOW THE  
AMBULANCE AT THE  
BOTTOM OF THE CLIFF”

PROBATION SERVICE STAFF MEMBER

“THE COST OF  
REHABILITATION WOULD  
BE LESS THAN THE COST OF  
MORE PRISONS. THE COST  
OF MORE COMMUNITY  
CORRECTIONS WOULD BE  
LESS THAN PRISON COSTS.”

JUDGE

The 2005 investigation of prisons by the Ombudsman stated:

The figures indicate that there is a particular lack of success as regards Maori within the justice system as a whole, despite policy initiatives by the Department in that area and the Department’s considerable amount of published documentation.<sup>31</sup>

### **Lack of personal resources for rehabilitation**

Other issues also work against rehabilitation for inmates. Most New Zealand prisons require inmates to supply their own clothing. For inmates on long sentences and/or who have no family contact or support this can be difficult, resulting in them having inadequate clothing. Inmates are ashamed when they have to turn up to parole hearings in shabby unclean clothing. The inability to maintain a tidy and presentable appearance diminishes the self-esteem and self-respect that are necessary qualities for rehabilitation.<sup>32</sup>

### **Assistance with reintegration upon release**

In any given year, around 8,000 inmates are released from prison in New Zealand. They need to reintegrate into society, their local community, with family and friends. While Department of Corrections policy documents regarding reintegration promote some world leading concepts, the lack of resources and time lags in implementation mean that in reality the bridge between prison and the community is shaky with limited assistance available.<sup>33</sup>

Those who have been in prison for more than 31 days when released are eligible for the ‘steps to freedom’ grant of \$350. They then face a 2-week stand-down to receive an unemployment benefit. The ‘steps to freedom’ money is not enough to meet the costs of establishing a place to live if this is required (for example, to meet the costs of bond, rent in advance, connecting electricity, phone, getting furniture and bedding).

Prisoners Aid and Rehabilitation Society<sup>34</sup> (PARS) fieldworkers can help with post-release support, assisting released inmates with housing, accessing community services and programmes, and providing other support.<sup>35</sup> Often not enough notice is given before an inmate is released so that arrangements can be adequately made for them by agencies like PARS. Those who are in prison for a short period of time do not qualify for help with reintegration under the Corrections Offender Management System.

31. Ombudsmen’s Investigation, 2005, p. 11.

32. Ombudsmen’s Investigation, 2005, p. 25.

33. Workman, 2005.

34. [www.pars.org.nz/what\\_is\\_pars.htm](http://www.pars.org.nz/what_is_pars.htm)

35. There is also a 10-week community Residential PARS Programme for violent offenders at Montgomery House in Hamilton.

Corrections have piloted reintegration workers in Wellington and in the Waikato for released inmates. These workers co-ordinate with other government and community agencies, Work and Income, Housing New Zealand, PARS, and employer groups. Another 10 workers will be added over the next year, and by 2006/07 the Government intends that there will be a worker in every prison in New Zealand.<sup>36</sup> These are positive steps forward, however, community organisations involved in inmate reintegration consider that Department of Corrections policy lacks the critical component of engagement with the community. Reintegration requires a partnership with communities to build the social capital required for inmates to be accepted and supported. Currently those community organisations involved in supporting released inmates and working with their communities, families and employers are under-resourced and unable to meet demand for their services.<sup>37</sup>

Partly to cope with the rising costs associated with prison, the United States has developed some styles of prison and prison practices that are extremely harsh. The USA has over 20,000 prisoners kept in isolation. USA Supermax prisons have been described like this:

Imagine being locked alone in a small bare cell for 23 hours a day. Your meals are slid through a slot in the metal door. You cannot see or talk to another human being. You cannot see out the window. You cannot make telephone calls or have direct contact with visitors. When you do briefly leave your cell for showers or solitary exercise, you must strip, permit a visual search of your body, including bending over and spreading your buttocks. Your legs are shackled, your arms cuffed and you are led by two guards, one of whom presses an electric gun against your body at all times.

In 2001, the head of the Washington State prison system, Chase Riveland, said of these Supermax prisons, “we don’t know what we’re doing to these people and what then they will do to us when they return to their communities, which most of them eventually will do.”

A. ELSNER, 2001

36. Budget 2005.

37. Workman, 2005.

“ANY FOOL CAN THROW THOUSANDS OF YOUNG PEOPLE INTO JAIL AND SEND THE BILL TO THE TAXPAYER. ANY FOOL CAN THEN RELEASE THEM – JAIL-HARDENED, BRUTALISED AND NOW UNEMPLOYABLE – BACK INTO THE COMMUNITY, WHERE THREE-QUARTERS REOFFEND. HOW IS THAT CURING CRIME?”

S. JENKINS, 2005

### Prison projections

Given the trends in sentencing, crime, population changes and other factors, the Ministry of Justice has estimated that the prison population will reach 7,800 by March 2010. The accuracy of these 5-year predictions are already being questioned, however, as numbers currently in prison are over 7,500. In March 2005 a report by the Ministry of Justice indicated that in the current legislative and policy environment there was no decrease in prison population forecast through 2008.

The growth in prison numbers has resulted in the building (or planning to build) of four new regional corrections facilities, three for men and one for women. The Northland Region Corrections Facility, which opened in March 2005, holds up to 350 male inmates, and has a Youth and Maori Focus Unit. This Facility is already operating at its maximum capacity. The Springhill Corrections Facility, which is expected to open in 2007, will hold up to 650 male inmates, and will include a Youth Unit, Maori Focus Unit, and a Pacific Focus Unit. The Otago Region Corrections Facility will hold up to 335 inmates and is planned to open in 2006. The Auckland Region Women's Corrections Facility will hold up to 286 women, and is also planned to be opened in 2006. This building programme will provide an extra 1,621 beds in the prison system. The cost of building the current new prisons is estimated to be \$600 million and it is expected they will cost \$120 million a year to operate.<sup>38</sup>

The reality of the prison population projections is that even with the new prisons coming on-line over the next couple of years, there will not be enough capacity to meet the number of inmates entering and remaining in the prison system. The Corrections Department itself has recognised that for at least the next five years the numbers of inmates entering and remaining in the country's prisons will be at crisis levels. Currently Corrections has a Memorandum of Understanding with the New Zealand Police to use its cells to place remand inmates who cannot be held in their local prison due to a lack of space. In the recent past vans parked outside Mt Eden Prison have been used during 'lock down' as a short-term solution when the Prison's maximum of 421 was exceeded. None of these temporary cells can be used for long-term occupation as they do not have the facilities that are normally required, including adequate bathroom facilities and meals.

38. Nippert, 2004. Recent news reports have indicated that the building costs have increased by more than \$210 million since 2003.

The question has already been asked: do even more prisons need to be built? Corrections has briefed the new Minister Damien O’Conner saying that new prisons do need to be planned so they can be on-line in time to meet the looming numbers needing to be incarcerated. The Minister has, however, ruled this out instead wanting the prison population to be reduced through increased use of home-detention. Even with Ministerial support home-detention is unlikely to prevent the need for more prisons. Only a small minority of inmates are eligible for home-detention, under current legislation if someone is imprisoned for more than two-years they cannot apply for home-detention until 5 months before their parole date. Of the offenders in the community, only one percent are on home-detention.<sup>39</sup> There is also political pressure against home-detention; New Zealand First campaigned to reduce the number of offenders to be released on home-detention through a tightening of the eligibility criteria.

Double-bunking, or the building of mega-prisons in remote areas have been suggested as ways to solve the prison bed shortage and planning problems. While these would provide more beds, evidence from overseas also shows that such methods also bring their own significant problems. Despite this Corrections reached an agreement with staff in October 2004 to enable some double-bunking in some prisons.<sup>40</sup> Beyond reducing the conditions for inmates in prison these responses to the shortfall in prison beds have significantly increased the workload and pressure for those working in the prisons. Over the next three years Corrections need to recruit at least 1,800 new staff to work in the new prisons, to cover staff attrition, and to manage the extra beds in the current prisons.<sup>41</sup>

### How did our prisons get so full?

There are several reasons why the New Zealand prison population has been increasing at such a fast rate since the 1990s. These include: increasing police clearance rates, more judges being available to hear cases, and the impact of the Bail Act 2000, the Parole Act 2002, and the Sentencing Act 2002.

It is important to note that none of these reasons for increased prison levels involve increased levels of crime. Despite public perception to the contrary, crime is not increasing, in fact overall

“MEDIA, POLICE, CAN RAISE VICTIMS EXPECTATIONS. THE SENTENCE MIGHT BE 2 TO 10 YEARS. BUT THE VICTIM WILL BE TOLD ‘THEY CAN GET 10 YEARS FOR THIS’ SO THEY EXPECT 10 YEARS. BUT IN FACT THIS IS THE MAXIMUM WHICH IS HARDLY EVER HANDED DOWN. SO WHEN THE JUDGE SAYS 4 YEARS, THE VICTIM FEELS LET DOWN.”

JUDGE

“PRISON IS A USELESS SENTENCE FOR ANYONE, IT JUST KEEPS US SAFE FOR A TIME.”

JUDGE

39. Five percent are on parole, 10 percent have court-ordered release conditions, 17 percent have a supervision sentence, and 66 percent have a community work sentence. Post Election Brief, October 2005, Corrections.

40. In January 2006 it was reported that the Department of Corrections and prison officers had agreed a new deal that will provide an extra 290 beds by February 2006 through the use of double-bunking. This is aimed at eliminating the need to use police cells until the middle of 2006.

41. PSA, 2005.



“WE’RE PUNISHING  
PEOPLE WHO DON’T HAVE  
THE SKILLS TO LIVE ANY  
OTHER WAY, LOCKING  
THEM AWAY TO  
LEARN MORE WAYS  
OF CRIME.”

RELEASED INMATE

“INMATES ARE DISPLACED  
FROM SOCIETY BECAUSE  
OF CRIME, DISPLACED  
FROM FAMILY BECAUSE OF  
PRISON, ALL THEY HAVE  
IS PRISON.”

PRISON SERVICE STAFF MEMBER

crime rates have been declining over the past decade. Between 1997/98 and 2004/05 the overall levels of recorded crime declined by 15 percent (see Tables 9 and 10 for more detail).

The two key reasons for our rising incarceration levels are changes in legislation that have impacted on remand and sentence lengths, and the continued high rates of recidivism.

### 1. Changes in legislation

Successive Governments have enacted legislation that has ratcheted up prison sentences. Mandatory prison sentences for many violent offences and extended non-parole periods were introduced during 1985 and 1987. From 1993 courts were allowed to impose minimum sentences for serious violence offences, parole has become more difficult to get and maximum sentences have been increased.

Three pieces of legislation enacted in the past 5 years have had an impact on the number of people going to prison and staying in prison. The Parole Act 2002 now means prisoners are serving more of their sentence in prison, the Bail Act 2000 sees more offenders remanded in custody, and the Sentencing Act 2002 sees more offenders going to prison and staying in prison longer. In terms of custodial sentences, the 2002 Sentencing and Parole Acts introduced:

- The wider use of maximum penalties for serious violence, and longer non-parole periods for offences of murder.
- An expansion of the use of indeterminate sentencing to a greater range of offenders.
- The ability to keep people in prison until their sentence expires on the basis that they present a risk to the community.
- An increase in the maximum penalties for breach of parole conditions.

As a result of the legislative changes the proportion of those convicted who receive a prison sentence has increased every year since 1997. Those on remand have nearly doubled over the decade 1994 to 2003. Correspondingly the use of community-based sentences fell from 35 percent of all sentences in 1998 to 27 percent of sentences in



2003. Preliminary work done by the Ministry of Justice in 2004 shows that there has been an increase in the average length of prison sentences being imposed under the 2002 Sentencing Act.<sup>42</sup> Fines, however, continue to be the most commonly imposed sentence.<sup>43</sup>

## 2. Levels of recidivism resulting in re-imprisonment

Historically, the idea of the penitentiary was built on three pillars: isolation, religious instruction, and work...prison was a place for creating diligent and law-abiding citizens used to hard and honest work.<sup>44</sup>

New Zealand's prisons, however, are not transforming inmates into citizens able to find employment and earn a legitimate living. As noted in the demographics section, the number of offenders who are reconvicted and re-imprisoned after completing their sentence drives part of the demand for prison beds. Recent research by Spier<sup>45</sup> found that nearly three-quarters of all released inmates were reconvicted within two years of their release, with 86 percent reconvicted within five years. Although the majority of reconvictions were for minor offences (and therefore do not result in re-imprisonment), this reconviction rate post-release still results in a significant re-imprisonment rate of 37 percent within two years, and 51 percent within five years of release.

New Zealand's two-year re-imprisonment rate is similar to that of Australia. We are doing better than the United Kingdom and similar to the United States, where data indicates that the re-imprisonment rate is 61 percent within two years (United Kingdom)<sup>46</sup> and 40 percent within 3 years (United States).<sup>47</sup> If we turn to Scandinavian countries, however, our record does not compare so well. In Finland, for example, the majority of those in prison for the first time do not return.<sup>48</sup> If New Zealand's recidivism rate was to drop it would significantly reduce the demand for prison beds.



42. Chhana, Spier, Roberts, Hurd, 2004.

43. Spier and Lash, 2004.

44. Nilsson, R. 2003, p.5.

45. Spier, 2002.

46. Home Office, 2004: [www.homeoffice.gov.uk/rds/omcs.html](http://www.homeoffice.gov.uk/rds/omcs.html)

47. The Economist, August, 2002.

48. Rikosseuraamusvirasto, 2002.

### Summary of the current situation in New Zealand prisons

New Zealand is imprisoning, in larger numbers than any other benchmarking nation apart from the United States, young men and women who are addicted or mentally ill, and who have limited education, work or life skills. We are doing so in increasing numbers and for longer periods. Our incarceration rate is growing not because of increased levels of crime, but due to improved police clearance rates and legislative changes that result in more people being charged/convicted, and more of those who are convicted being imprisoned. Once in prison, there is only a very limited amount of rehabilitation available by way of work, training, addiction programmes and other rehabilitative programmes, and little is done to assist offenders to plan for their reintegration into the community upon release. Consequently many offenders return to prison, often multiple times.

This leaves New Zealand in an unsustainable situation. We do not have enough prison beds to meet current demand, and as fast as we build prisons, the beds are full. This situation suggests that for practical purposes alone, New Zealand needs a new approach to dealing with offenders.



## Prison Life in New Zealand

Cells in New Zealand prisons are between 8 and 12 metres square in size, with some cells having double-bunking. Prison conditions in all older higher security units are extremely cramped. Only in some of the newer prisons are there systems that control both heat and cold efficiently. Mount Eden, for example, has no heating or cooling system for cells, the cold is coped with through wearing more clothing, but the heat is a huge problem in the summer.

Normal prison cells have an electrical outlet, fitted bed, toilet and hand basin, mirror on the wall, desk and shelves. This allows inmates to have televisions, radios, and CD players in their cells (though no aerial connections come through to cells). They may have books and magazines, paper and pens, but not computers in their cells. All of these things have to be provided by the inmate, and inmates must have permission to have any item in their cell. No inmate is able to have a cell phone. They are allowed to make one 15-minute call to family or friends each week from a payphone in the prison. The inmate pays for all phone calls. Inmates may only call landlines, and each inmate has a list of 10 numbers that they can call, all of which have been checked before being approved.

The evening meal is typically at 4.30pm and it is often well over 14 hours before breakfast is available. The food provision is not unduly generous; although the Department of Corrections has measures in place to ensure that reasonable nutritional requirements are met. The food budget is approximately \$4.00 per inmate per day.

Few prisons provide facilities to enable inmates to use unlock time productively. Where gyms are available (and not all prisons have them) they are not always well maintained, or available to inmates. Little or no physical exercise and activity is organised for inmates and basic equipment such as footballs is either in short supply or not provided. In some prisons there is very little space for inmates to use during unlock time. At Auckland East prison inmates are confined to a narrow corridor for meals and unlock time.

Inmates must supply their own clothing. For those who are unable to do so there is a lack of clothing in good order with much of it being second-hand and of poor quality. A lack of pyjamas means inmates may have to sleep in their day-wear, and a lack of clean clothing means inmates may lack adequate changes of clothing.



## DOES PRISON WORK TO DETER CRIME AND PREVENT RE-OFFENDING?

“One of the established truths among today’s criminologists and sociologists is that the prison is a fiasco.” R. Nilsson, 2003.

The purpose of modern prisons is generally considered to be to punish those who have broken the law, and in doing so, deter others from doing the same, and prevent those who have already offended from re-offending. The theory is that the experience of losing one’s liberty will not be one that offenders want to repeat, and that therefore upon release from prison they will not continue to commit crime. Prison also reminds the whole population of the consequences of not obeying the law.

Prison is at the serious end of the system of sanctions. Any legal system needs a system of enforcement; there must be consequences or sanctions, for breaking the law. Prison is the most serious sanction, reserved for those who break what are considered to be the most serious laws.

Prison also has another function – it is used to keep the community ‘safe’ from a small number of people who are considered dangerous and unlikely or unable to reform.

So if prison is designed to deter people from committing crime, and deter those who have already offended from offending again, how well is it working?

“THE PARADOX OF IMPRISONMENT LIES IN SOCIETY’S EXPECTATIONS: THE COMMUNITY WANTS RETRIBUTION, BUT ALSO REHABILITATION. FOR MANY, SENDING PEOPLE TO PRISON IS NOT ENOUGH; THEY MUST SUFFER WHILE THERE. BUT ONLY SOMEBODY WHO HAS NEVER BEEN TO PRISON WOULD BELIEVE THAT JAILS ARE ‘SOFT’ PLACES.”

E. JAMES, 2005

**Table 9: Crime statistics: number of offences 1997/1998 to 2004/05**

	Number of Offences 1997/98	Number of Offences 1998/99	Number of Offences 1999/00	Number of Offences 2000/01	Number of Offences 2001/02	Number of Offences 2002/03	Number of Offences 2003/04	Number of Offences 2004/05	Median	Percentage Change 1997/98 to 2004/05
<b>Violence</b>	40,221	40,274	40,090	43,534	44,384	45,980	45,512	45,941	43,959	14.22
Homicide	116	94	104	97	112	108	100	80	102	-31.03
<b>Sexual</b>	3,221	3,109	3,130	3,119	3,544	3,312	3,179	3,187	3,183	-1.06
Sexual Attacks	1,301	1,314	1,303	2,065	2,487	2,285	2,148	2,189	2,107	68.26
<b>Drugs and Antisocial</b>	55,936	57,255	53,690	54,158	54,192	56,866	58,496	51,230	55,064	-8.41
Drugs Cannabis	24,899	25,293	23,205	22,395	21,131	20,626	18,271	14,654	21,763	-41.15
Drugs Not Cannabis	1,397	1,492	1,898	2,024	2,708	3,088	3,978	3,626	2,366	159.56
<b>Dishonesty</b>	293,250	284,853	262,894	249,296	256,975	260,756	243,289	223,713	258,866	-23.71
Burglary	78,918	78,527	71,842	61,347	60,676	60,816	60,630	56,513	61,082	-28.39
<b>Property Damage</b>	39,910	38,336	40,601	40,455	41,157	42,057	42,872	40,952	40,777	2.61
<b>Property Abuse</b>	22,321	20,141	20,540	20,775	22,303	21,706	20,398	19,013	20,658	-14.82
<b>Admin.</b>	10,975	11,584	11,409	12,949	13,760	16,469	12,403	11,982	12,193	9.18
<b>TOTAL</b>	465,834	455,552	432,354	424,486	436,315	447,146	426,149	396,018	434,335	-14.99

Source: New Zealand Police Annual Reports

**Table 10: Crime statistics: Police resolution rates as a percentage of offences reported 1997/1998 to 2004/05**

	Median Resolved 1997/98 to 2004/05	Percent 1997/98	Percent 1998/99	Percent 1999/00	Percent 2000/01	Percent 2001/02	Percent 2002/03	Percent 2003/04	Percent 2004/05	Median Percent 1997/98 to 2004/05
<b>Violence</b>	34,238	76.6	76.2	77.3	78.1	77.7	79.6	81.6	80.8	77.9
Homicide	84	74.1	70.2	77.9	79.4	86.8	88.9	94	90	83.1
<b>Sexual</b>	1,777	55.5	50.4	51.9	55.1	58.1	57.2	58.4	55.3	55.4
Sexual Attacks	1,162	54.3	48.3	52.4	54.6	58.4	55.8	58.8	54.6	54.6
<b>Drugs and Antisocial</b>	49,048	88.4	89.0	89.8	89.8	87.9	90.3	92.1	91.5	89.8
Drugs Cannabis	19,845	90.1	89.3	91.9	92.6	89.7	91.4	93.8	94.6	91.7
Drugs Not Cannabis	2,150	89.9	90.5	92.2	91.7	90.3	92.8	91.4	89.5	91.0
<b>Dishonesty</b>	59,027	20.3	19.9	22.0	23.9	22.8	23.8	24.4	23.1	23.0
Burglary	9,994	11.4	11.1	14.3	17.2	16.0	17.8	18	17	16.5
<b>Property Damage</b>	12,822	28.8	29.0	30.6	31.7	31.2	31.6	31.8	31.3	31.3
<b>Property Abuse</b>	14,908	66.8	66.9	67.2	68.9	68.2	71.5	73	72.4	68.6
<b>Admin.</b>	10,981	87.2	86.2	84.8	85.1	84.6	89.3	90.4	91.3	86.7
<b>TOTAL</b>	179,912	38.1	38.3	40.4	42.9	41.8	43.7	45.1	44.2	42.4

Source: New Zealand Police Annual Reports

“WHEN A GUY IS IN  
PRISON THE WOMEN  
AND CHILDREN DO THE  
HARDEST TIME.”

OFFENDER

“IN 40 YEARS IN THE JOB  
PEOPLE HAVE ALWAYS BEEN  
ASKING FOR HARSHER  
PENALTIES – IT HAS NEVER  
CHANGED ANYTHING.”

SENIOR POLICE OFFICER

“PRISONS INCREASE THE  
PROBLEMS OF PUBLIC  
SAFETY BECAUSE OF WHAT  
PRISON DOES TO PEOPLE.”

RESTORATIVE JUSTICE CONVENOR

We can see from the crime statistics that over the last 8 years the crime rates have declined overall by nearly 15 percent. In particular, dishonesty offences (burglary), cannabis drug offences, homicide and property abuse have declined. It is clear, however, that despite increasing numbers of people entering and remaining in prison, violence offences, drug offences (not cannabis) and sexual attacks have been increasing. In addition as noted in the previous section, our recidivism rate is at the higher end internationally. Harsher sentences and the high likelihood of being caught and sentenced seem not to be acting as a deterrent for the very offences prison is primarily designed to punish and prevent.

#### **Why prison doesn't work to deter offending and re-offending?**

The evidence is clear that putting people in prison, more often and for longer does not result in a reduction in crime or re-offending. There are a number of reasons why prison generally does not work:

1. Prison does not deal with the underlying causes of offending and may exacerbate them.
2. Being in prison makes it more difficult for an offender to reintegrate into society.
3. Crime rates have little to do with levels of punishment.
4. Punishment has been shown to be ineffective in changing human behaviour.

#### **1. Prison does not deal with the underlying causes of offending and may exacerbate them.**

Prison, as it currently operates, fails because it cannot deal with the underlying causes of crime and may in fact exacerbate them. A British report into re-offending found that prison was not turning the majority of offenders away from crime and that in fact a prison sentence could, and frequently did, make things worse. The study concluded that:

the real key to reducing offending was to attack its causes. Homelessness, unemployment, drug and alcohol problems, mental health problems, physical health problems, educational problems – these were the seeds from which crime grew, seeds which were fertilised by the impact of imprisonment.<sup>49</sup>



The demographics of New Zealand prisons confirm these findings. The majority of offenders who are in our prisons suffer or have suffered from a mental illness, personality disorder, or drug and alcohol addiction. The majority have low educational qualifications, a poor work record and few social and life skills. Many were raised in an abusive or dysfunctional family situation, and many have difficulty with impulsiveness and managing their anger. While these factors cannot excuse criminal offending, they certainly explain it. Prison, by and large, does little to deal with these causes of criminal offending.

Our prisons may also exacerbate the causes of crime. Studies have shown that in conjunction with mental health, and drug and alcohol problems, criminal offending is linked to homelessness, unemployment, debt and broken family ties. All these things are made worse by being imprisoned. Those inmates who have places to live often lose them, those who have jobs become unemployed, those who are in debt watch debts mount, and connections with family become harder to maintain.<sup>50</sup>

Unless prison involves programmes to deal with the underlying causes of crime prison can never be more than a holding tank. When inmates are released, (as nearly all must be some day no matter how long their sentence), if the causes of their offending have not been addressed, it is highly likely that they will re-offend.

## **2. Being in prison makes it more difficult for an offender to reintegrate into society.**

One of the key issues for released offenders is the living conditions and the low levels of societal acceptance they face when reintegrating. Research has shown that those who have been released from prison face living conditions significantly worse than those of the population in general, with less access to health care, education, employment, financial services, housing, and social connectedness, than the general public.<sup>51</sup> Skardhamar<sup>52</sup> found that those released from prison and re-entering society were “worse off along almost every single variable that is comparable to the normal population.”

“PRISON DOESN’T MAKE  
SOCIETY SAFER – THEY GET  
OUT IN THE END.”

PROBATION SERVICE STAFF MEMBER

“EMPLOYERS ARE OFTEN  
UNWILLING TO TAKE ON  
OFFENDERS, BUT THEY  
JUST NEED A BREAK.”

SALVATION ARMY COURT  
AND PRISON OFFICER

50. The Social Exclusion Unit, 2002, p. 2 and Davies, 2005.

51. Nilsson, 2003; Kyvsgaard, 1990; May, 1999; Skardhamar, 2003.

52. Skardhamar, 1993, p. 52.

“FROM WHAT I SEE PEOPLE COMMIT VIOLENT CRIME FOR THREE MAIN REASONS: SPONTANEOUS ACT, THEY ARE MENTALLY ILL, OR PROVOCATION. VERY FEW ARE DOING PLANNED, PRE-MEDITATED VIOLENCE.”

QUEEN'S COUNSEL

“THE CHILDREN LIVE THE SENTENCE OF THE PARENTS.”

SALVATION ARMY COURT AND PRISON OFFICER

Being in prison and separated from society can also change an offender's view of themselves and where they fit in society. An offender can come to identify with prison culture, and find it difficult to fit back into mainstream society.

In the prison the prisoner created an image of himself (the prison very quickly becomes a male-dominated milieu) based on the values and opinions specific to the group. This criminal self-image also meant the development of a life-style with sub-cultural features that required special qualities and knowledge: a life-style on the margin of society, where geographical mobility, temporary jobs and sources of income, prostitution, alcoholism and poverty were common ingredients. Central to this life-style was, however, also the ability to survive in prison.<sup>53</sup>

The longer an offender is in prison, or the more often they are sentenced to imprisonment, the more likely they are to identify with prison culture and less likely they are to view themselves as part of mainstream society. “The German legislature has embraced the idea that short-term imprisonment does more harm than good; it disrupts the offenders ties with family, job and friends, introduces the offender into the prison subculture, and stigmatises the offender for the rest of his or her life.”<sup>54</sup>

Even if an offender wants to identify with and reintegrate into mainstream society, discrimination and prejudice against anyone who has been in prison makes this difficult. A key aspect of rehabilitation is employment, but many employers do not want to hire, or have active policies against employing anyone with a prison record.

Staff who work in the area of rehabilitation and reintegration of released inmates perceive that such negative attitudes, sometimes resulting in public hysteria, are a barrier in their work. Attempts to build self-esteem and utilise new skills are compromised by the attitudes released inmates experience when they try to re-enter the community and workforce.<sup>55</sup>

53. Nilsson, R. 2003, p. 12.

54. Tonry and Hatlestad, 1997, p. 177.

55. Nippert, 2005.

### 3. Crime rates have little to do with levels of punishment.

If the purpose of prison is to discourage offending and lower levels of crime, then research suggests it cannot succeed as crime rates appear to have very little to do with levels of punishment. A Ministry of Justice study in 1997 found that there was no relationship between changes in the number of prison inmates and recorded crime rates. Fluctuations in recorded crime rates seem rather to be most closely associated with economic cycles and levels of female employment.<sup>56</sup>

### 4. Punishment has been shown to be ineffective in changing human behaviour.

On an individual level, criminal offending is the result of complex mental health, personality, social and family dynamics. Few offenders are making rational choices based on consequences, and therefore the level of sanction or punishment is irrelevant. The majority of offenders are not weighing the odds of getting caught and punished; they are simply acting or reacting without thinking.

In an interview for the New Zealand Listener, the Director of Psychological Services in the Department of Corrections, David Riley, stated “there are now more than 23,000 studies

“EACH YEAR IN THE UNITED STATES THOUSANDS OF MEN AND WOMEN ARE RAPED IN PRISON. IT IS OF SUCH CONCERN THAT PRESIDENT BUSH HAS CALLED FOR THE DEPARTMENT OF JUSTICE TO STUDY THE ISSUE.”

“What many people fail to understand is that convincing prisoners of their own worthlessness...is rarely necessary. When I walked through the prison gates at the beginning of my sentence, I knew I was the proverbial scum of the earth. At my trial I had experienced the full force of public condemnation and disgrace for my crimes. I was a guilty man, sentenced to mandatory life. The journey back to achieving a worthwhile life on the other side of the prison wall was going to be a long and difficult one. Further castigation and degradation were unnecessary.”

E. JAMES, 2005

“HARSHER PENALTIES  
ARE NOT GOING TO  
WORK BECAUSE PEOPLE  
COMMITTING CRIME  
ARE NOT MAKING A  
RATIONAL DECISION.”

QUEEN'S COUNSEL

“MEDIA JUST REPORT  
THE HIGHLIGHTS – THEY  
DON'T REPORT FULLY  
AND THE BACKGROUND  
STORIES ARE LOST.”

SALVATION ARMY COURT  
AND PRISON OFFICER

showing that punishment is one of the least effective ways of influencing human behaviour.”<sup>57</sup> It is recognised that “incarceration and ever harsher sentences, at best, make no difference to recidivism rates and, at worst, cause an increase in recidivist offending.”<sup>58</sup> Other international studies go further saying “deterrence based sentencing makes false promises to the community in dealing with crime. Further as long as the public believes that crime can be deterred by legislatures or judges through harsh sentences, there is no need to consider other approaches to crime reduction.”<sup>59</sup>

Arguments have been made that harsher penalties do work in lowering crime rates citing the United States as an example of a country with high rates of incarceration and crime rates that in recent times have decreased. Much recent research from the United States, however, indicates the contrary. America with very high rates of incarceration has rates of criminal victimisation that place it about mid-way in a study of 17 industrialised nations.<sup>60</sup> Maricopa County, Arizona, has a tent city prison in the desert, which houses 2,000 people in 54 degree (Celsius) heat, uses chain gangs and has many practices that have been condemned by Amnesty International. Yet the founder of this prison, Sheriff Joe Arpio, admits that arrests in the county have remained steady and there is no evidence that any of his policies have reduced re-offending.<sup>61</sup>

The United States also has the death penalty, arguably the harshest of all sentences, but still has a homicide rate about four times higher than that of most nations in Western Europe.<sup>62</sup>

### **But isn't punishment the most important aspect of prison?**

Some will argue that it doesn't matter whether prison rehabilitates inmates or deters offenders, as the primary purpose of prison is to sanction or punish convicted offenders. This argument misses a critical fact - that nearly all inmates will one day be released. If all prison does is punish, if time in prison offers no opportunities for the inmate to reform, rehabilitate and learn the skills necessary to reintegrate into society, prison will simply

57. Nippert, 2005.

58. Becroft, 2004, p.15.

59. Doob and Webster, 2003, p.40.

60. van Kesteren, Mayhew, Nieuwbeerta, 2000.

61. Davis, 2005.

62. Mauer, 2003.

create yet more offenders requiring yet more prisons. One British inmate (who later trained as a journalist) put it this way:<sup>63</sup>

Prison life is mostly a continuous repetition of the same day over and over again....

Often people are not in prison long enough to discover anything worthwhile beyond a new set of criminal alliances. Or people end up inside for so long that any good that might have been achieved along the way is undermined by bitterness and resentment.

### **So if prison doesn't work, why are we imprisoning more and more offenders?**

#### **Perceptions of crime**

In 1999 New Zealand had a law and order referendum, the results of which indicated that nine out of every ten people who voted wanted 'hard labour,' longer prison sentences, and mandatory minimum sentences. What drives the public's call for harsher penalties? Crime stories and issues appear frequently in our mainstream newspapers, radios and televisions. The front page of newspapers, the talkback radio is often filled with accounts of the crime and offender, some of which are reported in a gruesome or salacious manner. There is often a high degree of moralism and retribution in the language used to report and discuss crime.

Research has shown that many countries' news media convey a distorted picture of crime and criminal justice issues, with a bias towards the reporting of more sensational crimes and the over-simplification of sentencing issues.<sup>64</sup> This increases the fear of crime and the belief that there is more crime than there actually is. It also feeds people's belief that sentencing is not harsh enough and encourages a general dissatisfaction with prison sentences.<sup>65</sup> The "Attitudes to Crime and Punishment" survey undertaken in New Zealand in 2003 showed that those surveyed tended to have an inaccurate and negative view of crime statistics and to underestimate the lengths of sentences imposed on offenders. Survey respondents perceived there to be higher levels of crime than national figures indicated. The overwhelming majority (83 percent) of the sample wrongly believed that the crime rate had been increasing over the two years prior to the survey.<sup>66</sup>

"MOST SENTENCES ARE  
PREDICTABLE – BECAUSE  
PREDICTABILITY IS PART  
OF THE JUSTICE SYSTEM.  
BUT MEDIA DRIVE UP  
EXPECTATIONS OF A LONG  
SENTENCE AND GIVE  
PEOPLE THE VIEW THAT  
A LONGER SENTENCE  
MEANS JUSTICE."

QUEEN'S COUNSEL

63. James, 2001.

64. Roberts and Doob, 1989; Roberts, 1992; Sprott and Doob, 1997.

65. Paulin, Searle and Knaggs, 2003.

66. Paulin, Searle and Knaggs, 2003, p.xiii.

### **Prison policy based on public reaction rather than evidence based research**

The public perception of crime is a factor in the creation of one of the biggest problems with criminal justice policy that it “is rarely research-based and more often is a response to the broader political and assumed public pressures of the day.”<sup>67</sup> To survive politicians need to be seen to be ‘tough on crime,’ it is not in their political interest to publicly support a reduction of prison numbers, an easing of prison sentences, or the search for alternatives to prison in terms of dealing with offenders. The 1999 law and order referendum led in recent years to the ratcheting up of sentences and therefore the increasing numbers of those in prison. Each election has crime as a political football – who will be the ‘toughest on crime’? Which party has the harshest prison policies?

Countries that have made huge strides in their criminal justice policy and seen significant reductions in prisoner numbers have a different perspective to the politicisation of crime. Political parties in Finland, for example, do not use crime as tool to attack the other

side, phrases such as ‘tough on crime,’ ‘war on drugs,’ ‘harsher sentences,’ do not enter into political debate. It is an effort to depoliticise crime, and ensures a more reasoned and rational public debate on criminal justice issues.



### Summary – why prison does not work to deter crime

This section has shown that if the purpose of prison is to deter crime and re-offending, then prisons are failing, and unlikely to ever succeed. New Zealand's recidivism rate is high, and although crime is declining overall, crimes of violence and sexual offences – the offences that most often lead to prison and which New Zealand's recent legislative changes to sentencing were designed to combat, are increasing.

The failure of prison should be no surprise because numerous studies over many years, both in New Zealand and internationally, show that punishment is ineffective in changing behaviour. Prison will always fail to deal with the underlying causes of crime, be they individual or societal. New Zealand's prison system, with its lack of resources for rehabilitation, is particularly unlikely to be successful in turning offenders' lives around.

Yet New Zealand, if recent legislation and the prison projections are anything to go by, seems determined to increase its use of prison. Ignorance of the facts about prison, combined with sensationalist media reporting of crime, leads to public pressure for harsher penalties. Politicians in New Zealand currently find these pressures difficult to resist. New Zealand appears set to head down the path to more prisons.

“I LOVE THE LANGUAGE  
OF CRIMINAL OUTRAGE.  
IT FIXES A STEREOTYPE  
AND FEEDS IT  
INTRAVENOUSLY  
INTO THE POLITICAL  
BLOODSTREAM.”

S. JENKINS, 2005

“HARSHER PENALTIES ARE  
WINDOW DRESSING.”

QUEEN'S COUNSEL





# PATHWAYS OUT OF PRISON

## Alternative ways to deal with offenders before and within prison

This discussion paper has shown that New Zealand's prison policy is unsustainable. If incarceration rates continue to rise at current rates, our need for prison beds will continually outstrip our ability to supply.

Currently we are on a trajectory towards the United States prison model, with mega-prisons and sometimes-inhumane treatment of inmates arising out of the highest incarceration rate in the world. If we do not wish to continue on this path, then we need to find other ways to deal with offenders and discourage offending and re-offending.

This section examines four models of working with offenders. Two represent different approaches to the whole issue of offending and sentencing and two represent more effective ways of working with offenders within the current prison system. All four have shown positive results in terms of reducing the number of people going and returning to prison.

### 1. Different approaches to offending

#### Finland – a case study in changing policy and changing practice

In the 1950s Finland had the highest incarceration rate in the European Union, (and one that was higher than New Zealand's current rate) with 200 people in prison per 100,000 of the population. All indications were that this rate was going to continue to climb. At the same time crime rates were increasing. Having more people in prison did not deter offending and re-offending. In the late 1960s Finland made a conscious decision to change the direction of its prison and sentencing policy. The new approach was called 'humane neo-classicism' and it was based on a greater awareness of values, costs and alternatives in criminal policy. There was a general distrust in the usefulness of repressive and harsh prison penalties. Instead the principles of proportionality and predictability became central values when sentencing. From the 1970s the twin aims of criminal policy were:

- The aim of minimisation – criminal policy's aim was to minimise the costs and harmful effects of crime.
- Fair distribution of costs – the costs of crime were to be fairly distributed between the victim, offender and society.



“PRISON CAN WORK, BUT NOT IF THE SYSTEM IS OVERLOADED AND UNDER-RESOURCED. AND IF IT IS TO WORK IN SOCIETY’S BEST INTEREST, IT IS IMPERATIVE THAT ONLY THOSE THAT REALLY NEED TO BE LOCKED UP, ARE, AND THAT ALL PRISONS WORK TOWARDS A POSITIVE REGIME WHERE RESPECT AND DIGNITY FOR INMATES IS NOT COMPROMISED FOR MISGUIDED REASONS.”

E JAMES, 2005

In order to achieve these objectives, Finland recognised that it needed to radically alter its sentencing policy. It therefore reworked its legislation around sentences so that sentencing was based on the principle of proportionality, with the imposition of upper limits that the punishment may never exceed and discretion for courts to impose less severe sentences than the offender *prima facie* deserved.

There are five alternatives to imprisonment in the Finnish system:<sup>68</sup>

- The fine – this is the principal tool, and in the 1970s its use for more serious offences was extended.<sup>69</sup>
- The conditional sentence – sentences of up to two years can be imposed which have specific conditions. For example the offender can be placed on probation or have to undertake certain programmes.
- Conditional prison sentences can be combined with fines.
- Community Service – it can replace custodial sentences of up to 8 months and replaces an unconditional prison sentence.
- Victim-Offender reconciliation programmes.

Between 60 and 80 percent of all cases dealt with by the courts and prosecutors end up with fines as their penalty. The income from fines is not paid directly to victims but is used to offset the cost of the State compensating victims.

The changes to sentencing and the provision of non-custodial options reduced the number of offenders being sentenced to prison. For example in 1971, 70 percent of drink-drivers received a prison sentence; in 1981, it was 12 percent. In 1971, 38 percent of theft offenders received a prison sentence; in 1991, 11 percent received a prison sentence.<sup>70</sup>

For those who are sentenced to imprisonment, the emphasis in Finnish prisons is on employment and rehabilitative activities. In the 2004 Annual Report of the Finnish Prison and Probation Service 62 percent of inmates were involved in daily activities during normal work hours. The aim of work activity is more than just to maintain and improve inmate skills and working ability. It also “normalises the prison life by making it like civilian life and reduce idleness and the risk of social exclusion.”<sup>71</sup> Inmates in the open prisons are paid normal wages, but they have to pay board and lodging, taxes, and maintenance to their partner and/or children. Inmates may work in prison industries and handcrafts, and on prison farms. Prison work has included constructing roads, airports and official buildings,

68. Eley, McIvor, Malloch and Munro, 2005.

69. Finland adopted a day-fine system in 1921. A fine is issued, called a penal order, by the police and approved by the court. Most offenders pay the fine immediately.

70. Eley, McIvor, Malloch and Munro, 2005.

71. Rikosseuraamusvirasto, 2004, p. 22.

and being involved in the restoration of monuments and historical structures. Some open prison inmates may also work outside the prison on a daily release programme in civilian employment. Inmates are also encouraged to undertake study; the 2004 Annual Report indicated that 10 percent of the daily prison population were studying.

Rehabilitation programmes are also an important aspect of Finnish prisons. A variety of substance rehabilitative programmes, Cognitive Self Change programmes, Anger Manager Programmes for example, are available to inmates.

The other key aspect to Finnish prison is leisure and recreational activities. These are considered a critical aspect of prison life. Physical exercise, music, and spiritual programmes are provided for inmates, and the development of hobbies and other independent recreational activities are encouraged.

Finland also ensures that those who are sentenced to prison are treated humanely. Offenders are able to wear their own clothes, live mostly in cells without observation (as the right to privacy is considered important), and are able to vote while in prison – thus retaining a sense of their identity and responsibility as an individual and a citizen.



The results of these changes were both a reduced rate of imprisonment and a reduction of the fear of crime. The numbers in prison fell from 5,600 in 1976 to 3,446 in 2005, a decrease of over 38 percent.<sup>72</sup> More tellingly is the decrease by two-thirds in number of people in prison as a percentage of the population from 200 per 100,000 in the 1950s to 66 per 100,000 in 2005. A 2004 survey of the fear of crime showed that the fear of being a victim had decreased across all potential areas of offending with the exception of violence against women at work.<sup>73</sup> “Over the last two decades more than 40,000 Finns have been spared prison, \$20 million (US) in costs have been saved and the crime rate has gone down to relatively low Scandinavian levels.”<sup>74</sup>

Victims are an important focus of Finland’s justice system. The Victim Compensation Act in Finland is considered internationally to be one of the most comprehensive, covering all personal injuries from any offence. Victims of crime have the right to have all expenses connected with the injury reimbursed including medical expenses, disability, loss of wages, and replacement of any articles of clothing, for example, glasses. The employer of an

72. Joutsen, Lahti and Polonen, 2001.

73. Lappi-Seppälä, 2004, p. 4.

74. Hoge, 2002, p. 2.

injured person has the right to compensation for the wages paid to a staff member while they are disabled. Property damage is also compensated for.<sup>75</sup>

Although the very high levels of social and economic stability and a relatively homogeneous population were significant factors behind the ability of Finland to make this significant shift in sentencing and prison policy, this does not mean that such a shift is restricted to Finland or Scandinavian societies. There were many other factors involved in Finland's change in sentencing policy, many of which are transferable across many social, economic and political structures. Finland was able to achieve a positive change in prison numbers, re-offending and fear of crime, over a relatively short time frame, because:

- It recognised that the increasing imprisonment rate was a problem and not the answer to crime reduction and a safer society.
- It had the political will to do so.
- It developed a multi-party accord that stopped crime being a political football.
- The reforms to policy were thought through and prepared by a group of experts in criminal policy, and not by politicians.
- There were judicial authorities that were ready and open to different criminal policies.
- The Finnish media does not fuel public fear by emphasising crime.

The role of the media and politicians is particularly noteworthy. In Finland crime reporting is less emotional and graphic. Crime is reported but comments are made using research based data. Finland has one of the highest newspaper readerships in the world, with 90 percent of the population reading a newspaper every day. The tabloid media have a far less prominent role in the newspaper market than other countries in Europe. This results in a more informed and rational debate around crime. This has enabled Finland's politicians to maintain a multi-party agreement around the debate on crime that stops criminal justice policy being used as a political football. Finland's politicians focus on researched facts and policies rather than individual criminal cases, and debate policy rather than emotions.

"Few elected politicians are likely to believe that they could survive politically were they to announce a 20% reduction in the prison population or that all prisoners within 6 months of termination of their sentences would be released immediately."<sup>76</sup> Yet Finland achieved this, and developed a widespread consensus about the need for a reduction in prisons that continues today.

"SOME VICTIMS GET SATISFACTION SEEING THE CRIMINAL SUFFER AS MUCH AS THEY CAN. THEY NEED TO HAVE A DIFFERENT WAY OF DEALING WITH THE HURT."

SALVATION ARMY COURT  
AND PRISON OFFICER

75. Joutsen, Lahti and Polonen, 2001.

76. Tonry, 2004, p. 1195.

## Restorative Justice

“It is not easy to define the way we should be angry, with whom, about what, for how long” Aristotle, Nicomachean Ethics 1109 B15.

New Zealand’s prison system is thoroughly embedded in the retributive model of criminal justice whereby the purpose of the justice system is to determine guilt and impose punishment. Even within New Zealand’s adversarial and retributive criminal justice system, however, there is an emergent model of justice that comes from a different perspective, that of Restorative Justice. New Zealand in fact once led the world in the embracing and practice of Restorative Justice. The Children, Young Persons and their Families Act 1989, which promoted family group conferences and took much youth offending out of the adult court, is founded on Restorative Justice concepts.

The focus of Restorative Justice is on restoring, through a facilitated process that brings together all affected parties, the dignity and well-being of those involved in and harmed by a criminal incident.<sup>77</sup> The vision and practice of Restorative Justice are shaped by the following key values:

### i) Participation

Those who are most affected by a crime, including victims, offenders, their families and communities of interest should be the primary speakers and decision-makers rather than professionals representing the interests of the State.

### ii) Respect

Restorative Justice believes that all human beings have inherent equal worth, and therefore all people must be treated with respect in a Restorative Justice setting.

### iii) Honesty

In Restorative Justice truthful speech is essential. This is about more than establishing the facts, but also includes speaking openly and honestly about feelings, experiences, expectations and responsibilities.

“SOCIAL CONNECTEDNESS  
IS KEY. PEOPLE NEED TO  
FEEL CARED FOR, PEOPLE  
NEED TO CARE AND WATCH  
OUT FOR EACH OTHER.”

JUDGE

77. Ministry of Justice, 2004a, p. 23.

“HARSHER PENALTIES  
IS NOT IN FACT WHAT  
HEALS VICTIMS, BUT  
ARE PRESENTED AS  
THE SOLUTION TO  
VICTIMS PROBLEMS.”

RESTORATIVE JUSTICE  
FACILITATOR

iv) Humility

Restorative Justice accepts that all people are fallible and vulnerable. Offender and victim are assisted to recognise their common humanity and get beyond the labels of victim and victimiser.

v) Interconnectedness

Individual freedom and accountability are recognised, but so are the communal bonds that unite victim and offender. Restorative Justice recognises that both parties are valued members of society, and that crime has a social character.

vi) Accountability

Restorative Justice considers that an offender has a moral obligation to accept responsibility for their wrongdoing. Offenders demonstrate acceptance of their responsibility by expressing remorse, making an apology, by making reparations of some kind, and possibly by seeking forgiveness.

It is an important part of the Restorative Justice approach that it can only occur with offenders who are willing to admit their guilt. Those who state that they are ‘not guilty’ cannot enter into a Restorative Justice process.

vii) Empowerment

Crime robs people of a sense of self-determination and autonomy, because someone has done something to them without consent.

Restorative Justice seeks to re-empower victims by seeking to give them an active role in deciding what their needs are and how they can be met. Restorative Justice also seeks to empower the offenders by assisting them to take responsibility for their actions and for, as far as is possible, putting things right.

viii) Hope

Restorative Justice believes that no matter the level of crime, it is always possible for the community to respond in a way that will encourage healing and change. Restorative Justice is therefore focused on the future. Rather than dwelling on past wrongs, Restorative Justice seeks to help victims and offenders to move forward positively.<sup>78</sup>

## Restorative Justice with adult offenders

Restorative Justice for adult offenders has been operating on small scale for a number of years. In 2002 Restorative Justice was given formal recognition in The Sentencing Act 2002, Parole Act 2002 and the Victims' Rights Act 2002. Together these Acts:

- Give greater recognition and legitimacy to Restorative Justice processes.
- Encourage the use of Restorative Justice wherever appropriate.
- Allow (and require) Restorative Justice processes to be taken into account in the sentencing and parole of offenders, where these processes have occurred.<sup>79</sup>

In 2001 the Ministry of Justice established a pilot programme across the Auckland, Waitakere, Hamilton, and Dunedin District Courts. The pilot provided for Restorative Justice conferences (RJCs) between victims and offenders and their support people/families, in cases of moderately severe<sup>80</sup> offending by adults. With the assistance of a trained facilitator the RJCs provide a forum for the victims to say how the offending affected them, and for offenders to take responsibility for their actions. Agreements are drawn up to enable, as much as is possible, offenders to put things right through, for example, financial reparations, attending courses (for example drug and alcohol, anger management), or undertaking community work. A report on the outcome of the RJC is provided to the Judge at the time of sentencing the offender. Only offenders who plead guilty can be referred to an RJC and the RJC only takes place if the victim agrees.

When the pilot was established the Ministry of Justice stated its aims as being:

- Increased resolution of the effects of crime for victims who participate in Restorative Justice conferences;
- Increased victim satisfaction with the criminal justice process;
- A reduced rate of re-offending by offenders referred to Restorative Justice conferences compared with offenders dealt with through conventional criminal justice processes.

An evaluation of the pilot found that these objectives had been met. Two thirds of victims who experienced an RJC felt positive about the experience one year later.<sup>81</sup> Victims stated that the positive aspects of the RJC were:

- being able to meet the offender;
- being able to speak with and hear from the offender, and;
- achieving closure.

79. Ministry of Justice, 2004a, p. 8.

80. The pilot covered all property offences with a maximum sentence of no less than two years imprisonment and other offences with maximum sentences of between two and seven years. Domestic violence offences were specifically excluded from the pilot. (See Ministry of Justice, 2005).

81. Ministry of Justice, 2005.

“RESTORATIVE JUSTICE  
IS IN THE LEGISLATION,  
BUT THE LEGISLATION IS  
AHEAD OF PUBLIC POLICY  
AND PUBLIC OPINION.”

RESTORATIVE JUSTICE  
FACILITATOR

Victims who attended an RJC were statistically more likely than victims of similar offences who did not attend an RJC, to feel positively about the justice system.<sup>82</sup>

There are signs that the RJC process can also reduce re-offending. The re-conviction rate for offenders who had participated in an RJC was lower than for those in a comparison group of offenders who did not attend an RJC. Of note is the fact that RJC's seemed to work best, in terms of preventing re-offending, for medium or high risk offenders. “Restorative Justice conferences seem to be touching or impacting on categories of offenders which conventional justice processes do not deal with well.”<sup>83</sup>

As with any pilot, there were some teething problems. Some victims were dissatisfied with the process and/or the outcome. Dissatisfaction most often arose around the sentence the offender received; with many of those who were dissatisfied feeling that the sentence was inadequate. Dissatisfied victims were also often concerned about follow up, especially with monitoring and feedback: monitoring to ensure the offender did what had been agreed at the RJC, feedback so the victim was kept informed of progress.

Overall, the evaluation suggested that there were “grounds for optimism” around Restorative Justice. “It can make a difference.”<sup>84</sup> This is especially significant given the fact that the pilot took place within a judicial and social context that did not have a high level of understanding and acceptance of Restorative Justice.

The Department of Corrections Restorative Justice pilot was restricted to pre-trial Restorative Justice conferences. The Correction Act 2004 allows for the implementation of Restorative Justice conferences for offenders who are already in prison. The Prison Fellowship has initiated and runs a programme called The Sycamore Tree, which facilitates victim/offender conferences in prison. Initial evaluations of this programme show considerable success in changing the attitudes of offenders to criminal offending, to the impact of their crime on victims and to their own life circumstances and choices. Such changes in attitude have been shown, both within New Zealand based research and internationally, to be essential to reducing re-offending.<sup>85</sup>

Currently the availability of prison based Restorative Justice is extremely limited. The Department of Corrections has yet to develop formal policy and guidelines and therefore is unwilling to make funding available. The Sycamore Tree programme is funded through Prison Fellowship fundraising.

82. Ministry of Justice, 2005.

83. Ministry of Justice, 2005, 10.7.

84. Ministry of Justice, 2005, 10.7.

85. Bakker, 2005.



Restorative Justice programmes are part of the criminal justice systems in many parts of the world; the United States, Europe, Canada and Australia, for example. A survey in 2000 showed that 20 percent of Finnish cases were handled by victim-offender mediation programmes. In the United States, the birth of such programmes can be tracked back to victim-offender mediation projects in the 1970s. In 2000 there were over 300 Restorative Justice programmes throughout the United States, however, it is still considered very much as experimental.<sup>86</sup> Research in the United Kingdom has arrived at similar results, where the Restorative Justice process is seen to operate “on the margins of criminal justice, offsetting the central tendencies without changing the overall balance of the system.”<sup>87</sup>

“EDUCATION IS KEY.  
EDUCATED PEOPLE ARE  
LESS LIKELY TO GET INTO  
CRIME, THEY HAVE  
MORE OPTIONS.”

JUDGE

For Restorative Justice to make a more significant difference to prison rates and re-offending rates, New Zealand needs to create a context in which the public, judiciary and legal professions understand and accept Restorative Justice values.<sup>88</sup> Restorative Justice also needs to be more widely available, both geographically and in terms of the offences that can be referred, including making it available to prison inmates.

### Restorative Justice with youth – the youth justice system<sup>89</sup>

In 1989 New Zealand introduced an innovative piece of legislation into the system of juvenile justice, The Children, Young People and their Families Act. This legislation attempted to overcome many of the problems of juvenile justice “and to constructively deal with issues of, and problems created by, ‘children’ (boys and girls under the age of 14) and ‘young persons’ (persons aged 14, 15 and 16) who offend.”<sup>90</sup>

86. Dzur, 2003.

87. Garland, 2001, p. 104.

88. Ministry of Justice, 2005, 12.9.

89. Work done by the Ministry of Youth Affairs (McLaren, 2000, p. 89) outlined some approaches that do not work in youth re-offending:

- Shock tactics, punitive, deterrent and ‘punishing smarter’ approaches including scared straight, boot camps, corrective training and shock parole probation. These are the interventions where the primary focus is on punishment, inducing fear of prison, and harsher treatment, with little or no emphasis on teaching new skills or reducing risk factors.
- Criminal sanctions also appear largely ineffective.
- Individual and family counselling, or any other approach that doesn’t address key risk factors the lead to offending.
- Approaches that provide low numbers of contact hours for higher risk offenders or high numbers of contact hours for low risk offenders.
- Non-directive counselling or therapy (as opposed to highly structured, cognitive behavioural interventions) where there is little attempt to teach new skills, or to respond positively to desired behaviour and negatively to undesirable behaviour.
- Arrests of juveniles as the sole intervention.
- Reduced caseloads alone on probation or parole are not sufficient to impact on re-offending.
- Early release on probation or parole.
- Use of ‘bad manners’ by police, in the form of less respectful and fair behaviour towards young people.
- Intensive Probation Supervision (an intensive, ‘get tough’ version of probation for young offenders) does not appear effective unless combined with appropriate rehabilitative services.

90. [www.justice.govt.nz/youth/fgc.html](http://www.justice.govt.nz/youth/fgc.html)

“ABOUT 9,700 AMERICAN PRISONERS ARE SERVING LIFE SENTENCES FOR CRIME THEY COMMITTED BEFORE THEY COULD VOTE, SERVE ON A JURY OR GAMBLE IN A CASINO – IN SHORT BEFORE THEY TURNED 18. MORE THAN ONE FIFTH HAVE NO CHANCE FOR PAROLE.”

A LIPTAK

The youth justice system in New Zealand currently operates on the basis that:

- Contact with the criminal justice system is itself harmful.
- Youth offending is often opportunist behaviour that will be outgrown.
- Young people should be confronted, held accountable for their offending behaviour and given opportunities to take responsibility for their actions by making amends to the victim(s) of their offence(s).
- By involving the young person in a face-to-face meeting with the victim, they can see the effects of their conduct in human terms.<sup>91</sup>

The foundation of the youth justice system since 1989 has been the Family Group Conference (FGC), which make decisions, recommendations and develops plans for the child or young person for whom the Conference is called. The Conference is made up of the young offender, the victim, and their families. The basis of decision-making is achieving consensus among the group as to a ‘just’ outcome. The FGC is used to establish whether a prosecution can be avoided (as a pre-charge tool), and it is also used as a process to determine the best way of dealing with children and young people whose cases are admitted or proved in the Youth Court (as a post-charge mechanism).

Research<sup>92</sup> into the effectiveness of the FGC shows that in general the FGC works well. Overall, FGCs have been found to:

- Hold young people accountable for their offending.
- Divert young people from early criminal convictions and custodial sentences.
- Prevent re-offending.<sup>93</sup>

Research into the youth justice system has also found a high degree of victim participation, and most felt positive about the process and its outcomes. Some victims, however, did not feel better after the process. The most common reason for this was feeling that the young person and/or their family were not really sorry.

91. [www.justice.govt.nz/youth/fgc.html](http://www.justice.govt.nz/youth/fgc.html)

92. Maxwell and Morris, 1993; Maxwell and Morris, 1998; Maxwell, Kingi, Robertson, Morris, Cunningham and Lash, 2004.

93. Maxwell, 2004.

The youth justice system has come in for public criticism, but research has found that this is often due to lack of understanding and misconceptions about how youth justice works. Common criticisms of youth justice are:

1. That the FGC is a soft response to youth offending.

Research has found that in fact young offenders do not find the FGC an easy option.<sup>94</sup> At the FGC young people have to face their victims, and their family, and are expected to apologise and agree to undertake tasks to assist in repairing the damage they have done. Young people stated that going to court was in fact easier.

2. That FGC fails to deal with youth offending.

Research has found that the majority of those involved in FGC, including victims considered the decisions of the FGC to be fair and appropriate, and that in response to the FGC most young offenders did their best to repair the harm they had caused.<sup>95</sup>

3. That young people do not complete agreed tasks.

When the FGC agrees that the young person will apologise, do work or pay money, the majority of young people do so. Those that do not complete all the set tasks usually complete most of them.<sup>96</sup>

Problems have been identified with the monitoring, recording and communication of the outcomes of FGCs, which has led some to young people being blamed for not completing tasks when they have in fact done so.

The youth justice system appears to suffer from a lack of resources, which means that FGCs are not always undertaken as quickly as is required, or that recommendations around treatment or programmes to assist the young person are not available. Resources are particularly required to provide psychological, psychiatric and educational assessments, and for youth drug and alcohol programmes.

“WHANAU AND FAITH  
BASED UNITS DO BETTER  
RELEASE PLANNING. THEY  
HAVE SOCIAL WORKERS  
AND COMMUNITY  
SPONSORS AND THIS MAKES  
A REAL DIFFERENCE.”

SALVATION ARMY COURT  
AND PRISON OFFICER

94. Maxwell, 2004.

95. Maxwell, 2004.

96. Maxwell, 2004.

Overall, however, the research shows that a restorative approach to offending with young people significantly lessens the chance that the young person will re-offend and significantly improves their life outcomes. Conversely those young people dealt with more harshly are more likely to re-offend and/or have poor life outcomes. To continue with its positive work the youth justice system requires adequate resources, and public education to combat the negative myths and inform the public of its positive results.

## 2. Working differently within the prison system

### Faith and culture based units

Faith Based Units have been operating for just under two years at Rimutaka Prison and approximately five years at Manawatu Prison. These Units run programmes and have a code of conduct that are based on Christian principles. The programmes focus on anger resolution, basic life skills and principles, financial freedom, and practical applications of Christian faith applied to everyday living and building of relationships. The Units try to establish a new community for inmates prior to leaving prison by linking them with a Christian mentor and a Christian church who undertake to support the inmate post release. The success of this approach in New Zealand is at present anecdotal, with no study yet undertaken to follow up those released from these programmes. However, after one year of operation the Faith Based Unit at Rimutaka Prison has a very low re-offending rate of 7 percent<sup>97</sup> compared to the national two-year re-conviction average of 73 percent. The re-offending rate is expected to rise once multi-year data is available.

New Zealand research has also shown that religious beliefs have a significant influence in motivating offenders to turn from a life of crime and to remove themselves from anti-social influences. Three independent research projects show that of those who decided to leave gangs, 50 percent did so because they became Christian.<sup>98</sup>

Overseas research has shown that “even under poor socio-economic conditions, religion (churchgoing and related activities) serves as an insulator against crime and delinquency... church attendance is a better predictor of who escapes poverty, drug addiction and crime than income, family structure and other variables.”<sup>99</sup> In an American prison in Newport,

97. Prison Fellowship of New Zealand, 2004.

98. Workman, 2005, p. 9.

99. DiJulio Jr., 1996, p 21.

659 women completed the faith based programme between 1998 and 2003. Of them 125 returned to prison, a recidivism rate of 19 percent compared to the average recidivism rate for this State of around 50 percent.<sup>100</sup> Offenders in these faith based units and programmes are encouraged to reflect on their spiritual lives, be involved in journaling, character work, anger management courses, community service and work, and optional worship services and bible study.<sup>101</sup>

Those involved in operating Faith Based Units have indicated that they consider the model could also work with units based on sport, or cultural activities. The key is to give inmates a new focus, a new set of values, and a new community to be released in to that is positive, constructive and responsible.

### **Cultural units**

The Cultural Focus Units inside New Zealand prisons are innovative and a positive step to reducing Maori and Pacific offending and re-offending. The first Maori Focus Unit was opened in December 1997 at the Hawkes Bay Regional Prison, since then four more Units have been opened at Rimutaka Prison, Tongariro/Rangipo Prison, Waikeria Prison and Wanganui Prison. These Units are similar to any other custodial units, except in their day-to-day operations they observe tikanga and kawa, and have structured programmes. These Units operate taking account of the Maori worldview of health and well-being: taha wairua (spirituality), taha tinana (body/physical), taha hinengaro (thoughts and feelings), and taha whanau (family).<sup>102</sup>

“KEY – NEED THINGS FOR  
PEOPLE TO DO IN PRISON.”

QUEEN’S COUNSEL

To be eligible to be placed in a Maori Focus Unit the inmate:

- Must have enough time during their sentence to be placed at least 4 months in the Unit.
- Have no more than 18 months left to serve.
- Have current security classification appropriate to the Unit (low/medium or minimum).
- Comply with the Maori Focus Unit policy on being drug free.
- Be willing to abide by the kaupapa of the Unit and its code of conduct.<sup>103</sup>

The Ministerial Review (2005) of the Maori Focus Units concluded that the Units do assist with the rehabilitation of some high-risk offenders by providing an intensive rehabilitative environment within nga tikanga Maori.<sup>104</sup>

100. Corrections Corporation of America, March 2004.

101. The Institute in Basic Life Principles, 2004.

102. Ministerial Review Report, 2005.

103. Ministerial Review Report, 2005, p. 11.

104. Ministerial Review Report, 2005, p. 15.

A Pacific Strategy has also been developed to reduce re-offending and aid the rehabilitation of Pacific inmates. The Corrections Annual Report (2005) acknowledged the need for programmes to meet the needs of Maori and Pacific inmates, who are imprisoned at a disproportionate rate.

Research suggests that to be successful, cultural units must be resourced and empowered to develop their own system, structures and programmes based fully on the worldview of the culture. Cultural units that replicate the current prison system, “with culture added,” are less successful. The basis of the success of cultural units, is a paradigm shift, both for the inmates and for the prison system.<sup>105</sup>

### **Educational, vocational, employment programmes in prison**

It is clear from the Ombudsmen’s Investigation (2005) that idleness and the lack of vocational work opportunities for those in prisons is a huge problem. Inmates who participate in educational, vocational, employment programmes have been shown to have reduced re-offending rates, there is less violence in prisons, and it creates a more positive prison environment.<sup>106</sup>

For many in prison literacy skills are an issue. It has been shown that improving basic literacy and social skills (through anger management programmes, for example) is a proactive and positive way to reduce re-offending.<sup>107</sup> Ninety-seven studies into the relationship between education and recidivism were reviewed by Ryan and Mauldin (1994), of these 85 percent revealed a positive relationship between educational participation and decreased recidivism.



105. Prison Fellowship of New Zealand, 2001.

106. Newman, Lewis and Beverstock, 1993; John Howard Society of Alberta, 2002; Vacca, 2004.

107. Steurer and Jenkins, 1997; Vacca, 2004; Batiuk, 1997; Duguid, 1997; Clark, 1991.

Written testimony to the American Senate in 2004<sup>108</sup> outlined six reasons to have quality prison industry programmes:

- Prison jobs are a management tool to keep prisoners busy – idleness creates tension and violence.
- Job training reduces crime – for every \$1 spent on prison industry as much as \$6.23 is saved in future criminal justice costs.
- Meaningful job training contributes to the successful re-entry of offenders and increases their chances of finding and keeping jobs after release.
- Partnerships with private sector industries boost economic development.
- Prison industries offset the cost of incarceration.
- Prison industries imbue inmates with a work ethic and a sense of self-responsibility.

“FOR REHABILITATION TO  
REALLY WORK WE NEED  
MUCH MORE MONEY  
SPENT ON IT AND MORE  
COMMITMENT FROM  
GOVERNMENT TO IT.”

JUDGE

The vocational, educational, and employment programmes need to train inmates in skills that will provide them a realistic chance of employment when they are released, looking ahead to future labour demand. The work in prison needs to be “real work and not ‘play work,’ not just a way to occupy the prisoners.”<sup>109</sup> Providing inmates with marketable skills, a work ethic, self-confidence and productive activity while in prison is a key part of the rehabilitative process. Employment aids the reintegration of released inmates, providing a viable and positive alternative to operating in the underground/illegal economy and risk being re-imprisoned.

### Summary – pathways out of prison

Already within New Zealand’s justice system, and internationally, there exist alternatives to prison or ways of working within prisons that are effective in reducing the need for custodial sentences, and reducing offending and re-offending. Harsher penalties are not the only way to deal with offending. More prisons are not inevitable; they are a choice that we as a society make.

108. Written testimony on Office of Federal Procurement Policy Act, Director R. Wilkinson, Ohio, Department of Rehabilitation and Correction, President, Association of State Correctional Administrators, April 7, 2004.

109. Kurten-Vartio, 2003.





# CONCLUSION

## The ways forward for New Zealand

“The language of crime is all wrong. The easy, soft, do-nothing prison option may appease public opinion. Getting tough on crime means finding out what causes it and trying to redress that.” S. Jenkins, 2005.

New Zealand’s current prison policy is unsustainable. Changes to police clearance rates, and especially to sentencing and parole, mean that more people are going to prison and staying longer. Combined with a high recidivism rate, this has resulted in a continual crisis in prison beds. Demand constantly outstrips supply. Building more prisons is not a viable solution. Even if as a nation we could afford the cost of more prisons it is unlikely that we could actually build them, for although many members of the general public demand more prisons, they also resist having them built anywhere near them.

Research also shows that prison has at best only very limited success, if the purpose is to deter offending and re-offending. Research from throughout the world shows that rates of criminal offending have very little to do with the penalties imposed on those who are caught and that punishment is ineffective in changing behaviour. Offending is in general not perpetrated by people who make rational calculations on the likely consequences. Offending is caused by a complex mix of issues, and prison, as it is currently structured, does not deal with these underlying causes of crime. New Zealand’s prison system offers very little by way of rehabilitation, with few inmates having access to drug and alcohol programmes, education, or employment. Little work is done to assist inmates to reintegrate upon release.

Given this situation New Zealand needs to take stock and ask whether it wants to keep going down its current policy path. Our present prison system is not inevitable and it is not the only way to respond to crime. There are other models that can reduce the number of offenders who go to prison, while still ensuring they accept responsibility for their crimes. There are other ways to operate prison for those society considers must be sanctioned through loss of liberty; ways that are more successful in reducing re-offending.

Changes are required if New Zealand is to move away from our current direction and reduce the number of people who are sentenced to, and return to, prison.



Firstly, we need politicians with the moral and ethical courage to cease using crime as a political football with which they can score political points and votes. Good prison policy requires rationality, not rhetoric. Finland was able to make a dramatic shift in sentencing, prison policy and practice, and reduce offending, imprisonment and fear of crime, because politicians from all political parties agreed that change was required and that they would no longer fuel public fear of crime for political gain. Certainly democracy requires debate about justice issues, but this debate needs to be based on evidence and research, not one-off criminal cases or distortions of the facts. Members of the public, fuelled by graphic criminal cases, and unaware of the facts, may demand harsher penalties, but we need politicians who will show leadership and resist the temptation to buy into popular, but failed, views. Courageous leadership is possibly the most critical factor in making change in our sentencing and prison policy.

Secondly, we need to provide the New Zealand public with factual information about crime, the causes of crime, and the reality of prison, so that the public can have a better understanding of the issues. This information needs to include data about the effectiveness of alternatives to prison and of rehabilitative prison models.

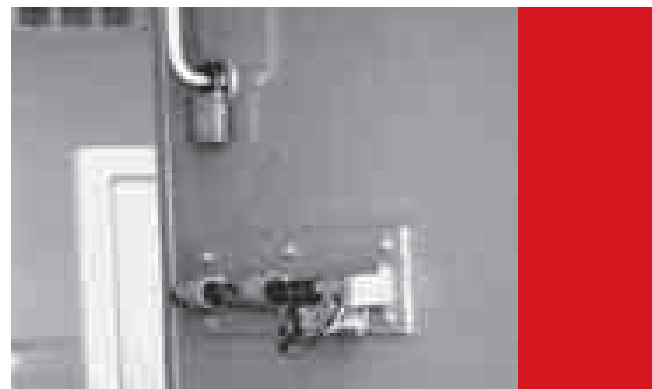
Thirdly, we need to determine ways to make current alternatives to prison, and rehabilitative prison models mainstream rather than marginal. The seeds of a more positive and effective prison system have already been sown in the Restorative Justice pilot, in the Faith Based and Cultural Units, in our world leading system of youth justice, and in those rehabilitative programmes that do operate within prison. These seeds have been given little room to grow however. Much of the policy around alternatives to prison and rehabilitation found in Department of Corrections reports is positive, but it seems to fail at implementation, possibly through lack of resources and lack of political commitment. Youth Justice appears to be at risk both from negative public attitudes and poor resourcing. Restorative Justice, Faith Based and Cultural programmes are not fully available or embraced by the justice system. If these positive programmes are ever to have a significant impact on the prison system, then the focus of commitment and resources must shift from yet more prisons, to supporting other methods and making them mainstream.

Finally, as a society we need to recognise that our incarceration rate is not inevitable, it is a choice. As a society we can decide to go down a path of more prisons or we can choose a different model. With the current and seemingly intractable prison bed crisis perhaps it is time for New Zealand to choose a new pathway, one that leads away from retribution and fear and towards restoration and hope.

## RECOMMENDATIONS

In light of the issues raised in this discussion document, The Salvation Army recommend the following:

1. That the Government initiate the development of a multi-party accord on crime and justice with the aim of shifting all political debate to issues of researched fact and policy. That this accord be agreed prior to the next general election.
2. The Government initiates a public education programme that provides high quality, user-friendly data and information about the New Zealand justice and prison system, with the aim of encouraging better debate and less fear of crime.
3. That the Government establish an expert advisory board to implement and audit the following recommendations.
4. That the Government initiate a review of the implementation of the Sentencing Act 2002, the Bail Act 2000, and the Parole Act 2002 with a view to reducing the number of offenders who are remanded or sentenced to prison.
5. That the Government increase the availability of Restorative Justice, Faith and Cultural based prison units and other rehabilitative and restorative models/pilots with the aim of making these available nationally.
6. That the Government direct the Department of Corrections to develop a plan that will enable all inmates to be actively involved in employment and/or vocational training by the year 2010.



VISITORS \_\_\_\_\_

PT. B. 2-1-13 \_\_\_\_\_

HOME LEAVE \_\_\_\_\_

GANGS & TT's \_\_\_\_\_

TOTAL \_\_\_\_\_

CLEANING DUTIES

STORES R'DD.

BRASH PAN

DISHES

BENCHES

FLOOR

FRYER

STEAMER

STOVES



## APPENDIX I: THE STATISTICS

Getting a handle on justice statistics in New Zealand is not easy. The statistics generally come from three sources: the police, the Ministry of Justice and Corrections, and victim surveys.

Crime statistics come from the police, but these figures represent reported crime statistics. Crime that is not reported is not counted in crime statistics; these are often picked up in victimization surveys (see below). When crime is reported to the police, the quality of the recording and categorisation of the incident and the inputting of information impacts on the quality of the final statistics. Increases or decreases in crime statistics may also be due to changes in legislation. For example, making it mandatory to report certain behaviour as being criminal, therefore increases reported crime. Reported crime may also increase if new legislation makes illegal behaviour that which was previously legal, or decrease reported crime if it legalises behaviour that was previously illegal.

We rely on Ministry of Justice and Corrections to provide us statistics of those on remand, convicted offenders, and recidivism. These are very much snapshots in time, the prison population (those on remand and sentenced), those serving other forms of sentences (for example home-detention) fluctuate daily. As with the crime statistics, statistics around the number in prison are affected by changes in legislation, sentencing policy, and police clearance rates. Increasing and decreasing prison numbers are not directly related to increasing or decreasing rates of crime.

The final major source of crime statistics is victim surveys.<sup>110</sup> In New Zealand the Ministry of Justice, and health organisations have undertaken these surveys. Victimization surveys show that there is a sizable gap between the amount of crime reported in the surveys and that reported to the police. In the victim surveys however, the main reason respondents give for not reporting crime to the police is that the crime did not significantly impact on them.

When looking at crime statistics it is also a mistake to assume that for every crime there is a different offender. Much of the crime is carried out by a small group of offenders. An example of this is the Cloke family highlighted in the Herald on Sunday October 17, 2004. This family of seven have 303 convictions between them, and police suspect there have been many more. One son has 101 convictions alone (and he boasts of breaking into 10,000 homes), and his younger brother 136 Youth Aid referrals (he boasts of breaking into 400 homes). None of the children finished their high schooling, most left during their intermediate years, one sister attended 22 different schools before she was 17. None of the children have had employment, and both parents are currently unemployed.

110. The most recent were carried out in 1996 and 2001, a new crime survey is being carried out in 2006, to be published at the end of 2006.

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