



**Bail Amendment Bill 2012**  
**Law and Order Select Committee**

**The Salvation Army (New Zealand, Fiji and Tonga Territory) Submission:**

**1. BACKGROUND:**

- 1.1 The Salvation Army is a worldwide evangelical Christian Church and human service provider committed to caring for people, transforming lives and reforming society. The Salvation Army works with people in need, whoever and wherever they are; transforming lives through spiritual renewal; working to reform society by alleviating poverty, deprivation and disadvantage; and challenging evil, injustice and oppression. During 125 years of operation in New Zealand, the Army has carried its social services to people of all ages, regardless of culture, financial position, religious belief or social class.
- 1.2 This submission has been prepared by The Social Policy and Parliamentary Unit (SPPU) of The Salvation Army<sup>1</sup>. SPPU is the social policy analysis and research arm of The Salvation Army. The Unit was founded by Major Campbell Roberts and works towards the eradication of poverty by encouraging policies, practices and structural systems that strengthen the social framework of New Zealand. SPPU releases research reports on specific social issues, a monthly e-newsletter, unique policy advice and analysis and engagement with policy and decision makers, business leaders, politicians and other members of our communities.
- 1.3 We also acknowledge the tireless work of our Courts and Prisons Services staff around the country who relentlessly engage with our communities around various justice and court processes.
- 1.4 We also continue to endorse and support the innovative work of groups like Rethinking Crime and Punishment who are essentially experts in these justice related areas. We are aware that Rethinking are also submitting to this amendment and so therefore endorse their submissions.
- 1.5 This submission has been approved by Commissioner Donald Bell, the Territorial Commander of The Salvation Army's New Zealand, Fiji and Tonga Territory.

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<sup>1</sup> <http://www.salvationarmy.org.nz/research-media/social-policy-and-parliamentary-unit/>

- 1.6 We would like the opportunity to publicly talk to these issues with the Government that are raised in this submission. Our contact details for this submission are at the end of this paper.

## 2. THE SALVATION ARMY PERSPECTIVE:

2.1 We acknowledge that this Bill is a part of a raft of justice-related reforms the Government is implementing. In its last term, the Government passed 18 justice-related pieces of legislation. This Bail Amendment Bill 2012 comes on the heels of the Corrections Amendment Bill 2012, and the Administration of Community Sentences and Orders Amendment Bill 2012. While we applaud this focus on justice issues, we entreat our Government to continue to consider some of the issues that we have raised on past submissions and reports in the justice area.

2.1.1 We continue to strongly advocate for greater investment in rehabilitation and reintegration services. Approximately \$4 billion is spent per year on the justice sector. Conversely, in 2012, about \$151 million has been assigned to rehabilitation and reintegration services. In fact, the spending on these services has steadily increased since 2006. However, we believe this amount is inadequate to effectively address the real needs of people who are incarcerated and also released from prisons. We call on the Government to invest greater resources in these services, particularly to combat the recidivism and re-offending rates in New Zealand. We believe that other mechanisms that groups like The Salvation Army and Rethinking Crime and Punishment such as community sentences, restorative justice, and rehabilitation and reintegration need greater investment as we face some serious justice and crime issues.

2.1.2 We wish to remind this Select Committee of the key crime and punishment social indicators that we listed in the *Growing Divide 2012*, The Salvation Army's fifth annual State of the Nation report<sup>2</sup>. In this report, we commented on the overall rates of crime, rates of serious crime, sentencing and punishment and recidivism. We acknowledged the recent decreases in both total numbers of crimes reported and reported rates of violent crime. But we were gravely concerned that the rates of re-offending and re-imprisonment remained largely the same, and that our prison numbers continue to explode culminating in our alleged need for more (privatised) prisons. Again, these are the justice-related issues that we continue to put forward for further discussion, analysis and resolution.

2.1.3 Another justice-related issue that we have consistently advocated for is the value of cultural and faith based

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<sup>2</sup> <http://www.salvationarmy.org.nz/research-media/social-policy-and-parliamentary-unit/state-of-nation-reports/the-growing-divide/>

interventions. We are pleased that there are units like the Faith Unit at Rimutaka Prison and the Maori and Pasifika Focus Units at other prisons. We believe these types of units need to be valued and researched more to provide solid information about the value and effectiveness of these units. We do acknowledge the *Evaluation of the Faith Based Units and Target Communities (2010)*<sup>3</sup> by the Department of Corrections as a very useful starting point in these discussions. However, we see these units and the interventions they espouse as critical in reducing recidivism, assisting in the effective rehabilitation and reintegration of that person and promoting restorative justice principles.

### 3. RESPONSES TO SPECIFIC AMENDMENTS TO LEGISLATION:

3.1 In 2011, The Salvation Army made a submission to the Reviewing Aspects of the Bail System review<sup>4</sup>. Our submission here repeats and reinforces our arguments made in this 2011 submission. We will comment on specific parts of the Bill.

#### 3.2 Clause 11:

3.2.1 We believe that there should **not** be a reversal of the burden of proof for these serious Class A drug offences.

3.2.2 We believe a reversal here would put even more strain on an already stretched and under-resourced legal aid and public defender system. The legal aid reforms begun in 2011 aim to save almost \$140 million over the next four years for the Government. This massively affects low income earners and households who are the most likely to access legal aid. Moreover, according to the Ministry of Justice, the number of lawyers making them available for family legal aid has dropped from 2095 in June 2011 to 1161 lawyers in 2012. These reforms have been widely criticised from their inception, most notably by the legal profession who will choose more economically viable options other than providing legal aid. In all this, those who are most affected are our communities, particularly those for whom the legal aid was originally designed.

3.2.3 Therefore we recommend that this burden of proof is not reversed in these situations. Lawyers are likely to be swamped with even more work if they now have to prove these types of offenders should be eligible for bail.

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[http://www.corrections.govt.nz/\\_\\_data/assets/pdf\\_file/0006/486357/Final\\_version\\_of\\_FBU\\_evaluation\\_report\\_-\\_web\\_version.pdf](http://www.corrections.govt.nz/__data/assets/pdf_file/0006/486357/Final_version_of_FBU_evaluation_report_-_web_version.pdf)

<sup>4</sup> A copy of this is attached as a supporting document.

### 3.3 Clauses 16 to 20:

3.3.1 We are very pleased that the Electronic Monitoring (EM) regime is now being legislated with these and other clauses. In our original submission to the 2011 Review, we stressed that uniform practices and monitoring is needed around EM across the country. We continue to advocate for the use of EM and other community sentences measures as cost effective and more human ways to deal with those serving sentences. People should be kept out of prisons as much as is reasonably possible.

### 3.4 Clauses 12 to 15:

3.4.1 Referring specifically to Clause 14, those who fail to answer to Police bail are punishable by 3 months imprisonment or a maximum fine of \$1000. We contend that the adding of this \$1000 fine as a penalty is unreasonable. In our 2011 submission, we argued strongly against the increasing of, or addition to, the existing penalties. We are concerned that these people and their families will face added financial pressures that will likely compound the other issues they might be facing.

3.4.2 Additionally, we believe that some people will choose to serve this 3 months imprisonment term rather than pay the monetary fine if they cannot to afford the fine. This will become a realistic and viable for some people. Again, this is very concerning to The Salvation Army because our rates of incarceration remain alarmingly high. We invite the Select Committee to continue to investigate alternatives to these types of penalties and to work with groups like our Courts and Prisons Services in developing these options.

### 3.5 Presumption of bail for defendants aged 17-19 who have previous prison sentences:

3.5.1 We strongly believe that the presumption in favour of bail **must remain** for these types of defendants. We are aware that some of these defendants have a history of serious offending and that victims' rights and public safety are worthy concerns here.

3.5.2 But we continue to advocate that these defendants should have their offending dealt with within their communities as much as is reasonably possible. Although these young people have already served a prison sentence, returning them to prison is not the most effective solution. Again, we advocate for effective interventions that are working in these communities. We cannot give up easily on these young people and we are concerned that continually sending them to prison

would greatly reduce their potential for effective rehabilitation and reintegration.

**3.6 New Police powers to deal with defendants under 17 who have breached bail:**

3.6.1 The Explanatory Note to this Bill notes that new Operational Guidelines will be developed by the Police and other groups to ensure these new powers are not abused. We believe groups like The Salvation Army need to be a part of this consultation process.

3.6.2 We also continue to question the effectiveness and fairness of adding more powers to the Police, particularly around their interactions with young people. We are concerned that the continued involvement of the Police in these young people's lives will only serve to harden their opinions of Police and other authority figures. Instead, we advocate for stronger investment in organisations that have proven intervention and rehabilitation services, particularly those with expertise in working with young people. These organisations can work in partnership with the Police to provide effective solutions for these young people.

**4. SUMMARY:**

We sincerely thank the Law and Order Select Committee for this opportunity to comment on this Bill. However, we highlight the fact that there has been no document summarising the findings of the 2011 Bail Review available for the public. Such a document would have served to inform the public before this Bill was brought before the House so that more public comment and debate could have taken place.

We also continue to present our arguments set out in our submissions to the Corrections Amendment Bill and the Administration of Community Sentences and Orders Amendment Bill alongside our submission to this Bill.

The Salvation Army is very concerned about some aspects of our Justice sector. We welcome the Select Committee and the Government to consult with us around any justice-related issues because we believe we can offer some very insightful observations and rigorous debate around these crucial issues. Thank you again for your time. God bless you.

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For more information, contact:

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