

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 DR JARROD GILBERT ON BEHALF
OF ARA POUTAMA AOTEAROA / DEPARTMENT OF CORRECTIONS**

(Criminal Justice)

Dated: 16 August 2021

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1 INTRODUCTION, QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Dr Jarrod Gilbert. I hold a Bachelor of Arts with first class honours and a PhD from the University of Canterbury. I am the Director of Independent Research Solutions (since 2018) and the Director of Criminal Justice at the University of Canterbury (since 2019). Prior to that I was the Lead Researcher at Independent Research Solutions (since 2013) and a lecturer (since 2016) and senior lecturer (since 2019) at the University of Canterbury.
- 1.2 I have done extensive research in the areas of crime and justice in New Zealand. I am the author of the books *Patched: the history of gangs in New Zealand*, *A Rebel in Exile*, and the co-editor of *Criminal Justice: a New Zealand Introduction*. I have also authored numerous commissioned reports as well as book chapters and articles on crime and justice matters in academic and mass media publications.
- 1.3 I regularly advise government departments and other agencies on matters related to my areas of expertise including: the New Zealand Police, the Department of Corrections, local councils, the Ministry of Justice, ACC, and the Cabinet Social Wellbeing Committee.
- 1.4 I also hold, or have previously held, memberships of, or governance roles with; Te Uepu, the government's justice advisory group, the Academic Advisory Committee to the Department of Corrections (co-chair) and their Wellness and Wellbeing Insights Advisory Group; the justice cross-sector High Impact and Innovation Team; and the Salisbury Street Foundation.
- 1.5 On numerous occasions I have provided expert evidence for the courts including Cultural Reports requested in accordance with the Sentencing Act 2002, and I am regularly called on by the media for comment on justice matters.
- 1.6 My current research projects include: the impact of gangs in prison; the outcomes of gang legislation; the role of media in crime reporting; evaluations of *He Kete* - New Zealand's only female drug and alcohol rehabilitation programme; the NGO in-prison Navigate Initiative; and

the Transnational Organised Crime Strategy undertaken by 17 government agencies.

- 1.7 I became involved with the proposed rehabilitation and reintegration programme at Bristol Street (**Proposal**) in March 2021 when the Department of Corrections – Ara Poutama Aotearoa engaged me to review the Proposal and provide independent expert evidence for this hearing in my capacity as a Criminal Justice specialist.

Code of conduct

- 1.8 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 the applicant, Ara Poutama Aotearoa, but I offer it as an independent expert.
- 2.2 It primarily addresses four issues:
- (a) The desirability of change within the criminal justice system specifically as it relates to matters within the Department's jurisdiction.
 - (b) Related corrections models that exist around the world.
 - (c) Why understanding people's perception of risk is important in assessing a programme such as that proposed at Bristol Street.
 - (d) The extent to which the Proposal would contribute to positive change in the criminal justice system.

- 2.3 In preparing my evidence, I have reviewed the following documents:
- (a) The updated application for resource consent for the Proposal (including the Social Impact Assessment), notified in March 2021.
 - (b) The June 2021 response to the Council's request for further information.
 - (c) The submissions and the Council Officer's section 42A report.
 - (d) The statements of evidence prepared by Mr Ben Clark, Mr Glen Kilgour, Dr Devon Polaschek, and Ms Amelia Linzey.

3 THE DESIRABILITY OF CHANGE IN AREAS OF THE CRIMINAL JUSTICE SYSTEM ADMINISTERED BY ARA POUTAMA AOTEAROA

3.1 As set out more fully in the evidence of Mr Clark, the justice system in New Zealand is administered by a number of Government and non-Government agencies. For its part, the Department of Corrections has a range of responsibilities including (but not limited to) the safe management of people on sentences and orders, both in prisons and within the community. The Department also has a significant role to play in supporting the rehabilitation and reintegration of those people.

Current System

- 3.2 New Zealand's current criminal justice system is, in large part, characterised by the country's high incarceration rate and high rates of recidivism and reoffending. As described further below, research has shown that, in addition to being very expensive, wide-spread incarceration has had little impact on breaking the cycle of offending once the person is released. The particularly adverse impacts of this approach for Māori have been, and continue to be, profound.
- 3.3 In an effort to address these issues there has been a growing drive in academic and political circles for all parts of the criminal justice system to adopt alternative approaches to the way the system operates. For the Department, this has and will continue to have, implications for its mandate "within the walls". Importantly for this context however, it

also has important implications for how it designs, funds and delivers its community-based services.

- 3.4 Before addressing this, I first summarise the current system and some of its key challenges.

Incarceration Rates

- 3.5 The organisation of New Zealand's criminal justice system with regard to the elements that impact on the Department of Corrections have often been the subject of much debate. Generally, we can see this debate as toward rehabilitation and prevention rather than punishment and imprisonment.
- 3.6 As shown in the graph in **Appendix A**, New Zealand has a comparatively high incarceration rate of around 220 per 100,000 people, compared with the OECD average of 147 per 100,000 people.¹ It has been growing considerably for decades even though rates of crime, conviction and sentencing are falling.²
- 3.7 There are a number of reasons for New Zealand's high incarceration rate, but one significant factor has been our political response over many years. Termed 'penal populism', the main political parties have for a long time tended to debate around who could be the 'toughest' on crime, rather than debating the efficacy of the policies of that approach. Importantly, despite high imprisonment rates, New Zealand is continuing to see high recidivism and reconviction rates of those released from custodial sentences. Within 12 months, 25.6% of those released are re-imprisoned, and 38.3% re-convicted. Within a 24 month period, 41.2% of total inmates released are reimprisoned, and 60.8% are re-convicted. After 60 months, more than half of (55%) released prisoners are back in prison. With regard to Māori, the situation is particularly dire with the growth in New Zealand's prison population having a disproportionate effect on the Māori population.³

¹ Gluckman, P. D. (2018). *Using evidence to build a better justice system: the challenge of rising prison costs*. Office of the Prime Minister's Chief Science Advisor; OECD. *Society at a Glance 2016*. Retrieved from http://www.keepeek.com/Digital-AssetManagement/oced/social-issues-migration-health/society-at-a-glance-2016_9789264261488-en#page135. 2016.

² *Ibid.*

³ McMeeking, S. (2017). Māori and Justice. In J. Gilbert & G. Newbold (Eds.), *Criminal Justice: A New Zealand Introduction*. Auckland University Press.

3.8 Māori make up 16.5% of New Zealand’s population but are 52% of the prison population.⁴ As shown in Figure 2, the incarceration rate of Māori is staggeringly high, at 704 per 100,000 population, compared with the non-Māori.^{5 6}

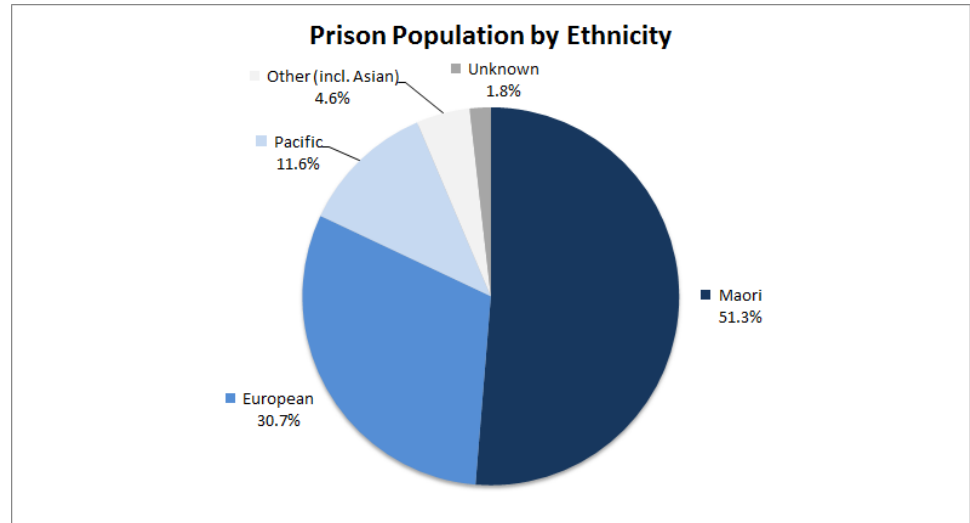


Figure 2⁷

3.9 The impact of these disproportionate rates of imprisonment for Māori has had a profound impact on not only those incarcerated, but their whanau and wider communities.⁸ These range from tangible issues such as compromised income security through to less tangible factors such as intergenerational concerns and a decrease in hope.⁹

3.10 I have argued in the past, and still maintain, that Māori over representation in the criminal justice system is not only the most important issue within criminal justice, but arguably the biggest issue facing New Zealand generally. If Māori imprisonment rates dropped to those of non-Māori, the number of people in prisons in New Zealand would decrease by 44%.¹⁰

⁴ Ara Poutama Aotearoa/Department of Corrections. (n.d.). Annual Report 2020.

⁵ Skipworth, J. (2019). The Australian and New Zealand prison crisis: Cultural and clinical issues. *Australian & New Zealand Journal of Psychiatry*, 53(5), 472-473.

⁶ Burton (2006) as cited in in McMeeking, S. (2017). Māori and Justice. In J. Gilbert & G. Newbold (Eds.), *Criminal Justice: A New Zealand Introduction*. Auckland University Press.

⁷ Department of Corrections. *Prison facts and statistics - March 2019*. Retrieved June 21 from https://www.corrections.govt.nz/resources/statistics/quarterly_prison_statistics/prison_stats_march_2019.

⁸ McIntosh, T., & Coster, S. (2017). Indigenous Insider Knowledge and Prison Identity. *Counterfutures*, 3. <https://doi.org/10.26686/cf.v3i0.6418>.

⁹ McMeeking, above, n 5.

¹⁰ Gluckman, above n 1.

The problems

- 3.11 The high incarceration rate would not necessarily be a problem in and of itself if the net benefit was high. But this is not the case across a number of factors.
- 3.12 Prisons uphold a number of important functions, and most people recognise the need for them. However as set out more thoroughly in Dr Polaschek's evidence in many ways and instances they are places of concern and are often colloquially referred to as 'crime universities'.
- 3.13 In my recent and ongoing work on gangs in prisons, for example, it is clear that the elements of violence and social tension within prisons mean they are often difficult places to create significant reform, and in many instances may exacerbate future offending rather than alleviate it. This is particularly true for short-term prisoners.
- 3.14 In 2018, the Chief Science Advisor, Professor Gluckman, noted that the prison system was making communities less safe due to its perceived role in causing criminal behaviour:

Beyond the incapacitation of a given individual (which keeps the general public 'safe' from that specific offender), prisons overall reduce public safety by their criminogenic effects (both on the individual and subsequent generations).¹¹

- 3.15 In short, the Chief Science Advisor was saying that prisons can contribute to long term crime.
- 3.16 Unfortunately, the status quo of high imprisonment rates has also done little to reassure victims of crime that the system is effective. In his 2018 report, Professor Gluckman also explains the victim experience of the system:

...there is no good evidence that rhetoric or just increasing prison volumes improves provision of services to victims of crime, nor ensures that victims feel the justice system responds quickly and effectively to the harm and trauma they have experienced.¹²

¹¹ Gluckman, above n 1, at p. 23.

¹² Gluckman, above n 1.

- 3.17 In 2019, Te Uepū Hāpai i te Ora/the Safe and Effective Justice Advisory Group produced a report following discussion with many New Zealanders who are victims of crime and have engaged with the criminal justice system. This report found that the system is failing to help those who are harmed by crime, and many victims feel misunderstood and revictimized by the current system.¹³
- 3.18 Prisons are also expensive. Prison based custodial sentences cost the Department of Corrections over \$1.1 billion for the financial year ending 30 June 2020. It costs on average around \$385 per day, per person to house someone sentenced to a term of imprisonment in New Zealand. This amounts to just over \$140,000 per year.¹⁴

A shift in approach

- 3.19 As noted, in recent times, these concerns have seen a changing focus within the criminal justice sector toward initiatives which support rehabilitation and crime prevention.
- 3.20 While many of these issues have been well canvassed by academics and others who have called for various levels of change for some time,¹⁵ it is only relatively recently that a certain political will to address those issues has emerged.
- 3.21 This political change was perhaps first signalled in 2011 by the then Deputy Prime Minister and Finance Minister Bill English, who described prisons as a 'moral and fiscal failure'.¹⁶ He also ushered in a social investment model to tackle the factors facing at risk families.

¹³ <https://www.safeandeffectivejustice.govt.nz/assets/Uploads/28ce04fd87/Turuki-Turuki-Report-Interactive.pdf>.

¹⁴ Ara Poutama Aotearoa/Department of Corrections, above n 4, at 162.

¹⁵ Jackson, M. (1987). *The Maori and the Criminal Justice System, A New Perspective: He Whaipāanga Hou. Wellington, Policy and Research Division, Dept. of Justice.* <https://www.ojp.gov/pdffiles1/Digitization/108675NCJRS.pdf>; Roper, C., & New Zealand. Committee of Inquiry into the Prisons, S. (1989). *Prison Teview: Te Ara Hou: The New Way*; Workman, K. (2018). *Kim Workman: Journey Towards Justice*. Bridget Williams Books; Workman, K., & McIntosh, T. (2013). *Crime, imprisonment and poverty. Inequality: A New Zealand crisis*, 120-133.

¹⁶ *Report of the 50 Key Thinkers Forum: Supporting families, whānau and communities to create their own solutions: a way forward (pdf)*. (2011). <https://thehub.swa.govt.nz/assets/documents/50KT-report-final.pdf>; English, R. H. B. (2010). *Rt Hon Bill English, 50 Key Thinkers (Part 1 of 2) | Presentation*. <https://www.youtube.com/watch?v=vFt4IOIVUrU&feature=youtu.be>; English, R. H. B. (2010). *Rt Hon Bill English, 50 Key Thinkers (Part 2 of 2)*. https://www.youtube.com/watch?v=t96W_vdrhyA&feature=youtu.be.

- 3.22 More recently, then Justice Minister Andrew Little signalled a change programme through Te Uepū Hāpai I te Ora.¹⁷ This change programme started with a Criminal Justice Summit in August of 2018¹⁸ in an effort to reform the criminal justice system effectively.¹⁹
- 3.23 Broadly this programme has sought to find more effective ways to tackle the problems of crime, reduce the prison population through alternative resolutions, increase rehabilitation, focus on prevention, address the issues of Māori overrepresentation, and focus more closely on supporting victims. In my opinion, these outcomes are critical to the successful reform of the criminal justice system.
- 3.24 Within the Department of Corrections, specifically, this move toward doing things differently in pursuit of better outcomes was best signalled by the launch of Hōkai Rangi in 2019.²⁰ As set out in more detail in the evidence of Mr Clark, Hōkai Rangi is the 2019-2024 strategy for Corrections, which commits to delivering improved outcomes with and for Māori in the Department's care together with their whānau, so that the significant over-representation of Māori in the corrections system can begin to be addressed. Importantly, the strategy aims to do things differently, to innovate and find new ways of working. This includes a focus on "enhanced rehabilitation and the provision of transition services" while being part of an "all-of-government approach."²¹
- 3.25 Some of these new ways of working have resulted in modest decreases in recidivism rates, with the most success seen in interventions based within the community, and particularly those targeted towards addressing violence perpetuated by men.²² More broadly these innovations and other measures have also resulted in a relatively significant reduction in overall imprisonment rates. In March of 2018, the total number of persons imprisoned sat at 10,645.²³ As

¹⁷ <https://www.beehive.govt.nz/release/fixing-our-broken-justice-system-first-steps>.

¹⁸ *Ibid.*

¹⁹ <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/hapaitia-te-oranga-tangata/the-criminal-justice-summit/>.

²⁰ https://www.corrections.govt.nz/resources/strategic_reports/corrections_strategic_plans/hokai_rangi.

²¹ https://www.corrections.govt.nz/__data/assets/pdf_file/0003/38244/Hokai_Rangi_Strategy.pdf.

²² Department of Corrections, above n 4, at pp. 164-170.

²³ Department of Corrections. *Prison facts and statistics - March 2018*. Retrieved June 21 from

at March 2021, this figure has dropped to 8,655.²⁴ This reduction is, in my opinion, a positive step towards addressing some of the significant challenges I have described above.

4 RELATED CORRECTIONS MODELS THAT EXIST AROUND THE WORLD

4.1 Within a New Zealand context, changes towards a system more focused on rehabilitation and reintegration (or support and prevention) may appear new, but within a wider context and alongside countries New Zealand may wish to compare itself to – such approaches are more common and a wide variety of different systems and approaches are evident.

4.2 Some of the more notable examples are found in Scandinavian countries, which tend to favour community sentences and small 'open' prisons that focus on rehabilitation and reintegration.²⁵

4.3 Ojoinen prison in Finland, for example is described as having "no fences, no gates, no bars on the windows. Instead there are old farm buildings, a volleyball court and people moving freely around."²⁶ It is a small prison, housing only 53 male prisoners, and focuses on safe imprisonment and preparing for freedom.²⁷ These more liberal, open prisons are intended to reflect the outside world and the conditions are meant to reflect the living conditions of wider society.²⁸

4.4 Indeed, Finland is perhaps the most notable of the Scandinavian countries due to the remarkable turnaround in their prison numbers.²⁹ In the early 20th Century, Finland's prison population was abnormally high compared to the rest of Scandinavia.³⁰ In the 1950s, Finland's

https://www.corrections.govt.nz/resources/statistics/quarterly_prison_statistics/prison_stats_march_2018.

²⁴ Department of Corrections. *Prison facts and statistics - March 2021*. Retrieved June 21 from

https://www.corrections.govt.nz/resources/statistics/quarterly_prison_statistics/prison_stats_march_2021.

²⁵ Pratt, J., & Eriksson, A. (2011). 'Mr. Larsson is walking out again'. The origins and development of Scandinavian prison systems. *Australian & New Zealand journal of criminology*, 44(1), 7-23. <https://doi.org/10.1177/0004865810393105>.

²⁶ https://yle.fi/uutiset/osasto/news/open_prisons_in_finland_are_like_a_holiday_camp_but_they_seem_to_work/11214953.

²⁷ Harju, N., & Saarinen, L. (2018). Vanki-isien näkemyksiä läheisyhteydenpidosta Ojoisten osastolla. <https://www.theseus.fi/handle/10024/149040>.

²⁸ Pratt & Eriksson, above n 27.

²⁹ *Ibid.*

³⁰ Vuorela, M. (2018). The historical criminal statistics of Finland 1842–2015 – a systematic comparison to Sweden. *International Journal of Comparative and Applied*

prison population was more than three times higher (on a per head of population basis) at that time.³¹

- 4.5 Major law changes and reforms, and an increase in community sentencing have seen those rates plummet by 70 percent³² and now New Zealand's imprisonment rate is around four times higher than Finland's. Finland was able to drastically change its imprisonment rates as a result of some key changes to correctional policy:

*The decrease in the Finnish prison population has been the result of a conscious, long-term and systematic criminal policy.*³³

- 4.6 As a consequence of these policy changes, Finland has matched other Scandinavian countries having relatively low imprisonment rates when compared with the rest of the Western world³⁴, generally sitting between 50 and 80 per 100,000 population.³⁵
- 4.7 Sweden has an imprisonment rate of just 68 per 100,000 population.³⁶ Norway also has a low incarceration rate, at just 54 per 100,000 population.³⁷ Finland has an even lower incarceration rate of 53 per 100,000 population.³⁸

Criminal Justice, 42(2-3), 95-117; Lappi-Seppälä, T. (2000). The Fall of the Finnish Prison Population. *Journal of Scandinavian studies in criminology and crime prevention*, 1(1), 27-40. <https://doi.org/10.1080/14043850050116246>
<https://doi.org/10.1080/01924036.2017.1295395>.

³¹ <http://cutthepriisonpop.nz/how-did-finland-reduce-its-prison-population-by-two-thirds/>.

³² <http://cutthepriisonpop.nz/how-did-finland-reduce-its-prison-population-by-two-thirds/>; Lappi-Seppälä, T. (2000). The Fall of the Finnish Prison Population. *Journal of Scandinavian studies in criminology and crime prevention*, 1(1), 27-40. <https://doi.org/10.1080/14043850050116246>.

³³ Lappi-Seppälä, T, above n 34.

³⁴ Pratt & Eriksson, above n 27.

³⁵ Butorac, K., Gracin, D., & Stanić, N. (2017). The challenges in reducing criminal recidivism. *Public Security and Public Order*, 18. <https://repository.mruni.eu/bitstream/handle/007/15073/Butorac.pdf?sequence=1&isAllowed=y>.

³⁶ <https://www.prisonstudies.org/country/sweden>.

³⁷ <https://www.prisonstudies.org/country/norway>.

³⁸ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Prison_statistics.

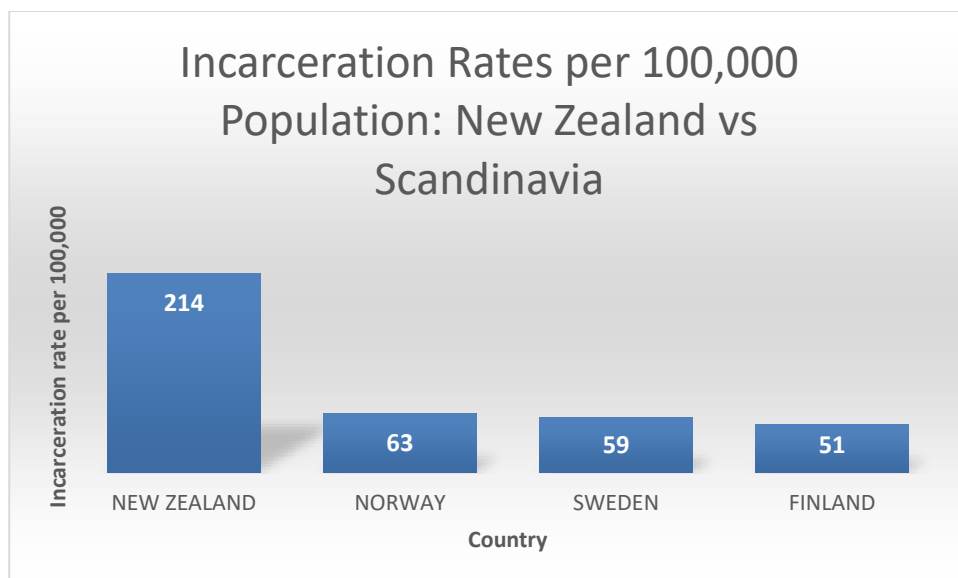


Figure 2³⁹

- 4.8 Importantly, Scandinavian countries such as Finland have substantially decreased their prison population without seeing a consequent rise in crime.⁴⁰
- 4.9 Our Australian neighbours have also begun to use more non-traditional approaches to justice, including the creation of a number of residential facilities.⁴¹
- 4.10 By way of example, in 2020 the Maribyrnong Community Residential Facility was established to provide short-term residential accommodation for men leaving prison.⁴² It accommodates 44 people and supports them to transition back into the community.⁴³ It is located in the heart of a residential community near an aged care facility, local shops and parks.⁴⁴
- 4.11 The Maribyrnong Community Residential Facility is part of a wider package of 16 projects, which are creating 250 bedrooms for men exiting the Australian prison system.⁴⁵ These include self-contained

³⁹ Data sourced from Department of Corrections, 2021.

⁴⁰ Gluckman, above n 1.

⁴¹ Data sourced from Department of Corrections, 2021.

⁴² <https://www.corrections.vic.gov.au/release/maribyrnong-community-residential-facility>.

⁴³ <https://www.corrections.vic.gov.au/release/maribyrnong-community-residential-facility>.

⁴⁴ <https://www.corrections.vic.gov.au/release/maribyrnong-community-residential-facility>.

⁴⁵ <https://www.corrections.vic.gov.au/release/maribyrnong-community-residential-facility>.

units in the Bendigo area, and a supervised rehabilitation facility in Healesville.⁴⁶

4.12 Australia also has a lower incarceration rate than New Zealand as shown in Figure 3.



Figure 3

4.13 Canada has also taken up a similar approach. The Correctional Service of Canada operates or funds approximately 100 Community-Based Residential Facilities across Canada, including in residential areas, in the form of hostels, private home placements, alternative community beds and supervised apartments. Many of these offer relevant therapeutic programs for residents including counselling services and substance abuse programs.⁴⁷

4.14 Under this umbrella, Correctional Service Canada operates 14 Community Correctional Centres, which provide 24/7 supervised housing for offenders on unescorted temporary absences, work release, day parole, full parole, statutory release, and long term supervision orders.⁴⁸

4.15 Canada's incarceration rate is significantly lower than New Zealand's as shown in Figure 4.

⁴⁶ <https://www.corrections.vic.gov.au/release/maribyrrnong-community-residential-facility>.

⁴⁷ <https://www.csc-scc.gc.ca/001/001-0001-eng.shtml>.

⁴⁸ <https://www.csc-scc.gc.ca/001/001-0001-eng.shtml>.

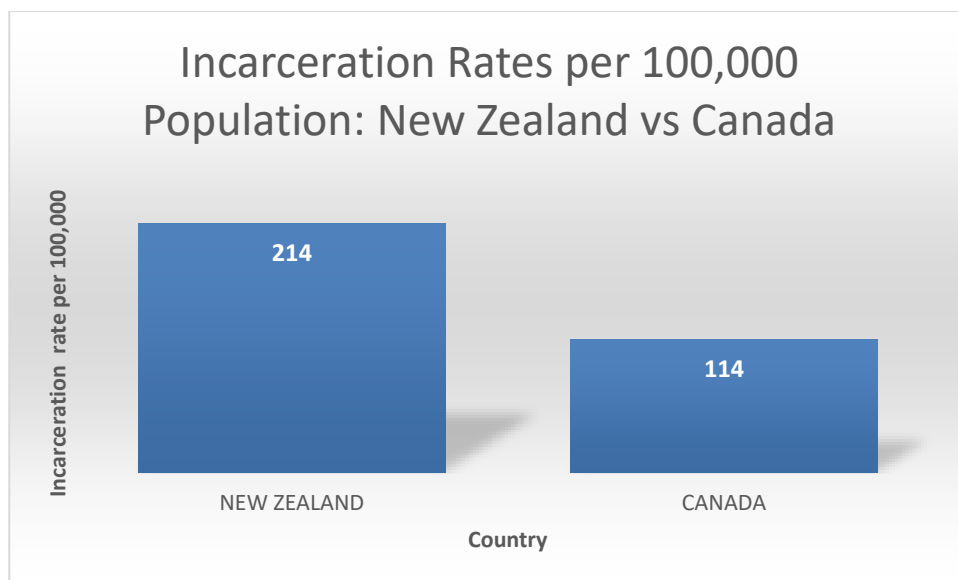


Figure 4⁴⁹

- 4.16 While the New Zealand criminal justice sector has generally taken a far more conservative approach historically, similar facilities are evident in New Zealand although generally established by independent trusts.
- 4.17 Salisbury Street Foundation is a Residential Community Centre in Christchurch, which provides accommodation for those leaving prison who have committed violent and/or sexual offences.⁵⁰ Salisbury Street Foundation has been operating for more than 40 years since its inception in 1979.
- 4.18 More recently, in 2010, Tai Aroha was established in Hamilton.⁵¹ As described in the evidence of Mr Clarke and Mr Kilgour, it is a residential therapeutic programme for adult male offenders on a community sentence who are deemed to be at high risk of reoffending and offers the same rehabilitative and reintegration focus discussed above in relation to programmes operating in other countries.⁵²

⁴⁹ Data sourced from Department of Corrections, 2021.

⁵⁰ Hough, D. (2003). *A history and analysis of the Salisbury Street Foundation in Christchurch: a thesis submitted in partial fulfillment of the requirements for the degree of Master of Arts in Sociology in the University of Canterbury* (Publication Number Dissertation/Thesis) <https://core.ac.uk/download/pdf/35469125.pdf>.

⁵¹ https://www.corrections.govt.nz/__data/assets/pdf_file/0017/10772/COR_Tai_Aroha_WEB.pdf.

⁵² https://www.corrections.govt.nz/__data/assets/pdf_file/0017/10772/COR_Tai_Aroha_WEB.pdf.

5 PERCEPTION OF RISK AND WHY IT MATTERS

- 5.1 One of the issues that may inhibit justice reform of the kind I have described (and particularly the establishment of community-based programmes) is the accuracy or otherwise of public perceptions of crime and related matters. In short, the perception of public risk versus the objective reality.
- 5.2 We are experiencing a period whereby anxiety around crime is increasing beyond the reality of crime rates. Research has shown that media representation of crime is heavily influencing that trend.⁵³
- 5.3 Concerns around news media representation are far from new. Indeed, “charges that mass media create unwarranted levels of fear of crime are almost as old as the media themselves”.⁵⁴ While the media play a fundamentally important role in many criminal justice matters, including miscarriages of justice,⁵⁵ for a number of complex reasons, it is true that media around crime is selective and distorted from reality by focusing on certain crime types rather than sober, evidence-based analysis.⁵⁶ We are aware for example that public perceptions of the perceived risks pursuant to high profile crimes such as sex offending can be extremely skewed, creating problems for policy makers.⁵⁷
- 5.4 In addition, dramatisation and sensationalism of violence and conflict in crime reporting has become commonplace in popular media.⁵⁸

Perceived vulnerability is emphasized over actual victimisation so that fear of crime might be more accurately conceived as a fear for personal safety. Sometimes, the media exploit public concerns by exaggerating potential risks in order to play into people’s wider fears and anxieties.⁵⁹

⁵³ Pratt, J. (2020). When Risk and Populism Collide. In J. Pratt & J. Anderson (Eds.), *Criminal Justice, Risk and the Revolt against Uncertainty* (1st 2020. ed.). Springer International Publishing.

⁵⁴ Heath & Gilbert (1996). Mass Media and Fear of Crime. *American Behavioral Scientist*. Vol. 39, No.4, 379-389.

⁵⁵ Gilbert J; Newbold GC (Ed.) (2017) *Criminal Justice: A New Zealand Introduction*. Auckland: Auckland University Press. 342.

⁵⁶ Greer, C. (2010) ‘News Media Criminology, in McLaughlin, E. and Newburn, T. (eds) *The Sage Handbook of Criminological Theory*, London: Sage.

⁵⁷ Kelly M. Socia and Andrew J. Harris Evaluating Public Perceptions of the Risk Presented by Registered Sex Offenders: Evidence of Crime Control Theater? *Psychology, Public Policy, and Law* 2016, Vol. 22, No. 4, 375–385.

⁵⁸ Jewkes, Y. (2011). *Media & crime* (2nd ed.). Sage.

⁵⁹ *Ibid.*

- 5.5 These topics often attract mythmaking and storylines which blur the lines between fact and fiction.⁶⁰ Internationally, for example, the media has been found to foster myths that those suffering from mental illness are dangerous, violent and unpredictable.⁶¹ A study in New Zealand reviewed 600 pieces from print media and found that half portrayed the mentally ill person as dangerous.⁶² Yet there is a breadth of research showing that there is only a modest association between mental illness and violence.⁶³
- 5.6 Recent New Zealand based research has revealed the concerning effects that the media has had on perceptions of crime and criminality.⁶⁴ This research noted the distorting effect that popular media has on perceptions of crime due to frequent use of “*stereotyping, capitalizing on victims’ emotions, racist language and the dehumanizing of offenders.*”⁶⁵ In their totality, these factors have contributed to the ‘populism’ part of penal populism and the ‘tough on crime approach’ that I discussed earlier in my evidence and which has for some years held sway in New Zealand.⁶⁶
- 5.7 This approach is not necessarily reflective of objective data and evidence. In 2013, 2014 and 2016, Colmar Brunton completed *Public Perceptions of Crime Surveys (PPS)*,⁶⁷ which offer valuable insights over that period.

⁶⁰ Kohm, S. A. (2009). Naming, shaming and criminal justice: Mass-mediated humiliation as entertainment and punishment. *Crime, media, culture*, 5(2), 188-205.

⁶¹ Benbow, A. (2007). Mental illness, stigma, and the media. *Journal of Clinical Psychiatry*, 68(Suppl 2), 31-35.

⁶² Coverdale J, Nairn R, Claasen D. Depictions of Mental Illness in Print Media: A Prospective National Sample. *Australian & New Zealand Journal of Psychiatry*. 2002;36(5):697-700. doi:10.1046/j.1440-1614.2002.00998.

⁶³ Mullen, P. E. (1997). A reassessment of the link between mental disorder and violent behaviour, and its implications for clinical practice. *Australian and New Zealand Journal of Psychiatry*, 31(1), 3; Glied, S., & Frank, R. G. (2014). Mental illness and violence: lessons from the evidence. *American journal of public health (1971)*, 104(2), e5-e6. <https://doi.org/10.2105/AJPH.2013.301710>; Aldige Hiday, V. (1995). The Social Context of Mental Illness and Violence. *Journal of health and social behavior*, 36(2), 122-137. <https://doi.org/10.2307/2137220>; Rueve, M. E., & Welton, R. S. (2008). Violence and mental illness. *Psychiatry (Edgmont)*, 5(5), 34.

⁶⁴ Riches, M. (2014). Constructing and Reconstructing Criminality in Aotearoa/New Zealand: Dominant Media Discourses on Crime and Criminality and their Impact on Offenders’ Identities and Rehabilitation Efforts (Thesis, Master of Management Studies (MMS)). University of Waikato, Hamilton, New Zealand. Retrieved from <https://hdl.handle.net/10289/9361>.

⁶⁵ Above, n 61.

⁶⁶ Above, n 61.

⁶⁷ <https://www.justice.govt.nz/justice-sector-policy/research-data/nzcass/survey-results/results-by-subject/public-perceptions/>.

- 5.8 Asked if overall crime was increasing, decreasing or remaining the same respondents answered:

| 2013 | | | |
|-------------------|-------------|-------------------|-------------------|
| <i>Increasing</i> | <i>Same</i> | <i>Decreasing</i> | <i>Don't Know</i> |
| 60% | 18% | 12% | 10% |
| 2014 | | | |
| 61% | 20% | 11% | 8% |
| 2016 | | | |
| 71% | 16% | 5% | 8% |

- 5.9 Overall the theme from these surveys is that the public believed that crime was increasing overall, when the reverse was in fact true - crime rates overall were falling sharply and had actually been since the 1990s.
- 5.10 Prominent criminologist, Greg Newbold wrote in the same year as the last PPS report was published that overall crime was "*less than two-thirds of what was recorded in 1992*" but taking into account population increases the "*per capita crime rate of 2014 is less than half what is was in 1992.*"⁶⁸
- 5.11 Since then (and not taking into account population growth), rates can be seen to have been largely stable or to have dropped slightly,⁶⁹ although public perception surveys of this kind are no longer undertaken.
- 5.12 Interestingly, the results of the PPS show that most people do not think neighbourhood crime is increasing, but do think that national crime is increasing.⁷⁰ One obvious conclusion being that what people know best – their local neighbourhoods – is more in line with an objective reality, whereas what they know least – relying more on media, perhaps – is less tethered to facts and data.

⁶⁸ Newbold, 2016. Crime, Law and Justice in New Zealand. p.3.

⁶⁹ <https://theconversation.com/despite-claims-nzs-policing-is-too-woke-crime-rates-are-largely-static-and-even-declining-156103>.

⁷⁰ <https://www.justice.govt.nz/assets/Documents/Publications/20161130-Final-PPS-report.pdf> (pp.5-6).

- 5.13 This idea is supported by further findings from the reports that most people *self-report* knowing 'a little' or 'nothing at all' about various elements of the criminal justice system in New Zealand.
- 5.14 The results of these assessments and the arguments accompanying or related to them should not be seen as a criticism of the majority of the public or of any of the people who have submitted on this Proposal; they are certainly not that. People's perception of risk or threat does not mean that such concerns should simply be dismissed or go unaddressed. Rather, these results – including the established disconnect between the perception of risk and crime rates and the reality of it - should be a caution to the kind of influence that such matters have over how we determine and proceed with policy measures.

Bristol Street Proposal

- 5.15 The evidence of others including Mr Clark and Mr Kilgour sets out the approach and intent of the Bristol Street proposal, which can be broadly categorised as an approach to address the needs of offenders and better equip them to address the causes of their offending, with a view to desistance or at least a reduction in the severity of offending.
- 5.16 As such and consistent with international trends, the Bristol Street proposal is part of a broader understanding in the New Zealand criminal justice sector that the status quo is unsatisfactory for both offenders and for victims, and that better community outcomes are only going to be achieved by doing things differently.
- 5.17 By seeking to provide wrap around services within a therapeutic programme in a community setting, the intention is to offer a greater chance to positively change the men who attend the programme and in turn their immediate families and ultimately the community.
- 5.18 The Bristol Street proposal is however modest; not because of its ambition or the evidence that underpins its approach (Mr Kilgour described the type of approach at Tai Aroha as "unapologetically intense"), but because the scale and significance of the problem will require many more programmes like this one (in combination with a suite of other measures) to meaningfully address it.

- 5.19 Within this context, I note that many of the submitters have expressed real fears associated with the establishment of a residential programme in their neighbourhood.
- 5.20 Although, the Social Impact Assessment has concluded generally that the likelihood of community safety fears being realised in relation to the proposal are "very low", from what I have observed, the Department has taken these fears seriously and has made a number of changes to the Proposal in attempts to address some of those concerns.
- 5.21 Nevertheless those changes and the commitments of the Department are unlikely to resolve those fears entirely. While the above data do not challenge the experiential reality of those fears, it does suggest that there is a risk that those fears may be significantly overstated.
- 5.22 In my opinion, there should therefore be great caution placed on that when considering the basis for decision-making.

6 CONCLUSIONS

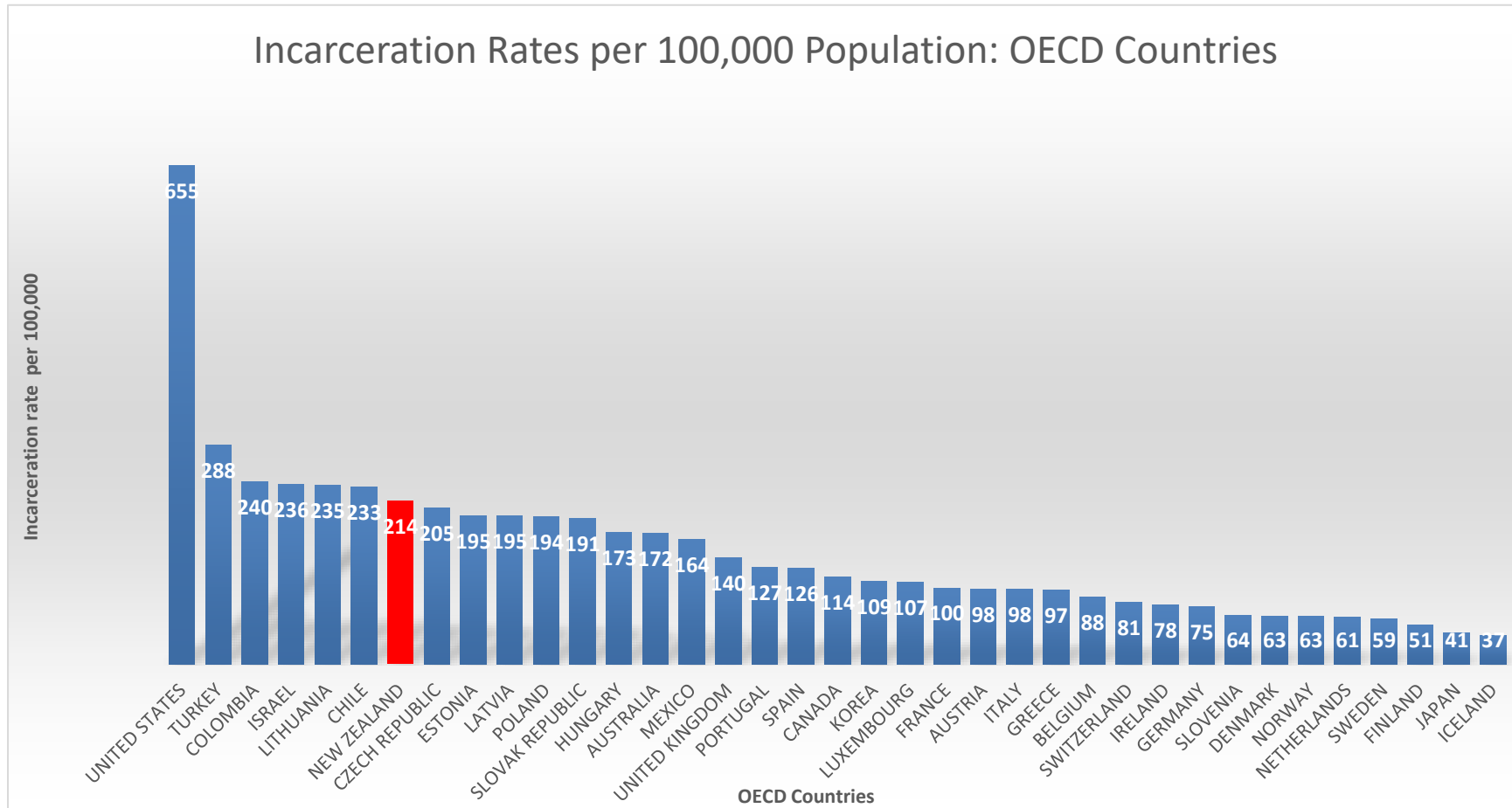
- 6.1 The Bristol Street proposal is, in my opinion, an example of the innovative service that is much needed in a modern justice system.
- 6.2 As set out in the evidence of Mr Clark, it has been designed to more effectively deal with offending behaviour by tackling key drivers of crime for participants within a supportive, therapeutic community environment. Key programme attributes including the provision of targeted support, the chance for whanau and cultural linkages, and assistance to work more effectively with community agencies, all provide meaningful opportunities to effect positive changes in the lives of these men.
- 6.3 In reality, the Proposal is only a small contribution towards addressing the many problems that are evident within our current approach to criminal justice in New Zealand. As I have set out, these problems are, in my opinion, among the most significant social issues in New Zealand, particularly as they impact on Māori.
- 6.4 To successfully address these challenges, many more programmes like what is proposed for 14 Bristol Street – along with a suite of other

measures – will be required. The Bristol Street proposal is, however, a step in the right direction.

Dr Jarrod Gilbert

16 August 2021

Appendix A – Incarceration Rates



Data sourced from the Department of Corrections, 2021