

Law and Order Policy: Prisons

Reforming Our Prisons

INTRODUCTION

At present, 43% of prisoners (and 65% of prisoners under 20) re-offend within a year of release.¹ For too many criminals, a prison sentence is not an end to their offending – just an enforced career break.

It is a waste of resources to let offenders serve their time without challenging them to change their behaviour, only to release them and throw them back into prison again when they reoffend.

That will mean more victims.

If we want to reduce crime rates, imprisonment should not be seen only as a punishment, but also an opportunity to rehabilitate a captive audience through work, drug, and alcohol treatment, and other programmes that offer alternatives to a life of crime.

Rehabilitation carries some cost, but this must be put into the context of the half-a-billion-dollar overspend on the construction of four new prisons by Labour, or the \$9.1 billion that Treasury estimated to be the total cost to society of crime committed in 2003/04 (or 6.5% of our GDP)².

And not all will be able to be rehabilitated, or want to be. But for those who do, we can do more to help them and make New Zealand safer in the process and reduce the number of victims of crime in our society.

The past decade has seen New Zealanders' confidence in the Corrections Department seriously challenged. There

¹ Arul Nadesu, *Reconviction Patterns of Released Prisoners: A 36-months Follow-up Analysis*, Department of Corrections, March 2007

² Tim Roper and Andrew Thompson, *Estimating the Costs of Crime in New Zealand in 2003/04*, Treasury Working Paper 06/04, July 2006, p.3

have been too many examples of poor management, and of Corrections acting without the necessary regard for the safety of the public. This must change.

There is also widespread public skepticism resulting from facilities such as under-floor heating and flat screen televisions now available to prisoners, especially in the new prisons. The National Party believes prisoners should be treated humanely, but that prison facilities should be in keeping with public expectations, reflecting the fact that prisoners are paying a debt to society.

MORE PRISONERS WORKING

Work has a value beyond the immediate financial reward: it imparts self esteem, discipline, and social networks.

Less than half of all prisoners are in paid employment before entering prison,³ and once they're inside it's a similar story: currently half participate in "employment-related activity".⁴ Although this is an increase on recent years, the average working week per inmate in the coming year will be only 15 hours,⁵ lower than the average of 18 hours in 2002.⁶ In other words, though more prisoners may be working, they are working less.⁷

This falls well short of section 71 of the UN Standard Minimum Rules for the Treatment of Prisoners: "*Sufficient work of a useful nature shall be provided to keep*

³ David Harpham, *Census of Prison Inmates and Home Detainees 2003*, Department of Corrections, 2004, p.34

⁴ Hon. Phil Goff, 'Half of all prisoners now in work or training', press release, 18 September 2008

⁵ Using the forecast prison muster of 7,977 for October 2008 (Jason Wang, *Justice Sector Prison Population Forecast 2006: Technical Report*, Ministry of Justice, July 2007)

⁶ Parliamentary Question for Written Answer 2802(2006)

⁷ As Phil Goff said back on 11 Oct 1994 "*Why is it that, on average, prisoners in our jails work 17 hours a week when we know that sort of lifestyle is totally counterproductive to rehabilitation?*

prisoners actively employed for a normal working day.”

The type of work also varies. In 2006/07, half of those prisoners working were engaged in “self-sufficiency” activities (laundry, cleaning, kitchen, maintenance), constituting 65% of the total work hours.⁸ This work may keep prisoners occupied, but it is the **Corrections Inmate Employment (CIE)** scheme that is more focused on industry-based work that enables prisoners to gain trades qualifications.

In 2006/07 the number of CIE hours was 3.2 million, an average of 38.6 hours a week for those on the scheme, but this simply brought it back to where it was five years earlier. In the intervening period the number of hours had dropped to 2.8 million a year.⁹

This under-investment is continuing to have an effect. Although CIE hours are increasing to 4.1 million in the coming year, the failure to keep pace with the rising prison population will see the average working week drop from 38.6 hours in 2006/07 to 30.8 hours. In February 2008, 26% of prisoners were engaged in CIE (ranging from 5% to 37% depending on the prison), the same percentage as in 2004.¹⁰

National will:

- Boost the number of prisoners learning industry-based skills through Corrections Inmate Employment by 1,000 prisoners by 2011.

The estimated cost will be \$7 million,¹¹ and will lift the number of prisoners in CIE to more than 3,500.¹²

⁸ Department of Corrections, ‘Prisoner Employment Strategy Implementation Plan 2006/07’, 13 November 2006, p.5

⁹ Department of Corrections, ‘2008/09 Estimates Examination – Additional Supplementary Questionnaire’, Answer 39; Parliamentary Question for Written Answer 2799(2006)

¹⁰ Parliamentary Question for Written Answer 430(2008), 1601(2008), 2799(2006)

¹¹ Based on a net Crown contribution after other revenue is accounted for.

The cost of CIE is offset by two-thirds by revenue from what is produced. There is scope for further discussion with private companies about work programmes, provided they do not displace other business or workers outside prison. Work programmes that involve the private sector are more likely to provide relevant and enduring skills for prisoners, and help them find work after release.

National will:

- Talk to private companies about opportunities for meaningful work and training for prisoners.

Although prisoners are paid between 20 and 60 cents per hour,¹³ CIE contracts are based on industry norms and market labour rates. National will not increase the amount paid directly to prisoners, but a portion of an inmate’s nominal wages could be diverted into victim reparations. This reinforces the link between honest work and reward.¹⁴

National will:

- Investigate whether money earned from inmate labour could be directed into victim reparations.

Despite the UN Rule which says “*All prisoners under sentence shall be required to work, subject to their physical and mental fitness*”, about one in every 20 prisoners actually refuse to work.¹⁵

Under section 66 of the Corrections Act 2004, prisoners may be directed to work only in self-sufficiency activities, but clearly some prisoners manage to avoid even that.

¹² Budget 2008/09 estimated that numbers on CIE will increase to 2,563 in the current year, so this initiative would commence in 2009/10

¹³ Parliamentary Question for Written Answer 15078(2007)

¹⁴ Prisoners currently receive a “Steps to Freedom” grant of \$327 upon release (Parliamentary Question for Written Answer 14809(2007))

¹⁵ As at 7 September 2007, 299 sentenced prisoners (4.6%) refused to work (Parliamentary Question for Written Answer 16939(2007))

National will:

- Amend the Parole Act to ensure that prisoners who are able to work but refuse to work are not eligible for parole.

DRUG AND ALCOHOL TREATMENT

The link between crime and drug and alcohol problems is strong. Approximately 60% of offenders report that they were affected by drugs when they committed their offence,¹⁶ and 83% of prisoners have had problems with alcohol and drugs.¹⁷

Drug and alcohol problems don't go away when an inmate is incarcerated. Almost half of all offenders admit taking at least one drug while imprisoned,¹⁸ and drug finds increased by 24% from 2003 to 2006.¹⁹ Even the Department of Corrections admits that "a significant amount of drug use in prisons goes undetected".²⁰

One of the Government's drug and alcohol courses in prisons had to be abandoned after it was found that participants were 5% more likely to be reconvicted than those who did not take the course.²¹

However, residential drug treatment units have been more successful. Offenders who complete the 24-week course are 14% less likely to be re-imprisoned after two years than those who do not attend.²² This is supported by international evidence which finds that therapeutic drug treatment programmes in prisons reduce repeat

offending after release.²³ On the other hand, the UK Home Office found that prisoners who are drug dependent upon release are likely to commit five times as many offences if they re-offend.²⁴

Despite an increase in treatment unit beds in recent years, the capacity to provide drug and alcohol treatment to prisoners is dwarfed by the number of prisoners whose offending is related to these issues.

National will:

- Double the number of prisoners who are able to receive drug and alcohol treatment to 1,000 by 2011.

This will cost an estimated \$3.4 million.

Most rehabilitation programmes are currently restricted to those who have served two-thirds of their sentence. However, the possibility of parole, or spending long periods as a remand prisoner²⁵ (generally not eligible for programmes),²⁶ can limit the opportunity to change behaviour.

Treasury attributes the boom in prisoner numbers since 2000 to an increasing use of remand in custody and short prison sentences. This reflects a growing number of offenders with multiple problems who receive multiple short-term sentences throughout their lives without those needs being addressed.²⁷

A contributing factor to this "churning" through the justice system may therefore be the limitations placed on access to rehabilitation programmes.

¹⁶ Hon. Damian O'Connor, 'Breaking the link between drugs and crime', press release, 11 June 2007

¹⁷ Department of Corrections, *Strategy to Reduce Drug and Alcohol Use by Offenders 2005-08*, November 2004, p.11

¹⁸ O'Connor, 11 June 2007

¹⁹ Department of Corrections, '2008/09 Estimates Examination – Additional Supplementary Questionnaire', Answer 77

²⁰ Department of Corrections, 'Review of the Identified Drug User Programme', Internal Memorandum, 30 October 2006, p.5

²¹ Department of Corrections, *Annual Report 2004/05*, 2005, p.42

²² Dr. Nick J. Wilson and Kirsty Williams, 'An Evaluation of the Effectiveness of Custodial Alcohol and Drug Treatment Units in Reducing Recidivism', June 2006

²³ Doris L MacKenzie, 'Criminal Justice and Crime Prevention', in *Preventing Crime: What Works, What Doesn't, What's Promising*, ed. L.W. Sherman, D. Gottfredson, D. MacKenzie, J. Eck, P. Reuter and S. Bushway, Report to the United States Congress, Washington DC, 1997

²⁴ Home Office, *Breaking the Circle: A report of the review of the Rehabilitation of Offenders Act*, July 2002, p.75

²⁵ The average time spent in custody on remand has increased by 36% since 2000, from 38 to 52 days (Parliamentary Question for Written Answer 1614(2008))

²⁶ Parliamentary Question for Written Answer 4413(2008)

²⁷ The Treasury, 'Treasury's In-depth Review of Criminal Justice', Treasury report to Ministers, December 2005, p.6

National will:

- Re-visit the rules around eligibility for rehabilitation programmes, and investigate the development of completion programmes in the community for offenders who are released before they have finished.

The Ombudsmen have also criticised the lack of beds in special facilities for acutely mentally ill prisoners.³³

National will:

- Review the screening and treatment of prisoners with mental health problems.

MENTAL HEALTH

Prisoners have higher rates of mental health problems than the general population, which is likely to be a factor in their offending:

- Nearly 60% of all prisoners have at least one major personality disorder.
- One prisoner in four suffers from a condition that causes them difficulty with everyday activities.
- Two-thirds of prisoners have a prior head injury.²⁸
- Substance abuse is prevalent in more than 85% who have a major mental illness.²⁹

Labour conceded that mental health screening needs to improve, after it was revealed that current assessments ask staff to observe whether new prisoners “appear ill or very sad”.³⁰

Corrections cannot say how many prisoners suffer from an acute mental illness, how many are on psychiatric medication (even though staff dispense it), or how many have a history of mental illness.³¹ Yet the roll-out of a new screening tool, which found during trials that as many as one quarter of prisoners have serious undiagnosed mental health problems, has been unable to secure funding.³²

²⁸ Kirstin Lindberg and Ken Huang, *Results from the Prisoner Health Survey 2005*, Ministry of Health, 2006

²⁹ A.I.F. Simpson, P.M.J. Brinded, T.M. Laidlaw, N. Fairley and F. Malcolm, *The National Study of Psychiatric Morbidity in New Zealand Prisons*, Department of Corrections, 1999

³⁰ Hon. Damian O'Connor, Minister of Corrections, *New Zealand Parliamentary Debates (Hansard)*, 14 September 2006

³¹ Parliamentary Question for Written Answer 2455 (2006), 2796 (2006), 840 (2007).

³² ‘Inmates affected by mental illness’, *The Press*, 6 June 2008

EDUCATION

New Zealand’s prisoners are poorly educated:

- 13% are functionally illiterate.
- 50% left school before year 11.
- 76% have no formal qualifications.³⁴

UK research shows that offenders who are poorly educated are up to three times more likely to re-offend.³⁵ Yet in New Zealand, the number of prisoners starting an education programme has dropped from 61% in 2002/03 to 49% in 2007/08.³⁶ In 2004/05 nearly half the prisoner education budget was left unspent due to “prison population pressures and the associated high numbers of transfers”.³⁷

Given the high levels of illiteracy among prisoners, the initial goal should be to improve basic literacy. Again, the UN Rules say “the education of illiterates and young prisoners shall be compulsory”. In 2006/07, 6.8% of prisoners participated in literacy programmes,³⁸ but this is still only half of the estimated number of illiterate prisoners, not to mention those who could benefit from remedial training.

³³ The number of prisoners who had to remain in prison to await transfer to these units doubled from 2006 to 2007 (Parliamentary Question for Written Answer 15880 (2006), 4411 (2007))

³⁴ Department of Corrections, *Corrections News*, March 2007, page 5

³⁵ Home Office, 2002, p.75

³⁶ Department of Corrections, ‘2007/08 Estimates Examination – Additional Supplementary Questionnaire’, Answer 162

³⁷ ‘Written Off Because They Don’t Know How to Read or Write’, *New Zealand Herald*, 1 March 2006

³⁸ Parliamentary Question for Written Answer 14803 (2007)

National is committed to ensuring that prisoners leave prison with better skills to equip them for life outside than when they entered

National will:

- Expand literacy programmes so more prisoners leave prison able to read, write, and do maths better than when they entered.³⁹

REINTEGRATION

Attempts to rehabilitate offenders in prison are largely wasted unless there is appropriate follow-up and support when they are released.

The current commitment to reintegration is under question. For example, Corrections has identified seven needs of prisoners during reintegration, but alcohol and drug issues are not included, even though relapse contributes to re-offending.⁴⁰

Despite recent moves to appoint case workers in every prison, re-integration is heavily reliant on the work of community groups such as the Prisoners Aid and Rehabilitation Society (PARS). These groups are often unable to meet the demand for their services. The current commitment to reintegration programmes for 960 prisoners is \$570 each.⁴¹

At the 2005 election, Labour promised to consider further development of a comprehensive network of post-release centres for recently-released prisoners, but no new centres have been added to the three that already existed.⁴² Labour also rejected a bid from the Department of

Corrections for an extra \$7.3 million over four years for re-integrative services.⁴³

National will:

- Carry out a stock-take of support and facilities available to prisoners released from prison, including substance abuse treatment, accommodation, and employment, with a particular emphasis on the role played by non-governmental organisations.

THE STATE OF OUR PRISONS

If society expects prisoners to change their behaviour when they are released, prisoners need to be kept in humane conditions.

However, revelations that prisoners have access to Playstations, trips to the beach, flat-screen televisions, r-rated movies, fertility treatment, and steak dinners, and live in prisons with underfloor heating, ensuites, and park-like surroundings, do not fit with public expectations that prisoners should be deprived of such liberties and live in relatively austere environments.

There is also a risk that offenders do not see the “three hots and a cot” provided by prisons as enough of a deterrent compared to their lives on the outside.

In the case of most privileges, National believes that common sense should prevail.

National will:

- Ensure that the state of prisons meets public expectations by providing conditions that are humane but not luxurious.

³⁹ The cost of doing so is fairly modest – in 2006/07 just over one million dollars was spent on literacy and numeracy programmes (Department of Corrections, ‘2008/09 Estimates Examination – Additional Supplementary Questionnaire’, Answer 60)

⁴⁰ Parliamentary Question for Written Answer 11787(2007)

⁴¹ Parliamentary Question for Written Answer 14806(2007), 14807(2007)

⁴² Parliamentary Question for Written Answer 3200(2008)

⁴³ Department of Corrections, ‘2006/07 Financial Review – Standard Questionnaire’, Answer 207

THE MANAGEMENT OF PRISONS

When the Labour-led Government passed the Corrections Act in 2004, it spelled an end to the five-year private management of the Auckland Central Remand Prison (ACRP). Given the litany of mishaps under the public management of the prison system since then, the question must be asked: could other providers do a worse job?

The private management of ACRP was so successful that the Department of Corrections adopted many of its improvements when it took over, including more education programmes, and more staff dedicated to behavioural assessment, physical training, sentence planning, and crime prevention.

However, Corrections also added another layer of management, and cut 24-hour health services.⁴⁴ The transition process back to the Public Prisons Service cost the taxpayer nearly \$3 million.⁴⁵

The standards and reporting requirements imposed on the private managers were higher than those expected of the Public Prisons Service. For example, they were required to pay a fine of \$50,000 when an inmate escaped – which happened only once in the five years.

Local iwi warmly endorsed the partnership approach taken by the private managers of ACRP, claiming that *“The results in terms of the management and rehabilitation of Maori inmates, in particular, represents the most exciting progress we have ever seen in a New Zealand prison.”*⁴⁶

The average per-prisoner cost over the five years of private management of ACRP from 2000–2005 was \$42,720 per prisoner

⁴⁴ Department of Corrections, ‘Proposed ACRP Staffing and Review Recommendations’, internal memorandum, 14 February 2005

⁴⁵ Parliamentary Question for Written Answer 6486 (2006)

⁴⁶ Department of Corrections, ‘Proposed ACRP Staffing and Review Recommendations’, internal memorandum, 14 February 2005; Iwi Whanui O Tamaki Makaurau, ‘Private prison management ban step backwards’, press release, 1 September 2003

per annum,⁴⁷ compared to the average cost for Corrections to keep a remand prisoner of \$52,925 in 2001/02.⁴⁸ Of the original short list of four tenderers for ACRP, the Public Prisons Service was listed as fourth. Aside from cost advantages, Treasury has argued that contestability of prison management also encourages innovation in reducing recidivism.⁴⁹

Internationally, more than 17% of Australian prisoners are held in private prisons, followed by Britain with 10% and the US at 7%.⁵⁰ The British National Audit Office review of the private prison system in the UK concludes that *“competition has helped drive up standards and improve efficiency across the prison system as a whole.”*⁵¹

Labour’s objection to private prisons has been ideological, rooted in the belief that only the state should detain its citizens.⁵² Regardless of who manages a prison, only the collective will of the people, embodied by the state, can deprive another citizen of their liberty.

Whoever carries out those powers are themselves subject to the rule of law, regardless of whether they are a public or private provider.⁵³ The ACRP experience is convincing.

National will:

- Allow competitive tendering for the management of prisons on a case-by-case basis.

⁴⁷ Dom Karauria, General Manager of Auckland Central Remand Prison (ACM), letter to Hon. Tony Ryall MP, 20 November 2003

⁴⁸ Department of Corrections, ‘2007/08 Estimates Examination – Additional Supplementary Questionnaire’, Answer 117

⁴⁹ Treasury, 2005, p.9

⁵⁰ ‘Locking in the best price’, *The Economist*, 12 January 2007, p.52

⁵¹ Comptroller and Auditor General, *The Operational Performance of PFI Prisons* (London: House of Commons, 2003)

⁵² *New Zealand Parliamentary Debates (Hansard)*, 26 May 2004

⁵³ Even the current Corrections Minister Phil Goff has said *“it does not matter a damn whether one has private or public prisons in that sense. What really matters is the way in which those prisons are operated”* (*New Zealand Parliamentary Debates (Hansard)*, 9 November 1994)