

BEFORE CHRISTCHURCH CITY COUNCIL

Independent Hearings Commissioners

UNDER THE

the Resource Management Act 1991
(the **Act**)

IN THE MATTER OF

An application by Ara Poutama Aotearoa/Department of Corrections for resource consent to establish a rehabilitative and reintegrative residential accommodation programme with an existing property at 14 Bristol Street, Christchurch (RMA/2020/173)

**STATEMENT OF EVIDENCE OF PROFESSOR DEVON POLASCHEK
ON BEHALF OF ARA POUTAMA AOTEAROA / DEPARTMENT
OF CORRECTIONS**

(Criminal Psychology)

Dated: 16 August 2021

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1 INTRODUCTION, QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Devon Polaschek. I hold a BSc, MA (with first class honours), DipClinPsyc and PhD in Psychology.
- 1.2 I have been registered for practice in New Zealand as a forensic clinical psychologist since 1988 and have been a university academic since 1994 in the fields of clinical / forensic / criminological / correctional psychology. At present, I am a professor of psychology and the Director of Te Puna Haumaruru New Zealand Institute of Security and Crime Science at the University of Waikato.
- 1.3 I am a fellow of the Association of Psychological Science, the largest organisation of psychological scientists in the world. In 2019, I was made a member the New Zealand Order of Merit (MNZM) for services to forensic psychology. I am a former Fulbright Scholar, and recipient of the Hunter Award (New Zealand Psychological Society) for lifetime excellence in scholarship, research, and professional achievement in psychology. I have 3 research excellence awards from Victoria University of Wellington and the University of Waikato. I hold honorary affiliations at University College London, Carleton University (Ontario, Canada), University of California, Irvine, and Griffith University, Queensland.
- 1.4 I was the lead editor of the *Wiley International Handbook of Correctional Psychology* (published 2019), and an editor of two other books: one on sexual offending and one on effective interventions for high-risk prisoners. I have authored a monograph on family violence in New Zealand and have also authored or co-authored about 130 peer-reviewed journal publications and book chapters, along with 18 government reports. I am on the editorial board of 4 journals including *Criminal Justice and Behaviour*, and *Psychology, Crime and Law*.
- 1.5 I have been, or am currently, a primary investigator or co-investigator on more than \$5 million in research funding including grants from the highly competitive Marsden fund and MBIE

Endeavour fund, for research on prison violence, family violence, and developing effective interventions for high-risk violent men. I have supervised the research of almost 100 graduate students, almost all in correctional psychology or family violence. I have also given invited keynote addresses at prestigious international conferences and delivered invited workshops for a number of jurisdictions (including in the United Kingdom, Canada and Australia) as well as to other audiences, including judges, lawyers, medical professionals, and non-governmental organisations.

- 1.6 I first began working for the Department of Justice (which later became Ara Poutama Aotearoa) as an assistant psychologist in 1985. Between 1989 and 1994 I was employed as a Psychologist/Senior Psychologist in Kirikiriroa Hamilton where one of my duties was the facilitation and evaluation of the programme that preceded Tai Aroha in Anglesea Street, Hamilton.
- 1.7 In 1994, I obtained an academic position at Victoria, University of Wellington, where I remained for 23 years. In that role, my position was half funded by the Department of Justice (and later by Ara Poutama) for the purposes of conducting research and training clinical psychologists to work in Corrections. I was recruited by the new Vice-Chancellor of the University of Waikato in 2017, to help develop forensic psychology and set up a new Institute in Crime Science at that University.
- 1.8 Since 1994, I have been employed regularly as a contractor by Ara Poutama, conducting assessments and providing individual treatment for people in the care of Ara Poutama in the Wellington area. I have supervised Ara Poutama psychological service staff from early career appointees to the Chief Psychologist. I currently supervise seven such staff, both in their clinical practice and research, which also keeps me up to date with developments in Ara Poutama.
- 1.9 In addition, I am contracted to conduct research for other parts of Ara Poutama on a regular basis. I have contributed to two previous evaluations of Tai Aroha and have also conducted family violence research as an Ara Poutama contractor. I have been a member of

a number of working parties; provided advice on numerous issues both formally and informally for various parts of Ara Poutama; run workshops and presented keynote addresses at Corrections conferences over the last 15 years.

- 1.10 I was engaged by Ara Poutama in February 2021 to undertake a further independent evaluation of Tai Aroha, in collaboration with Tarsh Edwards (a kaupapa Māori evaluator) and to provide evidence to this hearing regarding criminal propensity, the “success” of programmes aimed at desistance of criminal offending, the effectiveness of Tai Aroha, and the implications of a programme such as that proposed to be run at Bristol Street.

Code of conduct

- 1.11 I have read and am familiar with the Environment Court’s Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2014, and agree to comply with it. My qualifications as an expert are set out above. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

2 SCOPE OF EVIDENCE

- 2.1 My evidence is presented on behalf of Ara Poutama and primarily addresses:
- (a) The development of criminal propensity.
 - (b) Rehabilitation approaches that reduce the risk of future criminal behaviour or “what works”.
 - (c) The importance of reintegration programmes including the importance of situating programmes in communities.
 - (d) An overview of rehabilitation programmes in New Zealand.

- (e) How intervention effectiveness is determined (in relation to what is known about how people transition out of a criminal lifestyle).
- (f) Interim results from the current Tai Aroha evaluation.
- (g) Comment on the findings of the Council Officer and the submissions received where they relate to matters relevant to my area of expertise.

2.2 In preparing my evidence, I have reviewed the following documents:

- (a) The updated application, as notified in March 2021, including the Social Impact Assessment.
- (b) The submissions and the Council Officer's section 42A report.
- (c) The statements of evidence prepared by Mr Ben Clark, Mr Glen Kilgour, Dr Jarrod Gilbert and Ms Amelia Linzey.

3 OVERVIEW

- 3.1 In the late 1970s, psychology researchers who were also experienced practitioners working in Canadian Corrections, were instrumental in bringing together relevant sociological and psychological theory and integrating it with empirical research about criminal behaviour, its causes and prevention.
- 3.2 As this work has developed and internationalised, it has drawn knowledge from across all of the relevant basic and applied branches of psychology and criminology. Collectively, this integrated and still growing body of knowledge is sometimes referred to as *The Psychology of Criminal Conduct* and the rehabilitation approach that goes with it is often referred to as the *RNR Model* (Risk, Needs and Responsivity).
- 3.3 New Zealand Corrections (now Ara Poutama) was an early adopter of this work, particularly in relation to the use of a more rehabilitative approach. The precursor to Tai Aroha (the

Montgomery House Violence Prevention Programme) was opened on the Anglesea Street site in Hamilton in 1987 and led the world at the time in its innovative community-based residential therapeutic environment, based on tikanga Māori and psychological science.

- 3.4 The 1989 report *He Ara Hou: The New Way*, (based on the 1987 Ministerial Committee of Inquiry in the Prison System, chaired by Sir Clinton Roper) subsequently recommended the widespread development of what was referred to as community “habilitation” centres as an alternative to prisons and championed Montgomery House as a model.
- 3.5 Ara Poutama continues to be considered a world leader in implementing this knowledge and relevant components of this work include knowledge about the development of criminal propensity across the lifespan of an individual; common psychological, social and criminal characteristics of men at high risk of crime; how people learn and change behaviour; risk assessment; how to reduce the likelihood of future criminal offending; effective and ineffective approaches to intervention (both in terms of design and implementation); effective reintegration after residential sentences, and what desistance—in this case, the process of moving into a more prosocial lifestyle after a criminal career—looks like.

4 THE DEVELOPMENT OF CRIMINAL PROPENSITY

- 4.1 Criminal propensity is the tendency to be “crime-prone” and to live in crime supportive environments. This propensity varies between people and changes over the lifespan of a person.
- 4.2 Broadly speaking, most offending is committed by adolescents who are caught for only a fraction of what they actually do and stop most of their criminal behaviour as they move into adulthood and take on adult roles that are incompatible with crime.^{1, 2, 3}
- 4.3 This natural desistance process (which occurs for the majority of adolescent offenders) can go wrong if an individual is caught for a

serious crime as a young person and as a result becomes ensnared in the criminal justice system.

- 4.4 This is particularly the case if the young person goes to prison, but even on community sentences they can be negatively influenced through social exposure to others with a strong criminal orientation, which tends to “rub off” on them. In prison their normal social maturation is also delayed due to the impoverished nature of prison environments (for example on normal social development, schooling and employment skills) and with a criminal record and little or no work history, it is then more difficult to get good employment, accommodation or even prosocial friends and partners.
- 4.5 Basically, if adolescent offenders are caught up in these snares, over time their adult career may come to resemble that of the second group I describe below, as it becomes progressively more difficult for them to open doors back to the prosocial world.¹ With specific reference to the proposed Bristol Street programme, we know that some referrals will come from this cohort, adults whose early lives were relatively healthy, but who were caught in the system as young people.
- 4.6 The second group (which represents the bulk of likely referrals to the proposed Bristol Street programme) comprise about 5-10% of the male population who were already in significant developmental difficulty by the time they reached adolescence and who do not usually stop offending until well into middle-late adulthood. As well as having longer criminal careers than others, this group also tends to commit more offences per year than others and their offending is more diverse, that is, they commit a wide range of offences and account for most of the persistent or repetitive violent offenders as well.⁴
- 4.7 Typical studies of these more prolific, versatile, and violent men show that their difficulties with adjustment and development began near or even before birth or were at least clearly emerging in early childhood. By way of example, research from the Dunedin Multidisciplinary Health and Development Study (“**DMHDS**” - a

longitudinal project tracking more than 1000 people born in Dunedin Hospital in 1972-73 from the age of three to the present) suggests that cognitive and temperamental characteristics observed by researchers in children as early as three years old predict childhood antisocial behaviour, which includes lying, stealing, disobedience, bullying, fighting and displays of temper, observed both at school and home.⁵

- 4.8 These same children often also have adverse family environments (for example disrupted caregiver bonds, poverty, insufficient competent parenting, poor maternal mental health, maltreatment, parental criminality, and drug use).^{1, 2.}
- 4.9 Together, these indicators from the child and from the environment around them distinguish those who emerge from adolescence into a long-term criminal career. This high-risk cohort with a significant history of violence tends to make up the bulk of the referral pool for Tai Aroha. Men referred to the proposed Bristol Street programme are likely to share this background.⁶
- 4.10 The long term follow-up of the DMHDS cohort into their twenties and thirties shows several other important findings that are relevant here. As well as being involved in ongoing criminal activity known to the criminal justice system, these men also suffered from more depression, anxiety and post-traumatic stress disorder than their less criminal peers and were more likely to have attempted suicide, with rates three times those of the next poorest functioning cohort. They were more likely to be parents, had more children and were more likely to have hit those children; behaviour that often goes undetected but has important multi-generational implications. ^{1, 2}
- 4.11 Odgers et al (2008)² also found these men had significantly poorer physical health based on markers of heart health, dental health, lung function and serious injury. Most lived in households below the median income, with 43% reporting a lack of money for food or necessities, and one fifth reporting homelessness.
- 4.12 There is no published research on these aspects of the Dunedin sample beyond 32 years, but research from the United Kingdom

with a similar cohort shows that even at age 48, although improving, basic lifestyle “milestones” (a modest level of success in accommodation, employment, cohabitation, alcohol and drug use, mental health and criminal behaviour)⁷ are still substantially behind that of other people.

- 4.13 To summarise, drawing on psychological and criminological theory and research, we know that most offending is committed in adolescence, at a time when, developmentally, “deviance” is normal. Most of this offending never comes before the criminal justice system, enabling those who do it to mature out of this phase and join the adult world. A few do not, because they are caught and processed, and as a result, the doors into the adult prosocial world close for them, making it harder and harder to catch up with their more socially equipped and law-abiding peers. Another small group, fewer than 10% of boys/men, are distinguished by problems already present prior to adolescence and have a much more negative prognosis into adulthood. In addition to widespread and persistent antisocial, criminal, and violent behaviour, they also have poorer mental and physical health and economic indices well into adulthood.
- 4.14 So, although some will be those who started life quite well but then got caught early in the criminal justice system, most of those who are referred to as “high risk violent offenders” mainly come from this second, highly dysfunctional group. As well as having a high impact on others, they also have a high level of need across mental and physical health and economic domains.

5 WHAT MAKES INTERVENTIONS EFFECTIVE AT REDUCING CRIMINAL PROPENSITY

- 5.1 The scientific study of the effects of different types of programmes^a is referred to as the “what works” research literature, and from it

^a When I refer to “programmes” I am using McGuire’s definition: “a planned sequence of learning opportunities that can be reproduced on successive occasions”. Within [the criminal justice system], the typical programme is a pre-arranged set of activities, has clearly stated objectives and comprises a number of elements interconnected according to a planned design. Usually, its overall shape and the contents of separate sessions will

comes a number of guiding principles for designing and implementing programmes. If these are followed in a particular programme it is more likely that the programme will support prosocial change and reduce recidivism in those who attend it. Alongside this research is a similar body of research on interventions that don't work and either increase recidivism risk or make no difference. As most of the interventions imposed by the criminal justice system are in this latter category (including prisons), it has been much harder to find what works than what doesn't.

- 5.2 Consistent with this, an enormous range of programmes have been offered with the hope of reducing recidivism: everything from puppy training, education, restorative justice, religious and cultural programmes, to chain gangs, imprisonment, parole surveillance, boot camps, therapy for trauma, wilderness courses, peer mentoring, dietary supplements, and psychiatric drugs.
- 5.3 Regardless of their labels, what is important in such programmes is what goes on inside them: what does the participant experience and learn? Meta-analysis is a statistical technique that enables scientists to compare outcomes across programmes with many different labels. This method can be used to determine the "effective ingredients" inside the programmes even though their labels, the designs of the programmes and the study methods vary widely.
- 5.4 Based on a substantial number of these meta-analyses^{8,9} the following are some of the common findings about the "ingredients" in programmes that appear to work to reduce reoffending:
- (a) They are provided to people who are predicted to be moderately to highly likely to keep on offending without intervention. These people are referred to for convenience here as "higher risk" cases. If we can provide an intervention that changes the predicted career trajectory of

be recorded in a specially designed manual specifying in detail how the programme should be delivered" (p. 34; 8).

higher risk cases, that reduction will have more effect on community safety and on the people who take part in it than assisting people who would likely stop offending of their own accord.

- (b) They are relatively intensive; they take up a significant proportion of the person's day over weeks to months. For higher risk cases, 250-300 hours is often considered a good benchmark.^{10, 11}
- (c) Most of the programme time is spent on reducing or weakening characteristics that predict ongoing involvement in crime. These changeable characteristics are known as dynamic risk factors and are a subset of the adult features of the highly problematic 5-10% of men described above. These characteristics are typically acquired from childhood onwards, and include adaptations and habits developed as they have grown up. For example, childhood abuse might lead the child to become chronically angry, mistrustful and hostile. To suppress these feelings he may start abusing drugs as a teenager and his use may escalate over time and partly drive later crime. As the young person matures into adulthood, these same characteristics also mature, becoming both barriers to even engaging in programmes, and the very things that need to change to reduce the risk of further crime.
- (d) The programmes are designed to make it easier for these higher risk cases to respond to what is offered, engage with it, complete the programme and use the result to improve their future. For example, high risk men are often angry and irritable, prone to feeling victimised, suspicious of others' motives, antagonistic, aggressive, untrustworthy, egocentric, noncompliant, and uncommitted to change.
- (e) The central concern of crime-reducing therapies is helping offenders learn new skills, but higher risk offenders make poor "students." They do not persist with treatment when they find tasks hard. They lack self-reflection and self-

control. To make matters worse, high-risk offenders are known to exhibit high rates of verbal ability deficits, along with neuropsychological impairments, a history of school failure, and negative attitudes toward new learning. These findings suggest that a range of complications associated with criminal risk alone (impaired self-control, learning, trust, motivation, etc)¹² along with very high rates of acquired brain injuries and impairments, and the lingering psychological effects of trauma may be sufficient to explain why people identified as 'high-risk offenders' are difficult to treat.^b

Programmes that reduce recidivism risk need to be geared to working with these characteristics. They need to motivate people to want to learn and change. At the same time the staff need to be able to work positively with their challenging personality and interpersonal features and pitch the learning in a way that gets around learning difficulties and negative attitudes to taking on new information and skills.

These programmes use the best approaches from psychology to influence people to change, and to teach them how to change; for example, the use of positive and negative reinforcement rather than punishment to shape more skilled and prosocial behaviour, breaking down new skills into small, teachable parts and then using modelling, roleplaying and praise to support skill acquisition, targeting people's ability to think and use cognition to regulate behaviour. These are referred to as behavioural and cognitive social learning approaches.

- 5.5 These first five points are referred to throughout the field as the Risk Need and Responsivity (or RNR) Principles.⁹ The first two relate to the Risk Principle, (c) is the Need Principle and the final two are the specific and general parts of the Responsivity Principle.

^b See Polaschek (2018) for full list of in text citations for this section.

5.6 The collective body of research also points to various other components of successful rehabilitation programmes. In a chapter that rounded up approximately 100 literature reviews and meta-analyses, McGuire⁸ (2013) noted the following characteristics of programmes that are more likely to be effective in reducing recidivism. They:

- (a) target multiple needs and provide multiple ways to address those needs (for example cognitive and social skills and reintegration assistance).
- (b) have a strong theoretical and evidence base. That is, they draw both on a well-supported theory or model of what causes criminal behaviour and how those causes can be changed effectively.
- (c) have good integrity; that is, the intervention-as-delivered closely resembles the intervention-as-designed. Rehabilitation therapists or facilitators are well trained and do not undermine programme integrity by "doing their own thing" instead of following the design.
- (d) take care in the selection, training and support of the best possible therapists and residential and support staff. Staff need regular supervision and training if they are to provide effective leadership of programmes and practice with integrity. Programmes that are more likely to be effective therefore:
 - (i) select staff for their skills in relating to others;
 - (ii) train staff with skills needed to support and deliver the programme;
 - (iii) provide clinical supervision to staff;
 - (iv) monitor treatment delivery (for example watch sessions); and
 - (v) use printed or recorded manuals to guide delivery.

- 5.7 Relatedly, since human service is at the centre of effective programmes, staff behave in ways that have been associated with improved outcomes. Staff with strong relationship skills (use of interpersonal warmth, humour, positive regard) who use their skills to structure interactions directed at factors associated with better outcomes, who praise and use disapproval effectively (i.e. lots of praise, occasional disapproval), who use authority fairly (i.e. firm but fair, procedurally just), teach skills in a structured manner, teach and support problem solving, and advocate for, and broker, their clients into services they need for onward progress, are associated with more effective programmes.⁹
- 5.8 Another recent meta-analysis that included 70 studies of 55,604 people who attended general violence, family violence and sexual violence programmes, took a closer look at programmes led by psychologists and paraprofessionals (people trained in other fields such as education or health who work alongside a “master professional”, in this case a psychologist). Because the programmes shown to be most effective to date rely heavily on psychological theory and research to inform them, right down to the way people interact (for example the effective use of praise comes from behavioural psychology research), the authors theorised that there would be differences in the effectiveness of programmes based on the use of qualified psychologists versus others, and found that where qualified psychologists gave hands-on input into programmes the outcomes were better than if they merely supervised from a distance.¹³
- 5.9 A raft of organisational and contextual factors are also important. Effective programmes use structured assessments to decide who is offered a place, when that place is offered, and what the participants needs are. They have supportive management structures and are adequately resourced.
- 5.10 A programme can be group-based or provided by one individual to another or a combination of both. Group-based programmes are generally preferred, with an optimal size for group sessions of between five and ten participants often recommended.¹⁴ There is

some evidence for the superiority of group-based programmes over those where a therapist mainly works with a single participant.¹³ Rolling groups, where people enter and graduate from the programme at different times have the further advantage of providing coping role models for new entrants, and opportunities for reinforcing learning by teaching others.¹⁵ In this way rolling groups offer opportunities for learning via tuakana-teina relationships, an important traditional process for learning in te Ao Māori in which an older or more expert tuakana helps and guides a younger or less expert teina.¹⁶

- 5.11 A programme can also vary in how much of the day or week it takes up. In both prison and in community programmes, participants may come together only for programme sessions and then return to where they live. For some programmes, attendance may be only for a couple of hours a day, or even only once a week. In these situations, men may spend most of their waking hours unsupervised in the company of criminal peers, or interacting with staff who do not recognize what they are learning, or actively undermine attempts at positive behaviour change. Alternatively, even if they are in the community, their remaining hours may be spent around criminal peers because of a lack of alternative release accommodation or because the only employment they could find was populated with others in a similar situation.
- 5.12 Residential programmes therefore have multiple advantages over other programmes. They typically are much more intensive, with multiple hours each day in structured, supervised programme activities, and attendees are protected from the potentially more antisocial or unsupportive influences of those they would otherwise be around, either in prison or in their homes. Residential groups can also become very cohesive and better support residents' steps toward more skilled, prosocial behaviour.
- 5.13 Historically, *therapeutic communities* or intervention environments in which the living environment itself is the active ingredient in change, are probably the best-known examples of a therapeutic residential environment. They have been shown to reduce

recidivism, but also help with mental health, relationship development and interpersonal competence.¹⁷

- 5.14 In New Zealand, the early versions of intensive residential prison-based programmes for high-risk people had people in group treatment for several hours a day but paid no real attention to the social environment of the prison unit. More recently, a daily programme of intensive, structured group sessions has been combined with a therapeutic community model referred to as a community of change, as set out in the evidence of Mr Kilgour.
- 5.15 From my review of the application, I can see that the design of the Bristol Street programme, like the Tai Aroha programme before it, is intended to incorporate these empirically and clinically established principles of best practice. That is, it is an intensive programme, targeted at those who can most use what will be provided to reduce their risk of future criminal behaviour and violence, and to work on better ways of living. It uses the same internationally established approaches to encouraging and supporting change, including structured rehabilitation sessions in a change supportive environment (the community of change), with psychologists working directly with the men in group and individually. The operating model specifies well-conceived criteria for the selection of the men who will be offered an opportunity to take part in the programme, and the documented model of operation, both in terms of safety and therapeutic effectiveness is similarly well informed.

6 FROM REHABILITATION TO REINTEGRATION

- 6.1 No matter how well designed a programme is, the days and weeks after the programme ends and the transition into them are critical to longer term success. This period is referred to as the process of (re)integration. Reintegration is important after a period in which the participant was removed from independent community living, whether or not one attends a programme. Without, for example, somewhere to live and the financial means to support oneself, it is all too easy to revert to offending simply to survive. In addition to lacking housing and employment, people returning to independent

community living frequently have difficulties with transportation, debt, physical and mental health needs, family and whānau relationships, and child care.

- 6.2 Long or frequent periods in institutions break the links between people and their social resources in the community.¹⁹ With higher risk cases, those social resources (that is, the people who provide emotional, social and practical support) are often sparse to begin with, and in fact, in their adult life the person may never have been considered particularly well integrated into community life. Too often they have been living in and out of residential state care and custodial environments since their early teens.
- 6.3 As well as setting people up so that their basic needs are met, another challenge after a programme ends is how to ensure that the programme benefits, in the form of fledgling changes, are extended into the next stage of a person's life. Psychologists refer to this as *generalisation* - what does the graduate need to do this.
- 6.4 A psychologically or socially supportive environment is important. For example, the people they live, work, and socialise with should be supportive of prosocial behaviour, not actively antisocial as they might have been in that person's past. A good analogy is that of a seed falling on fertile ground. People leave intensive programmes as potentially fertile seeds in the very early stages of change, after years of other habitual but antisocial behaviour. If the environment is not supportive or appropriately prepared then it is very unlikely they will continue to do these more effortful, new ways of thinking and behaving.
- 6.5 Furthermore, if it is really difficult for those leaving programmes to keep with the change process, or if things go wrong early on for some reason, they may give up on the new ways and revert to habitual behaviour. Where people view themselves as having "turned over a new leaf" an early setback such as the loss of temporary housing or employment, can create an emotional response that of itself fuels new offending particularly in the absence of support to solve these problems.

- 6.6 One reason community residential programmes are valuable is because they can readily serve as a bridge between the former way of life, whether in the community or in prison or, commonly, some mix of both. That is, they can provide a graduated way of re-entering the community, in which residents can “try on” or “try out” ordinary tasks of living in a supported way. Prisons, by comparison, are often in remote locations, and do not readily provide opportunities for natural interactions in the supermarket, the gym, or the GP’s office. Indeed, they may not provide access to some services at all.
- 6.7 People who are in the process of reintegrating back into independent community living can be very anxious about the challenges they face, making a graduated process safer for them and those around them.²⁰ A graduated process may also facilitate programme attendees to engage with citizenship roles in communities, which have also been suggested to be helpful in successful reintegration. Conversely, locating facilities well outside the city limits can create a sense of social ostracism that is antithetical to reintegration.²⁰
- 6.8 It is easy to underestimate the importance for residents of the normalising influence of locating a facility in an ordinary residential neighbourhood, even when their direct contact with the members of that neighbourhood may be quite limited and carefully managed. As McGowan²¹ noted “place” is an important determinant of successful reintegration, even if the exact mechanisms driving its importance are still to be fully understood.
- 6.9 In my experience, one of those mechanisms is likely to be a reduction in the sense of feeling “out of place” in an ordinary neighbourhood once a person has had the chance to spend time there. For many of these men, they have often been uplifted into institutional care facilities in middle childhood, and then spent much of the subsequent time in and out of custody with little if any time spent in a “normal” community environment.²² If we want people to develop ties to, and integrate well with, the rest of society we need to give them the opportunity to do that in a similar way to

others. Starting that process in supervised residential programmes is a logical and safe first step.

- 6.10 In addition, for many people identified as high-risk, their most reliable supports have often been their family, and most report having one or more prosocial family members. But by their mid-thirties, many of those I have interviewed, report that their prosocial family has given up on them after having their “fingers burnt” one too many times.
- 6.11 Residential-based reintegration in an accessible location facilitates the rebuilding of those relationships with supportive oversight from the programme. It is surprisingly often the case that when these same disconnected prosocial family members are invited to attend one of these rehabilitation-based whānau hui, they are quite willing, even enthusiastic to reconnect and similarly positive about their whānau member finally being engaged in positive change.
- 6.12 As I noted from the DMHDS findings, these men also have relatively high numbers of children. Accessible residential programmes (including those that may be accessible by public transport) provide opportunities for men to initiate safe contact with their children, partners and other key people in their lives in a safe, supervised environment.
- 6.13 Another important element in successful reintegration is the formation of a functional working alliance between the reintegrating man and correctional staff (for example their probation officer and/or case worker). This process can be fraught. The histories of high risk men are often littered with relationships with staff where the staff member has taken punitive action (for example referring for prosecution because the person has breached the sentence conditions) or has ended the relationship and moved on to another role soon after getting to know them. These experiences often mirror childhood ones which led the person to develop an antiauthoritarian attitude and a pride in self-reliance. These factors work against higher risk cases viewing correctional staff as a positive resource for reintegration.

- 6.14 One of the effects of both prison and community-residential programmes can be that they give participants the skills and attitudes to make better use of specialist staff whose role it is to help them plan for reintegration, and their probation officer, whose role is to help them establish and maintain a successful lifestyle in the community. In this way, putting people through a rehabilitation programme can itself enhance their uptake of correctional support services as they move out of the programme into the community. If participants are more willing to reach out for help, they are less vulnerable to recidivism that results from problems in the early stages of reintegration.
- 6.15 In summary, the combination of participating in a programme alongside a graded and supported return to participation in the wider community is likely to lead to better outcomes than one without the other. Community reintegration planning begins in the programme, with graduated opportunities to undertake ordinary community participatory activities commensurate with current progress. Residential programmes therefore need to be located in areas where these opportunities can be naturally provided, such as in a town or city neighbourhood.

7 AN OVERVIEW OF REHABILITATION PROGRAMMES IN NZ

- 7.1 New Zealand programmes began to conform to the RNR approach described above, almost as soon as it was first published in a scientific journal. Over time, Ara Poutama has designed, trialled, and rolled out a suite of such interventions. Most have been run in prisons due to the substantial practical difficulties with adequate attendance at non-residential community-based programmes. Most are for men.
- 7.2 The allocation of rehabilitation resources in Ara Poutama broadly follows the risk and need principles of the RNR model previously described with the 2019/2020 Annual Report noting the provision of 3738 rehabilitation placements in prison and another 3199 placements provided to people on sentence in the community. Programmes range in intensity depending on the level of risk posed by those for whom they are offered.

- 7.3 At the upper end in terms of total hours in rehabilitation are programmes for high-risk people with histories of sexual and violent offending against adults and children. These are mainly prison-based residential programmes. There are also intensive residential drug treatment units. At present, Tai Aroha in Hamilton is the only intensive residential programme for men at high risk of violent offending that is provided by Ara Poutama in a community setting^c.
- 7.4 In the medium-risk range there are more generic programmes offered for those who need assistance. There are also programmes specifically for Māori and Pasifika people that focus on reducing offending risk, including Māori and Pasifika specialist prison units. Self-care units provide more independent living on prison sites, usually outside the prison perimeter and facilitate work release and the transition to independent living. Alongside this direct offence-risk-reduction focus, Ara Poutama also provides shorter motivation, parenting and tikanga Māori programmes together with education and employment support.
- 7.5 Reconnecting people with their cultures, especially for Māori, has become increasingly important over the last decade or more, and while solely tikanga-based programmes have been offered for some years within Ara Poutama, until recently, programmes rarely braided or blended together substantial strands of both traditional psychology-based programme content and traditional tikanga teaching, as is the design at Tai Aroha, and as will be part of the proposal for the Bristol Street programme.
- 7.6 Ara Poutama reports on the recidivism outcomes for most of these programmes every year in their Annual Report to government: possibly the only agency in the western world to do so publicly. In keeping with international research findings,¹³ the largest reductions in recidivism are typically associated with intensive programmes for those assessed as being at high risk of violence, and where these programmes are largely designed and provided by psychologists.

^c https://www.corrections.govt.nz/working_with_offenders/prison_sentences/employment_and_support_programmes/rehabilitation_programmes

8 HOW INTERVENTION EFFECTIVENESS IS DETERMINED

- 8.1 Recidivism outcome evaluations are the most widely accepted method for evaluating the effectiveness of a programme. In this approach, most often a sample of people who attend or complete the programme is compared to a second sample who did not, but were otherwise as similar as possible. It is especially important that the two samples are well matched on characteristics that are themselves predictive of reconviction, such as age, and estimated risk of reconviction. Ideally the two samples are created by random allocation, but this is not usually possible in practice.
- 8.2 In these recidivism outcome evaluations, a fixed period of time after the programme is used to compare the two samples; for instance 12 months or two years. The relative percentage of those who experience one or more recidivism outcomes is compared across the two samples. For instance it might be the percentage in each sample who were reconvicted for any new offence, or reconvicted and resentenced to prison (a more serious outcome).
- 8.3 The strength of a recidivism outcome evaluation is that it is a relatively objective, assuming there are no systemic changes in detection, conviction and sentencing practices during the evaluated period. It also provides information about an outcome that is of value to criminal justice policy makers and politicians; the actual costs to the criminal justice system caused by reconviction. The first occurrence of some type of recidivism—whether it happens and how long it takes to happen—is the international metric for understanding “what works”.
- 8.4 However, in jurisdictions such as New Zealand where the availability of effective interventions is now widespread, it may be practically impossible to find a comparison group that is technically “unrehabilitated”. As the comparison group becomes more contaminated with people who have attended some other form of programme, the contrast effect is reduced, even if the original programme is as effective as it always was.

- 8.5 Recidivism outcome evaluations also have a number of other notable weaknesses that argue for them being viewed as only one source of information about intervention effectiveness.
- 8.6 First, “any recidivism” is a very blunt measurement in the sense that it captures the person’s first reconviction, and uses that as a proxy for that person being engaged in the desistance process. For a high risk offender the reality is that even with good progress, most will still be reconvicted at least once. For example, we found that within just 12 months of being paroled—a very short follow-up period—63% of 154 high risk comparison men had already been reconvicted alongside 42% of a similar number who had been through an intensive prison treatment programme.²⁴
- 8.7 Rather than assuming that nothing was gained for these men, the explanation for this pattern lies in how high risk people desist. As set out previously in my evidence, most adolescents desist from crime in early adulthood without much difficulty. But for men who persist with offending well into adulthood, who have many risk factors for offending and are diverse, versatile criminals, desistance is much more difficult. We have found that by their middle thirties these high-risk men have often been trying to leave their criminal lifestyle behind for some years, albeit unsuccessfully.²⁵ Lifestyle factors such as addictions and family gang affiliations can make it difficult to step away, as does the very long process that may be required to build a better life, given the obstacles their histories provide for making a legitimate living, building new social supports, and so on.
- 8.8 So, for high-risk men, offending typically doesn’t stop overnight, but reduces slowly, and the process of committing to avoiding offending, and to using skills learned in rehabilitation waxes and wanes depending in part on how hard it is, and how easy it may be to commit new offences. Desistance ultimately requires a substantial identity change, and this process takes years rather than months to become fully consolidated. During this process, the person may have made considerable progress, when by his former standards a minor slip up takes him back into the criminal justice

system, where he may then tread water for a while, waiting to start again.

- 8.9 In an Oxford study of recidivism in the United Kingdom, Burnett found that just prior to release, most of a sample of 130 male burglars wanted to desist but only about a quarter thought they would definitely do so.²⁶ When interviewed, many indicated that they had the commission of crime as a “Plan B” if “going straight” didn’t work out.
- 8.10 She also found that these men switched back and forth between “straight” and criminal lifestyle “lanes” for various reasons, from being offered a lucrative opportunity to gain illegal income (*“I’ll do just one more; then I’ll stop”*) to offending on the rebound in response to despair at their failed efforts to set up an alternative life.²⁷ Burnett’s work confirms that desistance can be a zigzagging process between the lanes and that progress might be judged better with reference to changes in the range and seriousness of crimes committed or to larger gaps between offences.
- 8.11 Of course, considerable changes in both of these types of behaviour may not show up in a metric that looks only at the first reconviction after release, because regardless of who commits them, most crimes are not reported to police. This gap between what people are doing and what they get caught for may be particularly marked for people who commit a lot of offences against other gang members, and family members because high risk cases report that almost none of this offending is reported. For example, high risk men have often been frightening family members. Anecdotally it may be that after successful rehabilitation, partners feel safer about calling the police if their men become aggressive, or breach a protection order. This is a clear signal of progress, but will tend to be reflected in an apparent *increase* in official recidivism.
- 8.12 In addition, even when a recidivism outcome evaluation does suggest a positive treatment effect (the proportion of those who are reconvicted is lower in the programme group than in the comparison group), we still know nothing about why or how the programme worked, or even what behaviour changed or how much

it changed. We also don't know anything about whether other important outcomes were achieved such as improved communication, greater wellbeing, improved relationships and parenting, better work performance and/or enhanced problem-solving.

- 8.13 Understanding what is going on inside a programme and how those gains play out subsequently in a person's life is therefore essential to deciding whether a programme has value or not. In other words, whether we do or don't see a change in recidivism, what are the mechanisms by which a programme changes people? For instance in some research on the effectiveness of reintegration, we recently showed that high risk men who were living in better circumstances, both materially and in terms of personal wellbeing in the first two months after being paroled were less likely to be reconvicted. The mechanism here might be that reintegration supports better living circumstances and wellbeing which in turn supports avoiding reconviction.²⁸
- 8.14 So, alongside recidivism outcome evaluations, a second way to judge effectiveness is based on measuring changes in the likely causes of recidivism: characteristics that are commonly linked by research to recidivism, and that are targeted for change in programmes. Common examples are criminal beliefs, impulsive acts, poorly controlled emotional outbursts, verbally abusive communications, use of alcohol and drugs, time spent with influential criminal peers, actual violence, and so on.
- 8.15 Conversely, more prosocial, assertive and polite verbal communication, willingness to comply with rules, being alcohol and drug free, developing more prosocial relationships, being calmer and using skills to manage strong emotions, and thinking through consequences before acting, may be signs of positive change. The best way to measure these sorts of behaviours is by using external observers such as staff or family, but most often they are actually measured by having programme participants complete pencil and paper questionnaires.

- 8.16 Just as there are substantial challenges with conducting high quality statistical recidivism evaluations of programmes, evaluation based on rehabilitation participant self-rating is also not, on its own, the best method of picking up change. All people—criminal or not—who have committed themselves to completing a programme of some kind will tend to say afterwards that they were less capable at the beginning than they actually were, and are much more capable at the end, even if nothing has changed and the programme was actually ineffective.²⁹
- 8.17 This self-enhancement of people's perceptions of their own change is due to a phenomenon known as cognitive dissonance and is unconscious rather than deliberate lying. In essence we need to explain to ourselves why we invested the effort. Why would we do that if we didn't make a lot of gain out of it? Offenders are no different in that regard. They believe us when we say the programme can help if they make an effort. They make the effort and then perceive themselves as improved. Despite this reservation some studies have shown that the amount of change on measures of attitudes, anger levels etc. is related to reduced recidivism, using this approach.³⁰
- 8.18 A third source of information on programme effectiveness comes from interviewing participants and key informants (external observers of the person). Interviewing the participants themselves gives an opportunity for them to report information that may indicate effectiveness but that would otherwise be invisible; for example, the use of strategies taught in the programme, "near misses" (examples where offending might have happened previously but was averted) and third-hand reports of others saying to them how different they are. If researchers are also able to interview key informants such as partners, probation officers, or friends, the credibility of these reports can be further enhanced with their external observations of behaviour change.
- 8.19 One example of this type of evaluation is seen in Project Mirabal, in the United Kingdom, in which men who had been violent toward their woman partner attended a programme for family violence.³¹

The researchers asked the partners to rate their man's behaviour on a series of yes/no questions prior to programme attendance and then 12 months later. Women reported positive changes in a number of important areas including violence reduction, improved respectful communication, reduced controlling behaviour and better joint parenting. Also important were women's reports of observing men using skills learned in the programme.³¹ As can be seen, this is a method that can provide important insights on the effects of a programme on others, regardless of whether the man commits a subsequent offence.

9 TAI AROHA: INTERIM EVALUATION RESULTS

9.1 As previously stated, Tai Aroha is unique in New Zealand in that it is a community residential programme run by Ara Poutama for men with significant histories of violence and crime. Although there are other community residential programmes run by trusts and non-governmental organisations, none directly targets offending risk in this high-risk population. Moreover, despite the worth of its predecessor Montgomery House being identified in the 1989 report *He Ara Hou: The New Way* it has remained an isolated example of this model of treatment.

9.2 Tai Aroha has been formally evaluated on a number of occasions and a series of refinements made to its programme as a result. The current programme is the result of continuous improvement efforts since the first prototype opened in 1987 and therefore differs in a number of ways from that first programme (as set out in Mr Kilgour's evidence).

The most recent evaluation of Tai Aroha was captured in the 2015 report however as previously noted in my evidence Tarsh Edwards (Kaupapa Māori cultural evaluator) and I were contracted by Ara Poutama to undertake a further evaluation which commenced in April this year.

9.3 Relevant interim findings are reported here. These findings fall into the following broad categories:

- (a) Updated Recidivism Outcomes.
- (b) Analyses of convictions since programme.
- (c) Analysis of information relating to the perceived risk of adverse impacts on the neighbourhood around the residence.
- (d) Pre-post changes on key psychometric tests.
- (e) Exit interviews: examined and main themes summarised.
- (f) Follow-up interviews with attendees and where possible, with whanau.

- 9.4 The most recent recidivism outcome evaluation was completed in July 2021 by Vinay Benny and I have had an opportunity to read over his report. I summarise here the method and results, and draw some tentative conclusions. I do not profess to have the level of expertise of this specialist statistician so my comments are based on my reading of his report and the accompanying brief for the statistician's work, written by Wayne Goodall from Research and Analysis, Ara Poutama.
- 9.5 The evaluation covers the period from 2011 to the end of 2019 and includes 130 men on home detention sentences who had been out of the programme for at least 12 months. Thus it covers those who were in the previous evaluation period (that is, reported on in the recidivism analyses in the 2015 evaluation) along with most of those who have attended since then.
- 9.6 As previously set out in my evidence recidivism outcome evaluations seek to determine whether a programme reduces criminal risk on the proportion of each group that later is reconvicted over a fixed length of follow-up (for example two years) by comparing programme attendees with a group of non-attendees who would otherwise be at an equivalent risk of recidivism.
- 9.7 In this instance, as I have described previously, one issue with evaluating the recidivism of Tai Aroha graduates is in deciding with

whom they should best be compared. Using as many variables as possible from the available electronic correctional records, two different matches were selected for each man: one had been released from a sentence of at least 180 days imprisonment at about the same time, and the other had been sentenced to at least 90 days on home detention. Matches were chosen using a technique known as "propensity score matching".

- 9.8 Multiple comparisons were then conducted of (a) the proportions in the treatment sample and in each of these comparison samples who experienced various outcomes and (b) counts of the total number of various outcomes for each sample. Thirteen outcomes were examined in all (for example proportion reconvicted, proportion reconvicted and re-imprisoned, number of reconvictions, number of new prison sentences commenced, proportion imprisoned for significant violent or sexual offending etc) and over five distinct follow-up periods (12 months to 60 months).
- 9.9 By "eyeballing" the results, one can see that for the most part Tai Aroha graduates were *more* likely to recidivate than the Home Detention comparison sample and *less* likely to recidivate than the prison release sample. However, in my opinion, because of the small size of the sample, the total number of comparison analyses, and the corrections to statistical significance interpretation imposed by that combination, the likelihood of falsely concluding that the programme doesn't reduce recidivism when it does (that is, a Type II error) is rather higher than the likelihood of identifying that the programme is effective when it is not. Taken together with my uncertainty about which is the best comparison sample to use, in my view, the right "take home message" from this recent evaluation is that it is inconclusive with regard to whether Tai Aroha reduces recidivism or not. It is common throughout the field to find that the *statistical* conditions that are needed to identify conclusively that programme attendees have significantly better outcomes than non-attendees are seldom able to be met simply because of the size of the sample needed. Therefore this conclusion is not particularly surprising to me and gives weight to my previous comments (refer

to paragraphs 8.3 and 8.4 above) that such analysis should be complemented by the type of analyses that follow.

- 9.10 As part of my own evaluation I also carried out several additional analyses of the conviction histories of Tai Aroha graduates who entered the programme over a three year period (2017-2019).
- 9.11 Every conviction obtained in the five years prior to the programme, and in the follow-up period after the programme (which varied from 1 year and 51 days to 4 years and 55 days) was given a rating based on the New Zealand Crime Harm Index (**NZCHI**^d). This analysis showed that the average level of crime harm per conviction was significantly lower following the programme (from a score of 15 to 9)^e, and the most serious offence for which the person was convicted in the 5 years prior to the programme was 71 compared to 27 after the programme, also significantly different.
- 9.12 As part of my analysis, I also examined the nature of post-programme convictions and these observations are presented later in this evidence.

Changes on psychometric tests

- 9.13 With regard to psychometric test change, the most comprehensive measure used at Tai Aroha is the Millon Clinical Multiaxial Inventory (**MCM****I**), an internationally validated self-report questionnaire that measures mental health and personality functioning which attendees complete at the beginning and end of their stay at Tai Aroha.
- 9.14 Of those who completed the programme, analyses of the MCM**I** scales show statistically significant changes in a positive direction on almost every one of the 25 scales, a pattern that is similar to the 2015 evaluation. Overall graduates report significantly better psychological health, including reductions in antisocial personality

^d Version 7.2 was used, as supplied to me by Sophie Curtis-Ham from the Evidence-Based Policing Centre in June 2021

^e Note that these figures were not corrected for time in custody, but it is likely but not certain that this time would have longer during the pre-treatment period because the most serious offence committed during that time was significantly more serious.

and drug and alcohol problems, as well as improvements in areas not necessarily associated with criminal behaviour.

- 9.15 On a second questionnaire developed in New Zealand for use with high risk violent prisoners, there was also a significant reduction in criminal attitudes to violence. That is, men reported being significantly less likely to think violence was normal, part of their culture, or something that was useful for solving problems.

Programme Graduate Exit Interviews

- 9.16 An exit interview developed for the 2015 evaluation is also still in use at Tai Aroha currently. Staff use it to interview most graduates of the programme. Fifty-six were available for thematic analysis as part of my current evaluation. These interviews provide qualitative information on men's perceptions of themselves before and after the programme. Their comments are quite consistent with the MCMI results summarised above and with the follow-up interviews I have conducted. Comments below are summarised based on responses from multiple men.

- (a) Asked how they felt about themselves prior to the programme they said: antisocial, unhealthy, agitated, aggressive, guarded, not as mindful or as thoughtful, that they acted without thinking about the consequences to others. They felt angry, violent, closed, self-centred, unhappy, destructive, frustrated, ugly, vulnerable, defiant, depressed, and worthless.
- (b) Participants described themselves at the end of the programme as: calmer, more easy-going, more positive, prosocial, humbled, motivated, more skilled at managing themselves and their challenges, more thoughtful, less angry, more caring, understanding and empathic, more self-aware, wiser, more confident, satisfied and happy, reformed, more assertive, a better communicator, and forgiving. There were multiple examples of these sorts of positive post-programme comments, and no negative ones.

- (c) They described having learned new skills for thinking, managing emotions better, and solving problems. They described increased tolerance, being more on track with a stronger vision of their future goals. Their minds were clearer, less restless and agitated, and they thought they were generally better able to think, to recognise what is going on in their minds and do something more prosocial as a result. They thought they could communicate better, had more self-respect and openness to others. They said they were more tika^f and more pono^f.
- (d) Interviewees also reported that the programme was stressful and tiring, it stretched them, it was harder than they thought, and unexpectedly harder than doing prison time. But most men said they would recommend the programme to others like them: *"If you've had enough of hurting yourself or others, and you want to change for the better, TA is the place to do it, but you have to want it because it is hard work"*.
- (e) Responses to the interviewers' requests for any last comments they had to make at the end of the interview yielded this summary (synthesised across multiple answers): *"Thank you Tai Aroha, you saved my life. It was a chance to heal and a safe place for people who want to change. Thanks for taking a chance on me. Tai Aroha is the best support I've ever had. As much as I hated this place I couldn't imagine my life if I wasn't here. We need more places like this. It gave me an opportunity to live a better life"*.

Post-programme Follow-up Interviews

9.17 We also sought opportunities to talk to men who had been out of the programme for at least 12 months. This follow-up period is useful because it allows the men to look back on the programme

^f These are the terms the interviewees used. Tika approximately translates as "upstanding" or "lawful" or "right". Pono is "true", "valid" or "honest" (Moorfield, J. C. (2011). *Te Aka Māori-English, English-Māori Dictionary*. Pearson.)

from a distance, which they can't do in the exit interviews. It also has given them time to thorough try out what they learned, and see if they can take it from the whare to the community.

- 9.18 It is always very difficult to make contact with former programme attendees in this sort of research, given the nature of their lifestyles and daily living routines. With perseverance we were able to catch up with approximately 20 of them at the time of submitting this evidence. We have no way of knowing how typical these 20 are of men who attended Tai Aroha over the last few years. But it does represent about one-third of those who started the programme over a two year period. Among those interviewed were a number of men who had reoffended, some who were back in prison, and some who were still free of convictions when interviewed.
- 9.19 Most of these interviews I completed jointly with my colleague Tarsh Edwards. Tarsh has Kaupapa Māori expertise and was contracted by Ara Poutama to undertake the Māori cultural evaluation, so we were able to approach these interviews in ways that capitalised on each of our frames of reference.
- 9.20 Each interview took about an hour. In most cases only the man was present but in several cases a partner or family member was also present and contributed to the interview. Five of the 20 interviews were completed with men back in prison. Some of the men interviewed had not completed the programme. Several wanted to go back: acknowledging that they still had more to gain.
- 9.21 Many men acknowledged that they grew up thinking that violence and crime were normal, and spoke of adult lives entrenched in gangs, drugs and violence. *"[violence], it's all I was taught, I wasn't taught stop, think, breathe, calm down, don't do anything stupid. I was taught, go nuts, rant, rave, beat the cr*p out of [others], win, walk off a man. You know, but you're not. You walk off to jail and you're not a man in there, you're just a number. You're just a piece of cattle, you're just a piece of society's rubbish that they don't even want you there".*

- 9.22 Many had come straight from remand in custody to the house, and they were aware that they could walk out the door at any time (albeit with an electronic bracelet on that would likely mean they would then be arrested): *"Yeah, you're stuck there with a bracelet on, but it's better than being in jail. . . .you're not locked in a box eh, you're not getting told what to do, like an animal"*.
- 9.23 Several described having this choice pointed out to them as unsettling, because it put the responsibility on them to decide whether to face the pressure to "get with the programme" or walk out, with walking out often seen as the easier option. One man said *"It felt like we were tested every day from the time we woke up to the time we went to bed"*. Another said that the staff said: *"You can stay here and do it hard and struggle like everyone else or you can walk out the door....and I really wanted to walk out the door....but it comes with the consequences of being back in jail, again"*. Yet another said: *"Well, it's not just any normal programme. It's not a walk in the park programme, and if you want to change it's up to you eh, because you get the option if you don't want to be there."* And so they stayed.
- 9.24 Interviewees had often attended other programmes while with Ara Poutama. Commonly they described these as being, in their minds, "tick-box" exercises, and suggested that Tai Aroha was the first programme where they felt they were supportively challenged to engage in a change process or leave: there was nowhere to hide, psychologically, that would allow them to complete the programme in a superficial way. They attributed the gains they had made in Tai Aroha to this focus on them as individuals, and rather than perhaps describing it as coercive, they viewed it as a requirement for them to be "honest" for the first time about what was going on with them. For example one man said: *"You realise over time that the psychologists have your best interests at heart and are really just trying to help you"*. Often they spoke of shame about talking about what they had done in front of other men, or of breaking down and crying about how they had come to a place where they could commit their previous offences.

- 9.25 In discussing why almost half of men did not finish the programme interviewees (most but not all of whom were graduates) explained that in Tai Aroha one has to commit to the programme or indicate that they wanted to leave. They thought that most men came in thinking they could “cruise” through it and then found they couldn’t. Participants typically described the kawa or rules of the house as being quite strict, with residential staff ensuring that a consistent model was followed with regard to this kawa. So usually only those who were ready for the hard work and prepared to “follow the rules” stayed.
- 9.26 Former attendees were split on whether they had been trying to get out of their former lifestyle and onto a more prosocial desistance pathway before the programme, or made that decision for the first time in the programme. But they commonly said that their decision to come to the programme had been partly influenced simply by a preference for being in the community over being in prison, which they perceived as a sterile, empty environment in which they were simply biding time rather than making progress. Then they found, usually after four to eight weeks in Tai Aroha that they had been drawn into full participation in the change process despite themselves: *“You sort of fake it until you make it like, f*** this s**t, but then eventually it starts to sink in”*.
- 9.27 Most of those interviewed identified as Māori. For the majority the culture of the house, and the supportive environment in which to engage in Māori cultural practices routinely was viewed very positively. Improvements in their learning and skills in te Ao Māori were usually viewed as a source of confidence and pride, and a number of men reported surprising their whānau afterwards with their progress, and feeling new respect from whānau. A few were already strong in their cultural identity and did not regard it as essential to them. Nevertheless the core practices of manaakitanga and whakawhanaungatanga in particular were seen to be essential to transcending gang rivalries and to getting the men to support each other in change.

- 9.28 The process of having rolling admissions, where there are men farther along in the programme as new ones come in, was also mentioned positively. It was common to hear that the coaching and support of the more senior members encouraged the newer arrivals in terms of confidence and commitment. The engagement with their culture was described as giving men a firm place to plant their feet and strengthened their mana, making it possible for them to let down their guard and open up to the emotional demands of the core aspects of the programme.
- 9.29 The men commented on the value of informal conversations with support staff. Some mentioned that the variety of people who were employed meant they had been able to find someone they particularly related to for informal conversations when they were having difficulty thinking through an issue on their own. They also noted that some staff in particular were especially good at noticing when they were not themselves and proactively initiating interactions, which meant they were more likely to solve the problem than without staff help.
- 9.30 Alongside the tikanga in Tai Aroha, men also talked positively about the input of the psychologists through the core skills and cognitive self-change groups, and in their one-to-one sessions. In particular they noted their considerably expanded perceptions of the choices they had available to make, and the choices they made. They spoke of changing the rules by which they lived (for example "*I am the man and I don't care about anyone but me*"), to more prosocial, collaborative rules for living. They spoke often of having to learn to sit with emotions when they would have usually preferred to lash out or take drugs. They came to understand that the psychologists were not just "being nosy" or "picking at them" but really trying to help.
- 9.31 A number of men reported an increased sense of calm, or reduced anger as a result of attending the programme. This change made it easier to make good choices because they had learned to sit with emotions instead of acting on them immediately or dulling them with drugs. Men were free of addictions after many years, or were

able to distance themselves from influential gang connections, although for some that was a process still underway. Partners or parents described men as much less prickly and reactive, and felt they could be more relaxed around them.

- 9.32 Graduates were very appreciative of the efforts made by programme staff to support their reintegration. Although some reported that life had been generally positive since they graduated, a number reported various forms of major stressors and setbacks that may have led to lapses into criminal behaviour or drug use, or resumed associations with criminal peers. Sometimes they sought further assistance from the reintegration staff at these times, with some keeping regular post-programme contact with these staff. Regardless of whether they had reoffended, participants rejected the notion that reoffending was an indicator they had not benefited from the programme, or had not made change. Most made statements like: *"but I lasted a year this time. That's the longest I've been out in 10 years"*, or *"The old me would have done 15 offences by now, not just this one"*, or in some cases, *"This is the first time I have been completely free of some form of correctional sentence for [many] years"*.
- 9.33 Alongside sometimes seeking the help of others, such as programme reintegration staff, or their probation officer, men also reported using skills learned in the programme to pull themselves out of these difficult situations when they occurred, and took opportunities to put in place other changes that would help protect them from further setbacks where they could.
- 9.34 The effects of the programme may also be wider than those directly reported by participants. Most men reported invitations from others or used their own initiative in an effort to transfer skills to others, or to help others using their skills. In this way they reported they were becoming role models for family and friends, were helping them to solve problems, and reported being more active in positive parenting. Several who were working were using their skills at work with colleagues or subordinates, with some success in regard to increased respect from others and even promotions. They also

reported calming “mates” down and helping to diffuse potentially violent situations in their social lives, whether at parties or in traffic (potential “road rage” incidents).

- 9.35 To conclude, the challenges these men face with desistance were evident in these interviews. They are a group with fairly ingrained difficulties in a number of domains, and even with careful pre-programme selection, only some of them turn out to be capable of completing the programme. But by and large when they do engage, they report widespread changes with socially meaningful outcomes, regardless of whether they reoffend. Their accounts of their progress in the programme and afterwards support the view that it is important to complement reconviction data with other methods to fully appraise potential progress in this cohort.

10 RESPONSE TO SECTION 42A REPORT AND SUBMISSIONS

- 10.1 I have read the assessment of Dr Cording included as part of the section 42A report (Appendix 6). I largely concur with her findings. I particularly agree with her assessment that the proposed facility is likely to be significantly less of a risk to the surrounding community than a regular community corrections centre, where throughout the day a significant number of people on community sentences and their family and whānau may be coming in and out of the facility or waiting nearby, all of them in an unknown risk state. That is, risk of crime and violence is dynamic: it ebbs and flows for different individuals depending on various factors such as recent life events. The combination of rigorous selection, growing familiarity with residents, and the high level of continuous oversight by staff of Bristol Street residents means that on occasions when risk status might be temporarily elevated for some reason, staff are likely to have an awareness of this change and be able to actively manage it. This combination creates a much safer situation than is the case for a community corrections centre.
- 10.2 I can understand the logic of Dr Cording’s argument that concentrating the likely attendees in the Bristol Street facility does appear to raise the baseline level of risk in the immediate neighbourhood, assuming that baseline level is otherwise based on

the current facility remaining empty of residents. To clarify what I mean: if we assume that the men who might be in this facility at any one time are instead on regular home detention but distributed over a wider area, even in the same general neighbourhood, and that the Bristol Street facility remains empty, then the risk to those within say, 25 metres, of the facility should be lower. That is, these men as individuals must, conceptually at least, pose a higher risk at any particular point in time than a person randomly selected from those who have never had, or have only had an occasional criminal conviction.

- 10.3 But, these same men who attend the programme will be those who meet rigorous selection criteria and who, by their very concentration, are much more closely supervised than they would be on regular home detention, and at the same time they are learning how to make better choices about how to live their lives. The Tai Aroha evaluation follow-up interviews suggest they are also constrained to an extent by their peer co-residents—peer support is part of the programme’s community of change model—and that they understand that they have been given an important opportunity when they are accepted into the programme, and are there to better themselves, not create difficulties in the programme or the neighbourhood.
- 10.4 For the reasons set out in paragraph 73 of the section 42A report, and paragraph 36 of Dr Cording’s memo in Appendix 6 of that report and based on other design features of the proposal I also concur with Dr Cording’s assessment that the proposed operating model adopts the best practice strategies, policies and practices available for mitigating programme non-completion, including those who leave without the permission or support of programme staff.
- 10.5 It could also be argued that once the Bristol Street programme is operating, and based on the plans laid out in the application, the baseline level of risk should be equivalent to that of Tai Aroha. That there are no documented incidents of crime or harm in the last decade would suggest the actual level of risk from the programme residents to be very small. Taken together, all of these factors

suggest that although concentration conceptually increases the level of risk around the facility, in practice the actual risk is likely to remain very small.

- 10.6 In addition to that baseline level of risk also being significantly less than the alternative of a community corrections facility, a number of other plausible alternative uses of the premises at 14 Bristol Street could also impose as yet unknown, but higher, risks to the neighbourhood than is likely from this proposal⁹.
- 10.7 Like Dr Cording, I have reviewed the 2015 evaluation of Tai Aroha. Although it does not change my view regarding the effectiveness of the programme, I am not as confident as Dr Cording (paragraph 37 of her memo, Appendix 6), that the recidivism survival analyses are indications that the programme reduced recidivism by 15% in relative terms (in absolute terms from 38% to 32.5%).
- 10.8 That is because, although comparisons were matched with treated men, the comparison data were not disaggregated for sentence type, so it is possible that the apparent improvement of home detention cases versus comparisons is offset by an apparent increase in recidivism for treated intensive supervision cases, making the net effect inconclusive. In addition, the sample size and effect size are insufficiently large to support the drawing of this conclusion if it is based on the conventional statistical analyses used in these designs (for example survival statistics).
- 10.9 That said, as I have outlined earlier in my evidence I do not consider that recidivism rates tell the full story as to the effectiveness of a programme. Nor do I consider that these inconclusive results (which are similar to the current interim evaluation findings) should be used as a basis for judging whether the programme produces worthwhile outcomes for those who participate, their families or whānau, and ultimately for the wider community.

⁹ Aside from the 2012 incident which, while unacceptable from a perceived safety perspective, did not result in any harm to the affected neighbour, see paragraph 43 of Dr Cording's memo.

- 10.10 I note Dr Cording comments on the 2015 evaluation report's conclusions that there was evidence of ongoing improvements as the programme "bedded in" over the initial years (paragraph 37 of her memo). One important area of improvement has been in largely mastering the attrition challenges with rolling groups, and harnessing their advantages.
- 10.11 When Tai Aroha first started around ten years ago, I was somewhat sceptical about how feasible it would be to run the programme in the rolling group format; this was an important change compared to previous programmes on this site. Although this issue is rarely discussed in the international literature, Stewart et al. (2010)¹⁴ writing for Correctional Services of Canada were of the opinion that rolling programmes with this type of cohort would be difficult to run effectively, and to my knowledge, there were no international or New Zealand examples of such a programme in the community.
- 10.12 A very early evaluation³² revealed the challenges of retaining men in the programme with the then new rolling admissions process. However, the more recent evaluations show the effectiveness of this approach, which are particularly notable in two areas (a) the role that more senior group members play in engaging, supporting and teaching newer members (see also paragraph 12.5 of this evidence), and (b) the ability to maintain viable group numbers by continuous recruitment into available places.
- 10.13 From my experience of the programme as an outside observer over the last decade, and the information we have been gathering about how Tai Aroha is running today, there have myriad improvements in the operation of the programme since the 2015 evaluation. I therefore agree with Dr Cording's finding in this regard. I also note that as a consequence, any new facility such as that proposed to be run at Bristol Street and based on Tai Aroha, benefits from this decade of continuous improvement, and the accumulating knowledge of Ara Poutama staff about how to effectively and safely implement this type of programme model.

Safety of surrounding neighbourhood

10.14 I have also read the submissions and wanted to comment on one issue here. A number of submitters expressed concern about the level of risk posed to those living in the area immediately surrounding the proposed programme. I have given this matter considerable thought and have drawn together information relevant to this concern from the Response to the Council's Request for Information which reviewed incidents of leaving without permission at Tai Aroha, and from three sources used in the current evaluation of Tai Aroha, being the interview responses gathered during the follow-up interviews, an analysis of the violence convictions of men prior to attending Tai Aroha, and an analysis of post-programme types of convictions.

Qualitative analysis of characteristics of pre-programme violent convictions

10.15 As Dr Gilbert points out in his evidence, many people have little direct contact with the criminal justice system or those who find themselves firmly stuck within it. As a result, much of our information about crime and offending comes from the media and as Dr Gilbert notes, media coverage of crime has proven in many studies to be misleading, particularly as it relates to the public's perception of "random" crime and consequently their perception of risk.

10.16 For this reason, as part of the current Tai Aroha evaluation, I conducted an analysis of the pre-Tai Aroha violence convictions of those who entered the programme between 24 July 2019 and 2 July 2020, a total of 31 individual men.

10.17 In the five years before entering the programme, these men collectively had 150 violent convictions of which we were only able to obtain summaries of facts or judges' sentencing notes for about 83 (55.3%). These additional records provide salient details about the offences such as the nature of the victim and the setting in which the offence took place.

- 10.18 Of these 83 offences, half occurred at the home of a family member, with 12% occurring in the home of a person familiar to the perpetrator, 13% in public, and 21% were in other or unknown locations. Fully 82% of those victimised were partners, ex-partners or other whānau/family. Another 6% were friends or acquaintances.
- 10.19 In other words most of the violence for which we could obtain records appeared to have been assaults against family members in their homes. Just 5% were against strangers. From this information, very little of the offending was in effect 'random', or would give cause to consider there was a undue risk to the neighbourhood bordering this type of residence.
- 10.20 I also note that the analysis of leaving without permission incidents at Tai Aroha found that of the men who left the programme early and without permission, none physically harmed a member of the public before being sentenced for this breach and none committed a further offence in the process of leaving.

Interview data

- 10.21 I also considered this issue of public safety as part of the interviews we undertook with Tai Aroha participants.
- 10.22 When we asked Tai Aroha men in follow-up interviews about whether the location of Tai Aroha was important, they often commented on the value of being out of prison and in an area where people care about each other. They talked about being out on the street in phase 3, enjoying how the neighbours would wave out to them, or stop at the gate for a chat: the normality of it. Some commented it made them think people actually cared about how they were doing. They especially liked the freedom of being able to go to the supermarket themselves, go to the gym every second day and attend other reintegration appointments easily. It was also easy for whānau to access the facility, for example by using public transport. They thought it was important to be treated normally and being in a residential neighbourhood was part of that. One summarised it this way: "*That's what rehabilitation is about. To fit you back in*".

- 10.23 With specific reference to the concerns of submitters, we also asked men if the neighbours of Tai Aroha would have anything to fear from living near to the house. Most men said: *"No, because we are not there for them, we are there for ourselves"*. The partner of one man said: *"The thing with the public having a say about everybody in these homes, [the Tai Aroha residents] are monitored, they have these choices and they're grown adults. And yes, they are reoffenders but they're there to rehabilitate. That's a second chance"*.
- 10.24 Another man said about the possibility of the Bristol Street programme: *"When we're mowing the lawns, and we're doing our clean-ups and stuff like that, the neighbours all wave out to us. That's the path people have created. I reckon it's just going to start off as, 'who are these bad people!', but they're going to realise we're all good"*.
- 10.25 Several noted that they thought the neighbourhood around Bristol Street will actually be a lot safer in their opinion, because of Corrections staff being around 24 hours a day.
- 10.26 In summary then, although I understand that a number of submitters perceive that their safety is reduced by the proposed facility, the evidence from Tai Aroha over the last decade suggests that there has been no actual increase in the risk to neighbours of that programme than if the facility were not present.

11 CONCLUSIONS

- 11.1 Men who will attend the Bristol Street programme would be carefully selected for qualities that indicate the ability to successfully complete the programme without posing an appreciable risk to the staff, other residents or the surrounding community. They will come from a small and distinctive cohort of people who, through a combination of adversity and early temperament, have high and complex needs, not just in regard to criminal behaviour but in physical and mental health, and in the ability to contribute economically and in citizenship. Nevertheless, at the point of selection most are in their early-middle adulthood

and have reached a developmental point where they are receptive to help with overcoming some of the more obvious obstacles to desistance, and often want to be more successful at the same things that matter to all of us: as partners, and parents. They have often failed in their own previous attempts to make progress and recognise what the programme has to offer.

- 11.2 Ara Poutama Aotearoa has a long and established history of early adoption of international research and practice to guide its approaches to offender rehabilitation and reintegration. Behind it are 25 years of world-leading rehabilitation provision in prison for men at high-risk of crime and violence. A number of research studies confirm the effectiveness of such programmes which serve a referral population that, in many countries, is not provided with rehabilitation despite the significant improvements in community safety that can accrue from these efforts.
- 11.3 Ara Poutama also has a proven history of a community programme similar to the Bristol Street proposal in the form of Tai Aroha. Over the last 10 years, Ara Poutama staff have demonstrated their commitment to continuously reviewing performance and improving on policies and procedures, for the running of the facility itself and the delivery of rehabilitation services. The combination of this work and the wider experience of providing rehabilitation and reintegration programmes for men in prison who also are at high risk of crime and violence means that there is a substantial body of research and practice experience in New Zealand that supports the Bristol Street proposal.
- 11.4 My knowledge of this population, of the development of rehabilitation in New Zealand for these men (including the lessons learned along the way), suggests to me that the benefits of the Tai Aroha programme are substantial. Even if the recidivism evaluations of Tai Aroha do not (yet^h) convincingly demonstrate an increase in the proportion of graduates who are conviction-free in the months following the programme, other forms of evaluation

^h Based on the problem that inadequate treatment sample size continues to pose for this method of evaluation, and the lack of certainty about comparison group equivalence.

demonstrate that the programme is achieving important positive outcomes. The types and extent of changes reported by the men themselves and their whanau and the effects of their progress on others, are very unlikely to be seen in men who simply undertake a prison or home detention sentence.

- 11.5 It is worth remembering too that safety is not just an issue for the neighbourhood around a facility like this. It is an even more salient issue for the staff and residents themselves, which means that safety concerns are never “off the radar”. Consistent with this view is the lack of evidence over the last decade of any decrease in safety or any actual safety issues for the community immediately around Tai Aroha.
- 11.6 A significant minority of men who enter Tai Aroha leave the programme prematurely, either with or without permission. Although all programmes would like to have every attendee derive the full benefits of programme completion, a reasonable attrition rate is largely a good sign. Men in other programmes complete them because they can get away with remaining in the programme but not really engaging with it at more than a superficial level. When men leave Tai Aroha voluntarily (rather than being removed for rule infringements), they are all too aware that the immediate choice they are making is to be returned to a custodial environment for resentencing.
- 11.7 In my expert opinion, the case for additional “rehabilitation centres” like Tai Aroha is strong and a second one is well overdue. The wider benefits of providing an effective community facility of this type are multi-generational effects on whānau and community. Ara Poutama’s decision for men in the Canterbury region to finally be offered the privilege of attending a programme like Tai Aroha is, on balance, a very good one.

Professor Devon Polaschek
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