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# **Case Resolution and Rehabilitation Programmes in Aotearoa New Zealand**

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## **PART 2 OF A BRIEFING NOTE SERIES** by Vincent Wijesingha, PhD

*This Briefing Note is the second instalment of a series of three being issued over three months. The series began in Briefing Note 1<sup>1</sup> with an exploration of some fundamental questions in criminal justice policy and will culminate in a set of policy approaches. The present note will survey some current resolution and rehabilitation programmes observed through the lens of the fundamental questions explored in Briefing Note 1.*

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**Whāia te iti kahurangi, ki te tuohu koe, me he maunga teitei.<sup>2</sup>**

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### **Introduction**

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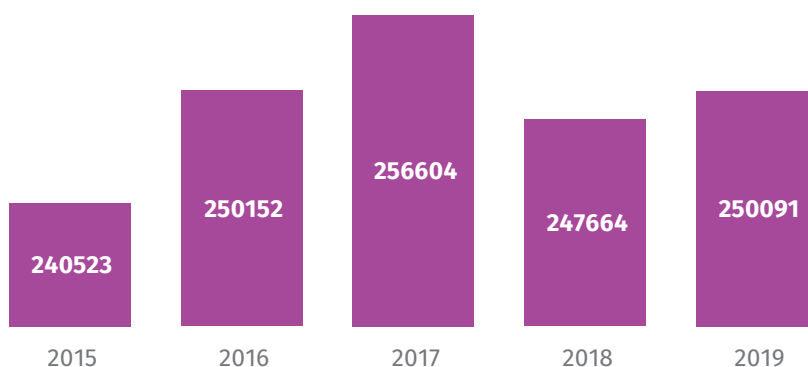
There is a strong link from poverty and inequality to their effects, among the important ones being crime<sup>3</sup>. Those who encounter inequality are likely to be intimately aware of it: for them it is a daily reality. 130 years ago, American human rights advocate Frederick Douglas, said, 'where justice is denied, where poverty is enforced, where ignorance prevails, and where any one class is made to feel that society is an organized conspiracy to oppress, rob, and degrade them, neither persons nor property will be safe'.<sup>4</sup> Research is catching up with this view.

As I noted in Briefing Note 1, while the vast majority of New Zealanders did not experience crime in the year to June 2018, successive public perception surveys show New Zealanders believe crime is rising.<sup>5</sup> In the two decades to 2012 crime rates had, in fact, fallen while prison rates increased markedly.<sup>6</sup> However, in the last five years, there has been some reduction in overall numbers on remand, or serving a prison or community sentence (see graphs below). However, a relationship between corrections and victimisation numbers is difficult to make out without further analysis<sup>7</sup>.

Crime figures are affected by the actual crime rate, whether crimes are investigated and resolved, and how long offenders remain in the justice system.<sup>8</sup> All of these are policy issues and can have a significant impact both on the number of crimes processed through the system and on public perceptions. Furthermore, the sociological factors that lead to crime suggested above are independent of crime statistics but have a deep impact on the extent of crime. And to close the perception loop, the general attitude to crime, whether founded on statistics or not, influences criminal justice policy.

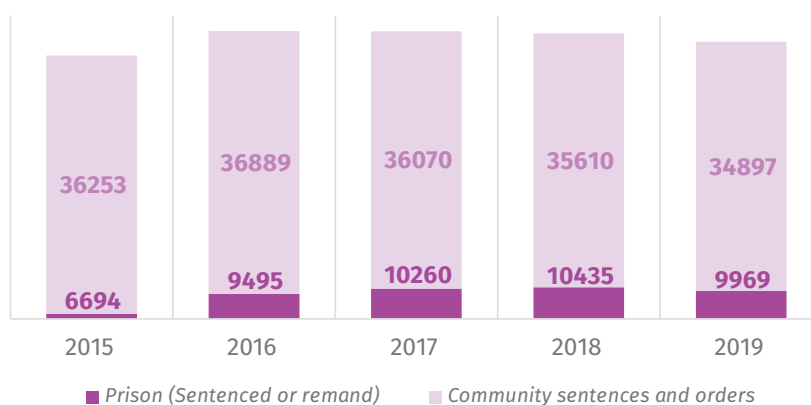
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## Total victimisations



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## Sentencing Outcomes 2015–2019



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In Briefing Note 1, I suggested that crime is broadly a social rather than moral problem. Additionally, it is mediated by neuropsychological deficits that are partly genetic and partly impacted by historical outcomes. (Please refer to the Glossary at the end of this paper for technical terms.) I implied that the effects of colonisation (and, I could add, of economic structures that generate inequality) have played an important role in the problem of crime. Both colonialism and capitalism (which are closely linked) have promoted a sense of alienation of persons from their histories and communities resulting in damaged personalities and damaged worldviews that are also correlated with crime.

No doubt the data on which these arguments are based are open to alternative readings. However, there is a sufficient body of knowledge supporting a socio-historical evaluation of crime: it is this framework I will deploy in this paper. Wilkinson and Pickett, for example, in their ground-breaking 2009 book, showed how violent crime is more widespread in unequal societies while others have shown the relationship between alienation and crime<sup>9</sup>. Wilkinson and Pickett argue that inequality is socially corrosive: there is no stronger evidence of social corrosion than in the levels of crime and violence (or, indeed, of addictions which are also a key factor in offending).

In this second Briefing Note instalment, I propose to tentatively generate a narrative of crime based on the survey of the literature contained in the previous Note. I speak of narrative rather than theory because it is beyond my competence to produce a comprehensive theory of criminogenics. My objective is to provide

a useful framework that can be applied to a survey of case resolution and rehabilitation methods in use in New Zealand. In doing so, I hope to evaluate optimistic lines of policy development, particularly as might be indicated by successful programmes currently in use.

I shall develop my narrative based on an evaluation of certain criminal justice programmes currently in use in New Zealand. In doing so, I hope to explore some general principles that may be applied to proposals for reform. In Briefing Note 3, I shall explore how these proposals might work in practice.

### ***Exploring what works: a case study of need***

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Assuming that crime is a socio-economic phenomenon (with historical features), how do we approach the needs that are thrown up by those who commit crimes? What are the factors that promote criminal propensities? In my view, an understanding of these factors is essential. With them, justice programmes can be developed (including pre-crime social conditions and post-sentence rehabilitation) that weaken the influences that propel someone into a life of crime. Without them, we continue to flounder in the dark of assumption, prejudice, and media spin.

We saw in Briefing Note 1 that crime is largely a socio-economic phenomenon for both offenders and victims. A third of New Zealand's community were victimised by crime in the year to September 2018. Victims showed characteristics similar to the typical offender, leading to the conclusion that crime is a phenomenon contained in fairly defined socio-economic clusters. Among the factors present in these clusters are:

- Severe socio-economic deprivation characterised by living in poverty and areas of high deprivation
- Deficit parenting including at the prenatal stage
- Poor (or sexually abusive or violent) interpersonal relationships including the experience of murder or suicide of someone close
- School problems and/or deviant peer relations
- Health issues such as traumatic brain injury, mental health, or health-related behaviours such as addictions or problematic drug use
- Illiteracy

These could be described as crime “push factors” in that they encourage the development of anti-social behaviours and value systems which, when in contact with deprivation and hopelessness, almost guarantee the likelihood of criminal behaviour. The anecdotal evidence is filled with narratives of men and women who, when they come into contact with the justice system, are more than likely to remain in or return to it, resulting in New Zealand's high recidivism rate (about half of those released from prison in 2016-17 were reconvicted within 12 months while a quarter of community-based offenders were reconvicted within a year of beginning their sentence<sup>10</sup>).

Therefore, there is some way by which, when push factors are activated<sup>11</sup> (resulting in people entering the criminal justice system), a high proportion of offenders become locked in the criminal justice system. This was shown to be the case in Nadesu's early report on reoffending (2008)<sup>12</sup>, the Ministry of Justice's 2018 report on youth offending<sup>13</sup>, and also in the American government's report on recidivism in that country in 2016<sup>14</sup>. Among the findings of that report are if you are younger, with less education, and from an ethnic minority, you are more likely to be rearrested or reconvicted; such persons are likely to be rearrested within two years of release.

In this context, I would also like to highlight the disproportionate number of Māori women who are in prison. *He Waka Roimata* puts it at 63% percent of the total women's imprisonment. It notes that, in addition to the general racism evident in the criminal justice system<sup>15</sup>, Māori women experience additional layers of discrimination and oppression in the form of family violence, sexual assault, and other discriminations. However, given the greater number of males in the criminal justice system, the needs of women are less likely to be adequately identified, resulting in criminal justice approaches and programmes that do not meet their needs. This is an area in need of urgent research and evaluation especially when we notice that recent work on criminal justice has not adequately represented the needs of women<sup>16</sup>.

Certain policy implications around educational achievements among young ethnic minority people are indicated by these findings. Additionally, the Ministry of Justice's youth offending report shows there are higher rates of reoffending in the poorer or more deprived regions of New Zealand and the highest type of offences are those called 'against justice', defined as 'escaping lawful custody; resisting police; breach of bail; obstructing police; failing to furnish name and address' (p. 24). This paints a picture of young (previously-sentenced) people coming into new conflict with the police as a result of their previous conviction.

The findings of the Justice Advisory Group's work, reported in *He Waka Roimata*<sup>17</sup>, suggest additional challenges in the justice process that may be among the factors that also produce recidivism. These include court processes that are confusing and alienating with accused feeling they are treated in a inferior way by court officers. Other challenges expressed in the report include:

- Problems of an adversarial system that promotes a win-lose as opposed to fact-finding environment
- Insufficient or less than high-quality legal representation in court and poor support for vulnerable defendants (such as young people, those without adequate English, those with a mental health conditions, etc)
- Procedural delays associated with underfunding leading to long trials
- Access issues, including cultural deficits in probation and pre-sentencing reports as well as sentencing decisions<sup>18</sup>

In addition, our justice system seems to be slow in catching up with current thinking on the impact of teenage neurology on anti-social behaviour<sup>19</sup>. We now have sufficient knowledge of brain development in young people to suggest that lower age limit in the criminal courts, the limited range of pre- and post-trial services for them, and a lack of specialist knowledge among court officers is disadvantaging young people who find themselves before the criminal courts. Lindsey Mitchell's 2018 report, *Imprisonment and Family Structure*, provides a comprehensive account of the factors that are experienced by children and young people which make the likelihood of future justice involvement likely<sup>20</sup>.

*He Waka Roimata* also identified problems in the fundamentals of punishment in New Zealand. These include an over-reliance on prison (implying a philosophical commitment to retribution as opposed to rehabilitation). In particular, punishment approaches were ineffective for those experiencing mental health or addictions problems. Additionally, severe punishment for relatively minor offences such as traffic infringements (which has been growing in the last few years) can escalate the individual's corrections career, thus trapping those who might otherwise have responded to more creative programmes.

Where a prison sentence is handed down, other social outcomes follow, such as alienation from family, gradual institutionalisation, and inability to function autonomously when released. While in prison, access to rehabilitation and reintegration programmes is limited or has long waiting lists. Furthermore, a shift to another prison can interrupt a programme and getting onto a programme in the new prison can be subject

to a waiting list. All of these factors contribute to making prison an ineffective solution if the ultimate intention is to produce pro-social ex-offenders capable of functioning appropriately and adequately in society upon their release. They suggest a group of largely young, largely uneducated, largely minority ethnic offenders disadvantaged by their involvement before the courts and not fixed by corrections programmes who are subsequently stalked forever by their status as ex-offenders and, perhaps, themselves hostile to social norms and structures.

Given these factors, a review of criminal justice policy should approach criminal justice involvement at four levels:

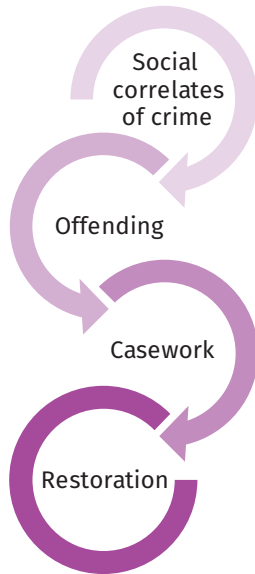
1. Improving public welfare (including economic regeneration) in the communities that exhibit the social indicators identified above
2. Enhancing our trial processes to achieve a more restorative approach to sentencing
3. Developing rehabilitation and reintegration programmes aimed at promoting desistance from crime
4. Developing post-sentence support structures that meet the needs of ex-offenders in ways suggested by desistance perspectives

Some of the features within these four levels that were suggested by the principles identified in Briefing Note 1 include:

<b>Public welfare (including economic regeneration)</b>	<b>Trial processes</b>	<b>Programmes aimed at promoting crime desistance</b>	<b>Post-sentence support programmes</b>
<ul style="list-style-type: none"> <li>• Rapid economic investment to regenerate communities and produce employment</li> <li>• Community facilities designed to inculcate pro-social behaviour</li> <li>• Programmes for NEETs<sup>21</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Gradual replacement of the adversarial court system with an inquisitorial system designed to establish the facts of the case and the factors surrounding the individual offender's life and an appropriate suite of programmes designed to meet that individual's needs</li> </ul>	<ul style="list-style-type: none"> <li>• Promote a casework approach in court processes that explores and meets each individual's specific biopsychosocial needs</li> <li>• Develop programmes which take account of historical as well as current social dimensions of offending</li> <li>• Develop culturally-specific programmes</li> <li>• Encourage regional- and iwi-specific programmes</li> <li>• Foster a culture of rehabilitation and restoration in corrections agencies</li> </ul>	<ul style="list-style-type: none"> <li>• Drastically improve and fund additional post-sentence programmes which also promote a holistic, casework approach to individual ex-offenders</li> <li>• Expand such services to provide wraparound services for ex-offenders</li> </ul>

Generally speaking, what is being proposed is a root and branch review of the criminal justice system in three basic directions grounded in current knowledge about the socio-cultural, historical, neurological-developmental, and physiological correlates of crime:

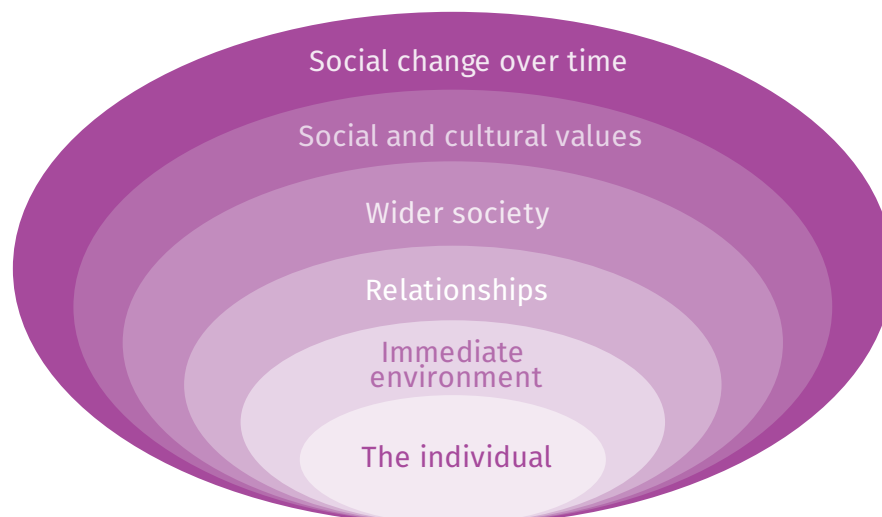
- Moving from adversarial to inquisitorial court processes
- Developing casework-oriented approaches to offender management at trial, sentence, and release stages
- Promoting culturally-specific, regionally-located programmes in both sentence and post-sentence phases.



In effect, what I am arguing for is a justice model that is correlated less with strict legal procedure based in English Law, agency demarcations and funding limitations, political-populist considerations, and one-size fits all models. In line with what *He Waka Roimata* discovered and what successive generations of theorists and researchers have shown, I advocate a model that highlights the link between socio-economic disadvantage and crime, promotes restoration as the societal goal (with the attendant values of compassion and forgiveness as its founding virtues), and a casework approach to offenders. This framework coincides with the desistance approach to offender management.

A word about the concept of *casework* may be useful here. Drawing from the social work field, it describes a way of working with clients (in this case, those charged with an offence, serving a sentence for it, or negotiating the world after their exit from the justice system). At its most basic, a casework methodology promotes collaborative needs assessment leading to service delivery and review<sup>22</sup>. It emphasises

the holistic needs of the specific individual, including those within what Urie Bronfenbrenner calls their ecological system, that is, the multiple and overlapping networks of environments and relationships they are located in<sup>23</sup>. Each of these systems interacts with the others to generate an individual world system and within which the specific deficits that generated his or her criminal propensity and career grew. The potential of the Bronfenbrenner model is that it helps to identify environments and relationships that are positive and could be exploited to produce pro-social behaviour and, ultimately, desistance from crime.



Some of the concepts that drop out of this so-called holistic or systems approach are:

- The offender is approached in terms of a relationship that acknowledges his or her intrinsic value and dignity and well as his or her cultural positioning and needs
- The engagement begins with relationship-building as a prelude to an effective assessment of need
- Approaches to the individual client acknowledge the totality of the offender's needs and the necessity of a holistic approach
- It acknowledges the complexity inherent in the client's life and the possibility that resolution in one area may give rise to unintended (positive or negative) consequences in another
- The assessment builds an evidence-based, coherent, systematic, and dynamic picture of need
- It promotes an evaluation and assessment of useful interventions that are based on the assessment and what research has to say about such needs (it is, therefore, evidence-based)
- It is problem-defined and solution-focussed with a view to adjusting the individual's social circumstances with support to get there
- The ultimate objective is to achieve better functioning and relationships so that desistance from crime is achieved<sup>24</sup>

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Complexity    Research-Led    Support  
Culture    Problem-Defined    Relationship  
Human Dignity    Totality    Solution-Focussed  
Holistic    Relationships    Intrinsic Value  
Better Functioning    Supportive    Evidence-Based

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These principles necessarily require an overhaul of the fundamentals according to which the largely traditional corrections model operates. The innovations would require a massive increase in funding due to the increase in direct casework input with individual offenders. Probation services would require a return to old-fashioned social work principles designed to produce evidence-based assessments of need and case plans which provide or create bespoke programmes tailored to individual offenders. In this context, a genuine conversation would be called for between Corrections and tikanga Māori thinkers and service providers.

Court processes would have to be reshaped to take account of the casework approach – this would necessarily imply additional funding to increase the number and availability of courts and judges trained in the principles of casework and the biopsychosocial model of human functioning. In addition, better knowledge of human development and brain systems would be called for. In summary, what is being



proposed is a bold departure from penal-populist approaches that may meet a certain public satisfaction for punishment—which have the accompanying virtue of being cheaper—in favour of creative approaches more aligned with the facts of criminal offending and their correlates. Justice Stephen Kós, President of the Court of Appeal, painted a similarly bold picture when he addressed the Legal Research Foundation Annual General Meeting in 2018, calling for, among other things, intermediate options between prison and community detention as well as shorter sentences<sup>25</sup>. (The American report quoted above found that someone serving a longer prison sentence is more likely to reoffend subsequently.)

Necessarily, as a jurist, Justice Kós focussed his reform ideas in the sentencing arena. As a social worker, I propose that his suggestions are accompanied at each stage of the justice process with an investigative framework designed not to achieve the win-loss situation promoted by our adversarial jurisprudence but a genuinely inquisitorial process. Ideally, this would produce sufficient information to promote the rehabilitation of the offender. Taking this approach, I find myself in agreement with the principles of desistance theory which, as I outlined in Briefing Note I, are

*“designed to achieve permanent abandonment of offending through a range of interventions that focus on one’s self-concept; modifying perceptions of the desirability or value of crime; improving peer relationships, particularly those that embody antisocial elements; and lifestyle and employment enhancements. These lead to a re-storying of the self made up of a new self identity, personal agency, and faith in one’s own ability to ‘go straight’. Desistance being located in, carried out by, and supported within community promotes prosocial behaviour and provides the offender with a range of resources.”<sup>26</sup>*

While there is a growing range of alternative models of case resolution and rehabilitation programmes available in New Zealand, these are limited and cannot be expected to bear the load of the nation’s entire criminal justice needs. A wider programme that seeks to examine the very fundamentals of criminal justice policy is required if we are to improve outcomes. These would yield benefits for society as a whole and for the offenders and victims of crime who daily experience the worst effects of our highly unequal society that result in the criminal statistics we so rightly deplore.

While ministers are justified in highlighting the specific economic indicators recently reported<sup>27</sup>, deeper questions persist about the most vulnerable of our people and the impact that economic stagnation and poverty are having in their communities. Mahatma Gandhi said in 1931, ‘A nation’s greatness is measured by how it treats its weakest members’. The novelist, Dostoevsky, like Gandhi no stranger to prison himself, wrote, ‘The degree of civilisation in a society can be judged by entering its prisons’. The then Chief Science Advisor, Sir Peter Gluckman, writing in 2018, made an impassioned case for increased resources for offender management on the grounds of these principled views. He also showed that by doing so, we are likely to reduce future expenditure sucked into what he called the “prison pipeline”<sup>28</sup>.

## ***What works and what could work better***

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The above survey should, hopefully, have demonstrated adequately the socio-economic and historical correlates of crime, what I called “push factors”. These factors are then deepened by the unsuccessful rehabilitation experience of offenders in the trial, sentence, and post-sentence phases, in other words, “pull factors”, which disenfranchise offenders and foster reoffending. In addition, growing knowledge of neurological correlates of crime further enrich our understanding of the total phenomenon of criminal behaviour<sup>29</sup>.

Underlying this framework is a prevailing punishment philosophy in our legal system which, when taken together with populist-political pressures, props up a criminal justice system that serves few and increases the insecurity that gives rise to more penal populism. Wilkinson and Pickett have shown that



this results in deep social corrosiveness which itself gives rise to more crime. Evidence suggests that increasing sectarianism and the rise of extremist movements are linked to such corrosiveness<sup>30</sup>. What results is a never-ending loop of alienation and societal dysfunction in a system churning out more and more ex-offenders with little autonomy, few resources, poor relationships, and even poorer self-concept, destined to pivot between deprivation and recidivism.

There is a growing acknowledgment both at home and abroad of these wider considerations in criminal behaviour and its relationship to rehabilitation. To be sure, improvements are being attempted so far as resources permit. But more widespread action based on deeper concepts is possible and necessary. I propose that criminal justice policy should approach reform in three categories: those that address the correlates of criminal behaviour, those that seek to improve court processes, and refining of reintegration programmes (during and after sentence). A summary of potential action areas is contained in the table below:

<p><b>Addressing the correlates of crime</b></p>	<ul style="list-style-type: none"> <li>• <i>Rapid economic investment</i></li> <li>• <i>Increase community facilities</i></li> <li>• <i>Expand programmes for NEETs</i></li> </ul>
<p><b>Improving court processes</b></p>	<ul style="list-style-type: none"> <li>• <i>Inquisitorial system</i></li> <li>• <i>Augment punishment with desistance approaches</i></li> <li>• <i>Better legal representation for dependants</i></li> <li>• <i>Support for vulnerable defendants</i></li> <li>• <i>Expand courts to remove procedural drag</i></li> <li>• <i>Increase neurology knowledge among court officers</i></li> <li>• <i>More creative sentencing options</i></li> <li>• <i>Reduce prison sentences</i></li> <li>• <i>Remove prison sentences for minor offences</i></li> </ul>
<p><b>Refining reintegration programmes</b></p>	<ul style="list-style-type: none"> <li>• <i>Casework approach</i></li> <li>• <i>Programmes that address correlational dimensions of crime</i></li> <li>• <i>Culturally-specific programmes</i></li> <li>• <i>Regional- and iwi-specific involvement in programme design and delivery</i></li> <li>• <i>Foster culture of rehabilitation and restoration in justice agencies</i></li> <li>• <i>Improve and fund holistic post-sentence programmes</i></li> <li>• <i>Wraparound services</i></li> <li>• <i>Remove programme lottery across prisons</i></li> </ul>

## **Surveying the case resolution and rehabilitation space**

Do we find elements of this paradigm shift already present in our case resolution and rehabilitation programmes? In the last two decades or so, a range of alternative case resolution and rehabilitation programmes have been created to cope with the (in some years, alarming) increase in offending. Some have emphasised therapeutic approaches while others developed culturally- enhanced processes and still others formed relationships across the multidisciplinary spectrum (court officers, social workers, youth workers, iwi organisations, health agencies, and community agencies) to improve assessment and wrap-around support.

In the case of the Alcohol and Other Drugs Treatment Court, a more activist bench has played a much more involved role in building and monitoring rehabilitation plans. And yet others, such as the Rangatahi Court and Pasifika Youth Court, have situated conventional court proceedings in marae settings drawing on appropriate cultural protocols. This has incorporated involvement by community elders and family members who are able to instil a sense of personal responsibility and community pride in the person being tried.

Apart from court processes, a variety of support services are emerging that are incorporating more progressive and compassionate approaches to service delivery for various needs. Some services are being delivered which work in a multidisciplinary way or with the involvement of whānau and community. Others have been developed in collaboration with—or led by—iwi organisations which promote tikanga-based modalities. Promising policy options are emerging from the evidence gleaned from these programmes to date. A fully-funded complete evaluation of all such programmes would be extremely beneficial.

Among the initiatives designed to work with people at risk or on the cusp of offending is The Salvation Army's Hauora programme which worked with gang members experiencing drug dependence and addiction. Begun ten years ago, the programme was developed between the church's Alcohol and Other Drugs services and the Notorious chapter of the Mongrel Mob gang. Developed in close collaboration between the two groups, the programme set up a treatment modality that emphasised culturally-appropriate practices with a residential component, whānau involvement, and ongoing aftercare support. An evaluation report found that the programme was successful in reducing or removing drug use among participants.<sup>31</sup> Success factors identified in the evaluation (originated by the Ministry of Health) were close collaboration between the stakeholders in developing the programme, whānau and community involvement, a service tailored to the specific needs of the client group, the use of tikanga elements, and the existence of aftercare support and monitoring.

Other programmes seek to intervene at the pre-trial stage. The Matariki Court, which has sat in Kaikohe since 2010, is one such example. Its process is to deliver a culturally-appropriate rehabilitation programme before the defendant goes to court for sentencing. The Waikato University website noted<sup>32</sup> that the court has been successful, but I have not been able to find a full evaluation. A similar pre-trial programme is the Iwi Community Panel, launched in 2010, to provide a restorative justice platform based on tikanga principles. Its ambit is low-level offences. The objective is to address the impact of the offence. Where a mutually-agreed intervention programme is completed, the defendant is diverted from the court process. According to the police, the programme has had 80 percent success measured in terms of defendants completing their programme<sup>33</sup>.

Similarly successful outcomes have emerged from the New Beginnings Court (2010) which tries defendants who are homeless<sup>34</sup>. Another service is Mahuru, a remand service developed by Ngapuhi in collaboration with Oranga Tamariki. This service, which provides an assessment of a young person who has been charged, offers a comprehensive assessment, provides a residential caregiver and wraparound services with a view to diverting the young person from further offending<sup>35</sup>. The Christchurch Youth Drug Court (2002) has operated on a similar philosophy, motivated by the growing awareness of alcohol and other drugs as a factor in youth offending, aiming to identify this early and provide services as a diversionary tactic. Early evaluation, although with a small cohort, was positive<sup>36</sup>. However, I am not aware if this service is ongoing.

Two formal court processes that have been subject to formal evaluation are the Alcohol and Other Drugs Treatment Court (2012)<sup>37</sup> and Rangatahi Court (2008)<sup>38</sup>. Procedures are shaped according to tikanga protocols including sitting on marae with the use of Te Reo Māori and the involvement of the whānau and community. Evaluation reports have suggested that these forums are successful in meeting the objectives of rehabilitation and restoration. A similar approach has been used in the development of the Pasifika Youth Court<sup>39</sup>, although, to my knowledge, no formal evaluation has taken place.

A detailed assessment of the findings of the various evaluation reports referred to above is beyond the scope of this paper. However, some common themes emerge:

1. Programmes developed in collaboration with stakeholders and incorporating community and whānau into programme delivery, thereby obtaining commitment and buy-in.
2. Strong relationships developed among the community and multidisciplinary professional network including judges who take an active therapeutic-judicial role in the proceedings.
3. The incorporation of the wisdom of community elders in the process.
4. Deploying meaningful cultural protocols and community languages into processes.
5. Support for the client throughout the process and ongoing support and monitoring (as well as wraparound where needed) to achieve reintegration and sustained progress.
6. Programmes are diversionary in their focus, designed to remove the crime correlates and promote desistance.
7. The methodology of the programmes is exploratory and evidence-based, designed to discover the roots of the client's challenges in order to generate an intervention package tailored to the specific needs of the client.
8. Programmes are developmental in character, thus allowing for review and upgrading.

When looked at in the round, these themes indicate certain value principles. These are a respect for the client as a human being full of dignity and capable of change and improvement. This inculcates a respect for their culture and language and the inclusion of their community and network in the process. They are casework-oriented, thus allowing for tailored services that meet specific needs. They emphasise compassion and a belief in the client's ability *and desire* for change. And finally, and perhaps most importantly, they are therapeutic in character rather than retribution- or punishment-oriented.

In August 2016, Judge Louis Bidois, one of the judges of the Rangatahi Courts, spoke at a Tackling Poverty NZ Workshop, hosted by the McGuinness Institute in Rotorua. Judge Bidois spoke of handing down to a young defendant before him the "sentence" of going away and learning his whakapapa in order to recite in on the marae. When the young man returned to the marae to recite his pepeha, the judge noticed that he stood somewhat taller and more confident. This, he said, was the meaning of tūrangawaewae. I believe in that one moment, what Judge Bidois noticed were the principles I listed above being materialised in the life of a young man suddenly connected to his culture and ancestry and profoundly aware that he was a being capable of change, of improvement, of soaring towards restoration and achievement. But sadly, Judge Bidois noted, poverty of spirit, of hope, of opportunity, and cultural identity continue to plague our most vulnerable citizens. Among the repertoire of solutions our society desperately needs is a justice system better aligned with our knowledge of human development and motivation underscored by cultural values and a commitment to the belief in the ability of the offender to grow and change.

## Concluding remarks

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This brief survey of some principles that emerge from an exploration of criminal propensities and their correlates provides a snapshot and agenda for a review of our criminal justice system. In carrying out the research for this paper, I have been struck by the volume of research that has been produced over the last twenty or so years. It all seeks to penetrate into some of the fundamental issues that are thrown up by the phenomenon of crime, particularly by (a) applying the findings of current scholarship, (b) drawing on the philosophical insights within Te Ao Māori, and (c) evaluating bold and imaginative programmes emerging from within the courts, corrections space, and community sector.

A broad evaluative literature has emerged, providing powerful evidence, and therefore impetus, for reform. Advocates and practitioners of reform, far more eloquent than this author, have shown how collaborative approaches that emphasise the dignity of the individual offender are able to generate outcomes of such promising optimism that they merit far greater evaluation, research and mainstreaming.

However, standing alongside the reform project—as we eagerly await the publication of the Justice Advisory Group’s second report—are the fears of a wider public reluctant to depart from the penal approaches of past times. This is entirely reasonable: the fear of victimisation sits at the heart of modern urban societies, producing suspicions, isolations, and sectarianisms which, in turn, foster further insecurity and fear, as Frederick Douglas predicted.

But, on the other hand, it is entirely possible to both imagine a better world and draw on our phenomenal knowledge and shared humanity to pursue it. At the root of this project is the urgent attention that must be paid to the vast disparities of wealth and opportunity that are the result of decades of political-economic programmes which have emphasised the individual at the expense of the community and which, Wilkinson and Pickett have shown, give rise to the social corrosion that is the unforgiving locomotive of crime and despair.

Ultimately, it is up to us as a community, and especially the 71 percent of New Zealanders who were unaffected by crime in the previous year, to inform ourselves of the phenomenon of crime so that we can join the practitioners of restoration in promoting to the policymakers more equitable, sustainable, and compassionate programmes for reform. In the final instalment of this Briefing Note series, I hope to show how we might do so.

## Glossary

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<b>Access</b>	Ability to get services and supports without interference, interruption, or delay.
<b>Activist bench</b>	Judges who take an active approach to the holistic needs of the offender rather than just applying the law.
<b>Adversarial</b>	A way of running court trials where the parties present the best available evidence to win or lose the trial. This is the standard approach in New Zealand.
<b>Aftercare</b>	Services provided after an offender exits his or her sentence to assist their rehabilitation and reintegration.
<b>Alienation</b>	Process resulting in the feeling or attitude of being separated from one's inner self, family, social or tribal network, or nation; often suggesting the alienated person does not conform to the agreed values, beliefs, moral systems, laws, customs, or social practices of the group.
<b>Anecdotal</b>	Information that is widely believed but has not been researched yet (this does not necessarily mean the information is wrong, just unconfirmed).
<b>Anti-social</b>	Behaviour or attitudes that are different to those held by the group and which (usually) cause discomfort or harm to others.
<b>Assessment</b>	Process of interaction between professional and client so as to build a picture of the client's life and needs.
<b>Biopsychosocial</b>	Refers to humans as whole beings with physical, emotional, and community aspects to their character and personality.
<b>Body of knowledge</b>	Written and spoken information about a particular topic.
<b>Brain development</b>	Understanding that the brain grows and changes through life (especially in childhood and youth) and recognising that this causes changes in behaviour and thinking.
<b>Capitalism</b>	Economic system based on private ownership of resources where resource owners employ others (who do not own these resources) to produce goods and services which are then sold at a profit in regulated markets with the profit going to the owner not the employee.
<b>Case resolution</b>	Trial or pre-trial processes to deal with a criminal charge.
<b>Casework</b>	Working with offenders in a way that meets their specific needs by using good assessments of need based on a relationship between professional and client.
<b>Collaborative / Collaboration</b>	Working in a way that promotes partnerships with the client (together with their networks) and other professionals.
<b>Colonisation</b>	Historical process whereby a group of people (usually from a different territory) take control of another group which is usually indigenous to the land and, over time, impose their values, beliefs, moral systems, laws, customs, and social practices on the colonised group to their disadvantage. Colonisation refers to the formal historical process by which this happens as well as the outcomes experienced by the colonised group.
<b>Comprehensive</b>	Dealing with all aspects (or all that are known) of something.
<b>Correlates (of crime)</b>	Factors which may have an impact on someone's vulnerability to criminal behaviour.
<b>Crime</b>	Action or failure to act which is classified in legislation as an offence and punishable by law.
<b>Criminogenics</b>	Study of the nature of the causes and outcomes of crime.

<b>Culturally-appropriate</b>	Services or programmes that are shaped in ways suitable to the personalities of people from a specific community.
<b>Culturally-enhanced</b>	Processes of services or programmes shaped in ways that emphasise the practices of a specific community based on its values, traditions, and customs.
<b>Culturally-specific</b>	Services or programmes that are shaped in ways that are deliberately aimed at a specific community because they are based on their values, traditions, and customs.
<b>Culture</b>	Language, knowledges, religion, music, arts, literature, cuisine, and attire of a group and the beliefs or values behind them; also refers to the interaction between and within groups that update or produce new cultural forms.
<b>Data</b>	Information obtained from research that help explain a social experience.
<b>Deficit</b>	Shortage of something (for example, a “parenting deficit” means that the parenting style is not enough to produce a well-functioning person).
<b>Deprivation</b>	State or experience of not having basic living requirements.
<b>Desistance</b>	Providing resources and education to help someone stop offending by making a life without offending better.
<b>Developmental</b>	Process that allows for evaluation and review leading to improvement.
<b>Discrimination</b>	Treated in a negative way because of a personal characteristic (eg. being a woman, youth, ethnic minority, etc).
<b>Disparity</b>	Significant difference between the resources of individuals, communities, regions, or countries.
<b>Diversion</b>	Programme designed for an offender to avoid a formal sentence, a formal trial process, or be on remand while awaiting their trial.
<b>Drug (dependence and addiction)</b>	Drugs refer to any psychoactive substance which is illegal (for the purposes of offending). Dependence refers specifically to the physical need for a substance and is characterised by tolerance and withdrawal. Addiction is both physical and psychological, showing changes in behaviour. In this case, use of the substance becomes the main priority for the individual.
<b>Dysfunction</b>	Poor functioning of a social group or individual person, often leading to further deprivation.
<b>Ecological</b>	Referring to the various areas of one’s life and how they interact with others across time.
<b>Economy / economic</b>	Arrangements within which individuals produce and exchange goods and services.
<b>Evaluation</b>	Studying something to make a judgment about whether it is good or bad.
<b>Evidence-based</b>	Way of working with clients that grows from the specific facts of the client’s life and not assumptions about how the client is expected to behave.
<b>Factor (in offending)</b>	A thing which may have an impact on or contribute to something else, in this case, offending.
<b>Function</b>	Live with personal self-control, able to contribute and achieve.
<b>Genetic</b>	Relating to human genes and how they influence or determine behaviour.
<b>History</b>	Course of events over time as well as methods of discovering, recording, and interpreting them.



<b>Holistic</b>	Way of working that tries to address all the needs of the individual specific to their own personality resulting in programmes tailored to that individual.
<b>Human development</b>	Study of how humans develop and change over time. (Can also refer to the resources we agree each individual should have to maximise wellbeing.)
<b>Inequality</b>	Significant difference between the resources of different individuals, families, and communities (that may or may not be the result of public policies) leading to different outcomes which impact on the ability to achieve wellbeing.
<b>Inquisitorial</b>	A way of running court trials where the parties (and all other court officials) try to discover the overall story in the case in order to achieve both fairness and the most effective way of dealing with the defendant.
<b>Institutionalisation</b>	Harmful effects such as alienation, loss of independence, or loss of motivation that can result from being in an institution over a period of time.
<b>Interpersonal</b>	How two or more people relate to one another.
<b>Lottery, programme</b>	Availability and quality of services for offenders dependent on where they are currently living.
<b>Methodology</b>	Way of doing something, sometimes including the principles or theories that guide it.
<b>Modality</b>	Similar to methodology but emphasising the principles or theories that guide it.
<b>Moral</b>	That which relates to the factors that explain right and wrong behaviour.
<b>Multidisciplinary</b>	Working with other professionals in ways that use the theories, practices, and values of a range of professions (eg. corrections practitioners, social workers, therapists, alcohol and other drugs practitioners, etc).
<b>Narrative</b>	Selection of ideas (together with supporting data) that offer an explanation of something without being a complete theory.
<b>Neurological-developmental</b>	Referring to how what happens in the brain can affect an individual's physical, intellectual, cultural, social, spiritual, and psychological development.
<b>Neurology</b>	Relating to what happens in the brain.
<b>Neuropsychological</b>	"Neuro" means the processes that happen in the brain and "psychological" refers to the mental and/or emotional states of a person: therefore, the full word describes the interaction between brain processes and how they make a person feel or think.
<b>Offender management</b>	Procedures and practices used to work with offenders from the time they are charged to post-sentence support.
<b>Opportunity</b>	Ability of an individual, family, or community to obtain resources required for their wellbeing.
<b>Oppression</b>	Experience of being discriminated over a long period of time, usually resulting in powerlessness and deprivation of their culture.
<b>Paradigm shift</b>	Change in the way we think about something that causes a shift in how we carry out an activity.
<b>Penal approach</b>	Criminal justice approach that ranks punishment as more important than rehabilitation, reintegration, and restoration.
<b>Penal-populist</b>	Approach to criminal justice that emphasises punishment as the most popular choice of the public.
<b>Perception</b>	Beliefs and attitudes that result from from one's worldview.



<b>Phenomenon</b>	Something that we see existing or happening.
<b>Physiological</b>	Relating to the body and its processes.
<b>Plan</b>	Written document coming out of a casework approach outlining an intervention programme for an individual offender.
<b>Policy</b>	Programme of action together with a guiding theory, evidence base, impact assessment, timescales, and evaluation criteria produced by a body such as government agency, public organisation, or private establishment, whether for public benefit or private profit.
<b>Political-economic</b>	A holistic way of describing government policy that recognises a relationship between the political and economics aspects.
<b>Poverty</b>	Having limited living resources (due to income or other factors) that result in poor health, diet, education, leisure, or security.
<b>Pre- and post-sentence</b>	Supports for offenders while they are waiting for trial and after they have completed their sentence.
<b>Predisposition, criminal</b>	Certain factors that make an individual more likely to engage in criminal behaviour, for example, risk-taking behaviour which is believed to be a genetic factor in boys.
<b>Pre-trial</b>	Period before a case comes to court for trial; can also refer to a programme delivered in this period and which may decide whether the offender has to stand trial.
<b>Principle</b>	An idea or belief that supports a particular action or way of thinking.
<b>Problem-defined</b>	Way of working that aims to discover the challenges a client faces.
<b>Procedural delay</b>	Interruptions caused by various official requirements that cause administrative or legal decision-making to take a long time.
<b>Programme</b>	Specific package of activities offered in response to a problem.
<b>Propensities, criminal</b>	Influence, pressure, coercion or other factor/s that induce, encourage or persuade a person to commit a crime particularly where they are beyond the control of the individual.
<b>Pro-social</b>	Behaviour or attitudes that are important to the group and which (usually) help to improve relationships across the group.
<b>Protocols (cultural)</b>	Practices that are aligned with the customs and procedures of a specific community.
<b>Public welfare</b>	Resources that help the members of a community to live well.
<b>Punishment</b>	Giving someone a penalty for something they have done (often used against the ideas of rehabilitation and restoration).
<b>Recidivism</b>	Committing another offence after having been convicted for something previously.
<b>Rehabilitation</b>	Programmes aimed at helping the offender to build a better life that helps him or her stop offending.
<b>Reintegration</b>	Programme which helps someone to reduce alienation and become part of their community again.
<b>Restoration</b>	Process of building the life resources a person needs to become a well-functioning member of society.
<b>Retribution</b>	Principle of vengeance in criminal law.
<b>Social</b>	That which relates to or emerges from groups of people living together in a particular location.

<b>Socio-cultural</b>	<i>Using social or cultural factors to explain something, and generally implying that each has an impact on the other to produce an explanation that incorporates both social and cultural elements.</i>
<b>Socio-economic</b>	<i>Using social and economic factors and the interactions between them to explain outcomes over time.</i>
<b>Socio-historical</b>	<i>Developing an understanding or explanation of social arrangements from historical events.</i>
<b>Solution-focussed</b>	<i>Way of working that aims to discover the programmes that would work best for a particular client.</i>
<b>Theory</b>	<i>System of ideas forming a coherent and logical structure used to explain or interpret something, usually developed alongside data generated by research which is accounted for in the system.</i>
<b>Therapeutic (approach)</b>	<i>Working in a way that addresses the underlying causes, influences, or motivators of offending rather than just punishment.</i>
<b>Therapeutic-judicial</b>	<i>Judicial process (eg. a court case) where the role of the judge extends to considering the holistic needs of the defendant.</i>
<b>Value principle</b>	<i>The idea inspiring an action which emphasises the idea we consider to be worthwhile.</i>
<b>Victim/isation</b>	<i>A victim of crime / whatever relates to the issue of victims.</i>
<b>Worldview</b>	<i>Personal way of understanding and interpreting the world shaped by one's history, culture, upbringing, education, and social relations.</i>
<b>Wraparound</b>	<i>Services for offenders that try to address all of their needs at the main times of vulnerability.</i>

## Endnotes

- 1 Available at <https://www.salvationarmy.org.nz/article/reconsidering-aotearoa-new-zealand-criminal-justice-policy-model>.
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- 11 I realise the word *activated* suggests a definite causal link which I must acknowledge is too deterministic: I use it only to note a correlation between the push factors and criminal involvement without implying that such a link is, in fact, causal. In this context, it should also be noted that reference to genetic, neuropsychological (ie. brain), socio-cultural, or historical *deficits* are not intended to imply that certain people exhibit criminal propensities or have a predisposition to criminal behaviour. I am simply drawing on research which suggests that where such deficits are present in an individual's life, their vulnerability to entering the criminal justice system is increased. Furthermore, these vulnerabilities can be deepened for individuals who experience multiple and prolonged life challenges.
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## About the author

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Vincent Wijeyasingha has been an analyst with the Social Policy and Parliamentary Unit since July 2018. He originally trained as a social worker and subsequently took a doctorate in social policy from Sheffield University in 2002. He works on criminal justice policy and drug reform, and has research interests around the contradictions of welfare policy in a neoliberal state and in what indigenous epistemologies and value systems can teach us. Of Sri Lankan, Malay, French, and Irish ancestry, Vincent's family has lived in Singapore for several generations. In his own time, he is working on a book about a government sting operation against Singaporean activists in the 1980s.

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