



Administration of Community Sentences and Orders Bill
Law and Order Select Committee

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

1. BACKGROUND:

- 1.1 The Salvation Army is an international Christian and social services organisation that has worked in New Zealand for over one hundred and twenty years. The Army provides a wide-range of practical social, community and faith-based services, particularly for those who are suffering, facing injustice or those who have been forgotten and marginalised by mainstream society.
- 1.2 One of these key services is the Army's Court and Prison Services which provides court officers and chaplains for courts and prisons around New Zealand. The Court and Prison Services is committed to working with everyone and anyone involved in the court or prison process and attempts to be immersed in the reality of the criminal justice system in New Zealand¹. Our Courts and Prison Services are located around the country and assist people by supporting them through the court procedures, arranging court-ordered drug and alcohol assessments and arranging transport and accommodation (if necessary).
- 1.3 This submission has been prepared by the Social Policy and Parliamentary Unit of The Salvation Army. This Unit works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand. It provides solid social research and robust policy analysis, engaging with national opinion makers in politics, government, business, media and education.
- 1.4 This submission has been approved by Commissioner Donald Bell, the Territorial Commander of The Salvation Army's New Zealand, Fiji and Tonga Territory.
- 1.5 We would like the opportunity to publicly talk to these issues with the Government that are raised in this submission if there is such a process. Our contact details for this submission are at the end of this paper.

¹ Smith, Dr Leanne and Bonnie Robinson. (2006) Beyond the Holding Tank: Pathways to Rehabilitative and Restorative Prison Policy, The Salvation Army, Social Policy and Parliamentary Unit, p 13.

2. THE SALVATION ARMY PERSPECTIVE:

- 2.1 We continue to advocate for more of a focus by government and it's funding on rehabilitation and reintegration services.

Nearly \$4 billion is being spent on the justice sector with approximately 40 per cent of that funding to Police, 30 per cent to the Ministry of Justice (includes court and judiciary) and 30 per cent to the Department of Corrections². The Treasury's most recent analysis of the fiscal costs of crime in New Zealand was in a 2006 report which stated that crime cost us over \$9 billion in 2003/04³. The figures in this report included, inter alia, the costs of lost property, productivity losses and the Treasury's best estimate of the intangible costs of crime to our society. According to the latest budget, about \$151 million is being invested in rehabilitation and reintegration services and programmes⁴! The table below, taken from our annual State of the Nation report, details recidivism rates and the spending over the last 5 years on rehabilitation and reintegration services⁵. This table indicates that re-offending and re-imprisonment rates have remained fairly constant over the last 5 years.

Table 11: Prisoner recidivism, and spending on rehabilitation and reintegration services^{4,2}

June years	2006	2007	2008	2009	2010	2011
TOTAL PRISON POPULATION						
12 month re-imprisonment rate	27.7%	27.6%	27.2%	27.6%	28.4%	27.1%
12 month prison to reconviction	41.1%	42.3%	43.5%	47.6%	47.5%	45.3%
24 month re-imprisonment rate	39.2%	38.8%	39.7%	36.8%	37.9%	39.2%
24 month prison to reconviction	56.4%	55.4%	57.6%	58.7%	61.9%	62.2%
MĀORI PRISON POPULATION						
12 month re-imprisonment rate	29.9%	31.2%	30.5%	31.0%	32.6%	29.7%
12 month prison to reconviction	44.9%	47.6%	47.9%	52.3%	52.2%	50.0%
24 month re-imprisonment rate	43.3%	42.5%	42.1%	41.5%	43.3%	44.0%
24 month prison to reconviction	61.5%	60.3%	62.4%	64.4%	68.2%	67.3%
SPENDING ON REHABILITATION AND REINTEGRATION SERVICES^{4,2}						
Total spend in June 2011 (\$ millions)	92.3	96.7	111.6	115.6	128.9	130.4
Spend per sentenced prisoner in June 2011 (\$)	15,431	15,626	18,160	18,569	19,579	19,115

We acknowledge that spending on rehabilitation and reintegration has increased since 2006 and have increased further in 2012 as stated above. However, we believe this investment is inadequate and unrealistic when dealing with some of the serious rehabilitation

² <http://www.treasury.govt.nz/government/longterm/fiscalposition/2009/15.htm>

³ <http://www.rethinking.org.nz/assets/Cost%20of%20Crime/Cost%20of%20Crime%20Treasury%202006.pdf>

⁴ <http://www.treasury.govt.nz/budget/2012/estimates/est12corr.pdf>

⁵ <http://www.salvationarmy.org.nz/research-media/social-policy-and-parliamentary-unit/state-of-nation-reports/the-growing-divide/>

and reintegration needs that prisoners have. Through our Courts and Prisons services, we gain an intimate understanding of these issues. We believe funding must be targeted at rehabilitation and reintegration services as well as initiatives that work to help offending and criminal behaviour.

We implore the Government to significantly increase its spend on rehabilitation and reintegration services in the coming years. We acknowledge that the budget spend on the various arms of the justice sector have already been allocated in this year's budget. But this is a position we will continue to advocate for.

- 2.2 We are acutely aware that law, crime and justice are all areas that the Government is concerned about and active in developing policies and laws in these areas. We applaud this focus.

However, we note that the Government passed **18 justice-related bills** in its last term. We acknowledge that many of these policy and legislative changes are positive and help ensure that those involved in justice procedures are supported through this process. But we cannot necessarily equate quantity with quality. We humbly remind the Select Committee that responding to amendments to legislation is not an easy or small thing, especially for charities like The Salvation Army. Time and resources are needed when responding via submissions. Such a large volume of vital legislative changes that are set within often very short timeframes makes it difficult at times to respond comprehensively through the submission process.

3. RESPONSES TO SPECIFIC AMENDMENTS TO LEGISLATION:

- 3.1 We understand the basic tenements of this Bill, particularly around its stated aim of removing barriers to managing offenders in the community in safe, secure, humane, efficient and effective ways. We are also encouraged to see that there seems to be universal support for this Bill from across Parliament. We essentially support this Bill as it seeks to make changes that will assist in the management of people serving sentences in the community.

- 3.2 We do have some specific concerns about this Bill. We believe these are areas that the Law and Order Select Committee might need to investigate further as this Bill progresses through Parliament. These include:

- 3.2.1 **Amendments to other legislation** - There needs to be scrutiny in how the amendments in this Bill affect and change other legislation.

The Regulatory Impact Statement (RIS) is clear that the Sentencing Act 2002, the Parole Act 2002 and the Bail Act 2000 are all affected by this Bill. These are all relatively recent pieces of legislation. There is also another Bail Amendment Bill currently before the Law and Order Select Committee.

We understand that this Bill deals with, as the RIS states, minor policy and technical modifications to the other statutes mentioned above. But we want to ensure that there is greater coordination by Parliament to ensure a high number of statutory amendments are not rushed through this select committee process without proper democratic debate. We also want to ensure that organisations like The Salvation Army and any other New Zealand citizen has a reasonable amount of time to comment on and challenge any legislative changes.

3.2.2 The Bail Amendment Bill - Following on from point 3.2.1, we acknowledge the Bail Amendment Bill which is also before the house. It is significant that this Bill seeks to amend the Bail Act and then there is a larger Bill also seeking to do the same with submissions due on 29 June.

The promised discussion paper for the Bail Amendment Bill has not yet materialised. Again, these become important questions of coordination and also fairness to the public so that sufficient time and information is available to the public to effectively comment on these legislative changes.

3.2.3 Growth of Justice and Corrections areas - We believe it is a major cause of concern that in fiscal terms, the Justice and Corrections sectors in our nation are growing at such rapid rates. We are very happy that community sentences are becoming more of a viable option for the Courts because the fascination with custodial sentences in New Zealand is alarming.

3.3 We understand that this Bill is highly technical and aims to improve the administration of community sentences because of issues around interpretation and clarity of the legislation. The Regulatory Impact Statement (RIS) does a good job detailing the close to fifty policy and technical amendments to the Sentencing, Parole and Bail Acts.

Overall, we support the implementation of these policy and technical changes. We want a system where the administration of community sentences and orders is effective, efficient, beneficial to all parties and effective in reducing recidivism and re-offending. Most of these changes are common sense and will ideally lead to greater clarity in the interpretation and application of these statutes in practice.

In terms of the actual changes to the legislation highlighted by this Bill, some of our specific comments are as follows:

3.3.1 Sentencing Act 2002

3.3.1.1 Policy Changes

- We strongly support the requirement of pre-sentence reports. We believe they need to be well informed and detailed

enough to provide solid advice to the sentencing Judge and those administering the sentence. These assessments need to be of high quality.

- Indeed clarity is needed around what happens to a community sentence for those on home detention sentences if they are subsequently sentenced to prison.
- Further clarity is needed around multiple non-custodial sentences being imposed so they are consistent with each other.

3.3.1.2 Technical Changes

- The maximum length of community sentences must be clarified and the lengths set must be informed by practice.
- We agree that clarity is needed around sentences if there is non-compliance. However, care should be taken here to ensure that community sentences are stopped for full non-compliance rather than any arbitrary matters. We believe proper investigation is needed by Parole Officers before any sentences are stopped or restarted.

3.3.2 Parole Act 2002

3.3.2.1 Policy Changes

- We recommend that the residential restriction reports are comprehensive and made available to all parties involved with the person serving the sentence.

3.3.2.2 Technical Changes

- We fully support the restoration of victims' rights at Parole Board hearings. We also believe both victims and offenders need to continue to be well supported during this process. The Army believes strongly in the power and practice of restorative justice where rehabilitation and reconciliation are promoted.

3.3.3 Bail Act 200

3.3.3.1 Policy Changes

- We support that home detention can continue while appeals are lodged. However we believe caution is needed here. The Minister of Corrections, in launching this Bill, remarked that home detention should continue in these cases *if* the person poses a risk to public safety. The determination of the level of public risks can not be made arbitrarily and ad

hoc to keep offenders on home detention for no proper reason. The Parole Officers and others involved in the case must make these assessments and decisions based on real evidence available to them.

- The Bill also states that if electronic monitoring is a condition for either release or another community sentence, the offender must remain within an area defined by the Parole Officer. While we support the theory behind this, in practice, people can be very transient in nature. The offender might possibly not be from that community and therefore not have any strong and positive support networks in that area. Forcing them to remain there might be more detrimental than positive. Caution is needed here.

4. CONCLUSION:

In closing, we would like to make a short comment on community sentences and orders in general. We are supportive of processes like community sentences and home detention.

Processes like community sentences that aim to keep offenders out of prison who essentially should not be there and who can have their sentences dealt with in the community must be supported and used more by the Department of Corrections. The Ministry of Justice stated that 23 per cent of those on home detention in 2009 were reconvicted in the following 12 months. Conversely, 52.6 per cent of those who served a custodial sentence in 2009 were reconvicted in the following 12 months. Over the last 4-6 years, recidivism rates in New Zealand have remained largely constant. Additionally, community sentences are significantly more cost-effective for our nation. Having someone on home detention is around \$60.00 of taxpayer's money per day. Keeping someone in prison costs about \$250.00 per day for taxpayers.

Community sentences can work when their administration is handled well. They can also work when there is strong collaboration between the Department of Corrections and Parole Officers with community groups like The Salvation Army who work with those serving these sentences.

Consequently, we thank the Law and Order select committee for the opportunity to comment on this Bill. God bless you.

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