

LONG-TERM
INSIGHTS
BRIEFING

Justice Sector

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Representatives pursuant to schedule
6 of the Public Service Act 2020

FOCUS ON 

IMPRISONMENT
IN NEW ZEALAND

LONG-TERM INSIGHTS ON IMPRISONMENT, 1960 TO 2050

HOW AND WHY HAS THE PRISON POPULATION CHANGED?

WHAT HAS BEEN TRIED TO KEEP PEOPLE OUT OF PRISON?

WHAT ARE THE FUTURE RISKS AND OPPORTUNITIES?

DECEMBER 2022

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Foreword

Welcome to the first Justice Sector Long-Term Insights Briefing on the topic of imprisonment. For many years Justice Sector agencies have been working closely together to make our communities safe, deliver accessible justice services, and achieve better outcomes for all New Zealanders.

The introduction of Long-Term Insights Briefings encourages public servants, alongside communities, to think about the future and what matters most for our long-term wellbeing. They require us to develop and share insights on trends, risks, and opportunities that may affect Aotearoa New Zealand.

Imprisonment is an important issue for New Zealand and for the wider justice sector as it represents a convergence of our work. By the time someone enters prison, they will have already encountered other stages of the criminal justice system. Imprisonment is a significant restriction of personal freedom and can have long-term impacts on people, their whānau and families, and the wider community. Traditionally, New Zealand has had a high imprisonment rate, with a particularly high rate of Māori imprisonment.

Despite their importance, prisons are a part of the criminal justice system which most New Zealanders have limited interaction with. This briefing provides a good opportunity to share insights about the prison system with the public to inform discussions about the future of imprisonment in New Zealand.

This briefing looks at how and why the prison population has changed over the past 60 years and considers the relationships between these changes. It is important that we examine our past to better understand the historical causes

and consequences that have brought us to where we are today. We can then consider the risks and opportunities for the future and see how our choices can shape that future.

We have been particularly interested in what New Zealanders think about the future risks and opportunities associated with changes in imprisonment and we are grateful to all who took part in public consultation on the issues. This included more than 2,600 New Zealanders participating across two representative surveys and over 200 submissions on consultation documents released in November 2021 and October 2022. We are also grateful to the many experts who shared their opinions and research.

This is an opportunity to understand how we got to where we are and where we might be heading on our journey to improve the criminal justice system for all people in New Zealand. By learning from the past, this briefing will help to place us in a stronger position to predict future needs and collectively design a system which successfully meets these needs.

We look forward to continuing engagement on the insights this briefing provides and the future risks and opportunities it identifies.

Ara Poutama Aotearoa, Department of Corrections
Te Tāhū o te Ture, Ministry of Justice
Oranga Tamariki, Ministry for Children
Te Tari Ture o te Karauna, Crown Law
Te Tari Hara Tāware, Serious Fraud Office



Acknowledgements

This briefing is the result of combined efforts across Justice Sector agencies. It has benefited from input from a wide variety of external partners, stakeholders and experts, who have listened to the emerging findings and generously offered their thoughtful feedback. Collectively, this feedback has significantly improved the quality of this briefing and enabled it to reflect a range of different perspectives on imprisonment in Aotearoa New Zealand.

We are grateful to Ināia Tonu Nei who worked alongside Justice Sector agencies throughout this process. The briefing benefitted from the whakaaro shared by Ināia Tonu Nei, and we have valued the different perspectives this relationship contributed.

Thanks also to members of Ara Poutama Aotearoa Te Poari who asked important questions that catalysed further analytical work.

Thank you to members of the Judiciary for participating in discussions on preliminary results, including: The Honourable Justice Tā Joe Williams; His Honour Judge Heemi Taumaunu, Chief District Court Judge; Judge Ida Malosi, Principal Youth Court Judge; and Judge John Walker (Principal Youth Court Judge at the time of discussion, now retired). We are also grateful to Sir Ron Young, Chairperson of the New Zealand Parole Board, and

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Thanks to Dr Kim McGregor, Chief Victims Advisor to Government, and Professor Ian Lambie, Chief Science Advisor to the Justice Sector, for your valuable input. Thank you to the external members of the Ara Poutama Aotearoa Wellness and Wellbeing Insights Advisory Group, who participated in a series of discussions about the work (both collectively and individually) and offered suggestions for further analysis along with sharing useful research to include.

Thanks to Len Cook for sharing his expertise in cohort analysis and wealth of knowledge on New Zealand's broader social trends. The papers produced by Len encouraged us to adopt new ways of thinking about the prison population and provided important insights into the impacts of population changes on future imprisonment trends, particularly in relation to Māori.

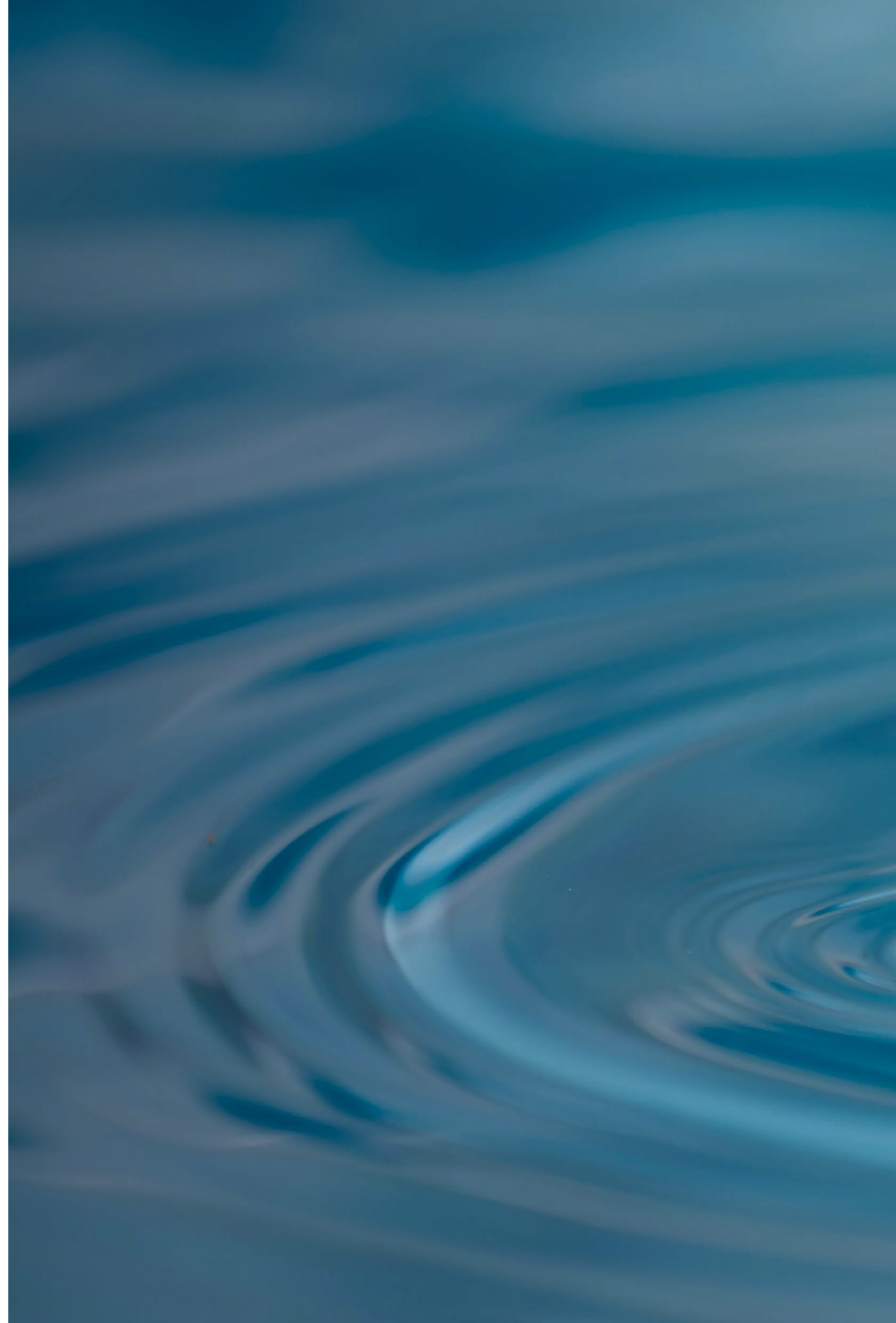
Taylor Fry undertook analysis to explore changes in social indicators for successive cohorts of young people.

Both the Taylor Fry and Oranga Tamariki analyses benefitted from timely access to the Integrated Data Infrastructure overseen by Statistics New Zealand.

The analysis benefitted from the input of a range of independent experts, including those who have previously worked within the criminal justice sector, as well as academics. Thanks to Professor Tracey McIntosh, Emeritus Professor John Pratt, Emerita Professor Jan Jordan, Emeritus Professor Paul Gendreau, Dr Armon Tamatea, Dr Jarrod Gilbert, Dr Warren Young, John Meek, David Riley, Kingi Snelgar, Anne Waapu, and Annalisa Strauss-Hughes for their important contributions. Special thanks also to Detective Superintendent Greg Williams for sharing his insights on the history of policing methamphetamine in New Zealand.

Research New Zealand undertook both the public surveys for the briefing, (including synthesising the survey findings alongside public submissions), Westegg Communications edited the report, and The Hive Creative designed the consultation document and final report.

Thanks to those who shared their views about imprisonment through the public surveys, as well as those who provided submissions on the topic choice and content of this briefing. The public feedback has affirmed the salience of this topic and highlighted the value of engaging the public in discussions about the future of the criminal justice system in New Zealand.







Executive summary

Long-Term Insights Briefings provide an opportunity to look beyond the present to consider future risks and opportunities. Justice Sector agencies have explored how and why the prison population has changed in the last 60 years, what works to keep people out of prison, and considered how learnings from the past can inform a better future for all New Zealanders.

Imprisonment was selected as the topic for the first briefing because New Zealand has traditionally had a very high level of imprisonment compared to other OECD countries, and it is an area of the criminal justice system in which Māori are significantly over-represented.

Prisons are an area of the system which most New Zealanders have little contact with and have limited knowledge about. Public surveys undertaken for the Long-Term Insights Briefing reveal that almost eight in ten New Zealanders know little about our bail system, prison and community-based rehabilitation programmes, and supported accommodation and employment services for people leaving prison.

Despite reductions in crime and imprisonment over the last five years, the surveys revealed that most of the New Zealand public think that crime is increasing and that the prison population is growing. This briefing aims to improve public knowledge and understanding about imprisonment trends in New Zealand to help support public debate and future decision-making.

The causes of crime and the drivers of the prison population are complex. The prison population is affected by changes in social attitudes, policy, and practice. It has been widely argued that changes in the prison population reflect the impacts of direct, indirect and long-term systemic racism towards

Māori and Pacific peoples. This briefing does not provide an exhaustive account of why the prison population has changed: indeed, at some level this is a matter of perspective. It does, however, offer new insights about some of the key drivers that can usefully inform longer-term decision-making and highlights topics in need of further analysis. These insights are briefly outlined below.

Following an extended period of unprecedented growth, the prison population has fallen

The New Zealand prison population grew incrementally from 1960 to the mid-1980s, before increasing rapidly until 2018. After 2018, the prison population fell. Following the recent drop, New Zealand now has the 16th highest imprisonment rate among 38 OECD countries, whereas in 2018 it had the 8th highest rate.

Growth in the sentenced population was driven by increased convictions for serious violence, sexual offending, and Class A drug dealing, alongside legislative changes to sentencing and parole

The long-term rise in the number of people in prison between the mid-1980s and 2018 was mainly due to more convictions for serious violent and sexual offending (since 1985), and methamphetamine dealing (since 2003), alongside changes to the sentencing and release regimes. Policy changes focused on increasing public safety have increased imprisonment. Collectively, the increase in people in prison for serious violence, sexual violation and drug offending accounted for 84 percent of the growth in the sentenced population between the mid-1980s and 2018.

Remand growth was driven by technology and practice improvements alongside longer court processes

The presumption of innocence requires a good reason for remanding someone in custody. Any time someone is remanded in custody is therefore a cause for concern. The growth of the remand population since 2014 was primarily driven by practice and technological improvements that caused more people who offended on bail or failed to comply with their bail conditions to spend time on custodial remand. Remand population growth was also affected by cases taking longer to progress through the court system. This has meant that people on custodial remand spend more time in prison awaiting trial and sentencing outcomes, while those on bail in the community spend longer periods living under restrictive bail conditions. The remand population now accounts for 40 percent of the New Zealand prison population and 50 percent of the women's prison population: this is the largest proportion ever reached in New Zealand and is expected to increase in the future.

The nature of the prison population has changed

Alongside these changes, the composition of the prison population has changed significantly over time. Some of the main changes include:

- there are fewer young people in prison, and they make up a much smaller proportion of the total prison population
- the prison population is getting older, as fewer young people arrive and older age groups spend longer in prison and take more time to stop offending
- fewer Māori are in prison, but Māori make up an increasing proportion of the prison population
- levels of disparity between Māori and non-Māori imprisonment rates are increasing as a result of a larger drop occurring in the non-Māori prison population
- a greater proportion of people are in prison due to serious sexual and violent offences
- there is a smaller proportion of people in prison for property offences.

The COVID-19 pandemic accelerated the prison population drop but it is not the primary cause

The more recent fall in the prison population has been influenced by changes in sentencing patterns with less use of imprisonment, alongside changes in the management of bail and remand. The COVID-19 pandemic has further contributed to the drop; however, the falls also reflect changes in Police and judicial practice, including the greater use of community-based sentences involving technology (such as electronic monitoring).

There are fewer Māori in prison, but levels of disparity are increasing

Between 1960 and 1979 the Māori prison population grew by 125 percent, while the non-Māori population grew by 17 percent. Māori made up 50 percent of the total prison population by 1985 and have remained at this level until recently, when the proportion began to rise to reach 53 percent in 2022.

The significant growth of Māori imprisonment from 1960 to the mid-1980s was driven by Māori urbanisation, government policies and practices that disproportionately affected Māori (reflective of systemic, direct, and indirect racism), as well as changes in the general Māori population. These factors can be considered against a background of colonisation.

Changes which increased the prison population disproportionately affected Māori, while recent changes which caused a drop in the prison population were not as advantageous for Māori. For example, changing legal responses to violent offending had a greater impact on increasing Māori imprisonment, while more recent changes to bail practice have benefitted non-Māori to a greater degree. Similarly, the reverse onus conditions relating to offending on bail which contributed to remand growth have had a greater impact on the Māori remand population. Consequently, levels of disparity and over-representation have increased. Māori men are now over six times more likely to be in prison than non-Māori men, while Māori women are almost 11 times more likely to be in prison than non-Māori women.

Pacific men are over-represented in the prison population

The Pacific prison population grew substantially during the 1990s, driven by rapid population growth and policy changes pertaining to violent and sexual offending. In 2018, Pacific men accounted for seven percent of the general adult male population and 15 percent of the prison population. Imprisonment rates for young Pacific men have dropped significantly since the peak in 1996. In 1996 young Pacific men were 2.3 times more likely to be in prison than non-Pacific men, by 2018 this had dropped to 1.2 times.

The women's prison population grew faster and is now falling faster than the men's prison population

Between June 1988 and June 2018, the women's prison population grew by 470 percent, from 130 to 740. The population peaked at 809 in January 2018. Between 2018 and 2022, the women's prison population fell 42 percent. Over the same periods the men's prison population rose by 200 percent and fell by 23 percent. Women have consistently accounted for six to seven percent of the total prison population over the past 60 years.

Fewer young people are entering the criminal justice system

The drop in the number of young people in prison over the last 12 to 15 years has been substantial. In 1980, 29 percent of the prison population was under 20 years old; however, by 2022 only one percent was. In 1980, 64 percent of the prison population was under the age of 25; by 2022, ten percent was. As a result, the average age of the prison population has increased from 25 in 1980 to 38 in 2022. It is not simply that young people are receiving community sentences or being diverted away at earlier stages of the system. Young people are not encountering the criminal justice system to the same extent as previously.

Changing needs of people in prison

Over the last 60 years the nature of the prison system has changed substantially. It is now an older population, with people more likely to be in prison for violence and/or sexual offences, more likely to be serving long sentences, and more likely to spend a greater proportion of their time in prison on remand. It also contains a greater proportion of Māori and Pacific peoples, and a greater proportion of people who are gang affiliated. People in prison have greater levels of childhood and adult trauma, greater lifetime exposure to family violence, higher prevalence of substance abuse

disorder, mental health issues, and neurocognitive diversity than the general population. Evidence suggests that the level of criminogenic need amongst this group is also increasing.

What works to keep people out of prison?

The briefing has focused on what stops people from entering prison and what helps those people in the prison system get out and stay out. It did not consider diversionary mechanisms for low-level offending nor interventions located at earlier stages of the criminal justice system. It did not explore primary prevention approaches that aim to stop people offending in the first place. Instead, it has focused specifically on what prevents people from transitioning to prison, as well as tertiary prevention measures that prevent people from returning to prison. Specifically, it explored: community alternatives to imprisonment, prison-based rehabilitation, and reintegration interventions.

Until recently there was little evidence that community alternatives reduced imprisonment

Through the second half of the twentieth century a wide range of community-based alternatives to imprisonment were introduced. For the most part the use of alternatives grew alongside substantial growth in the prison population. There was little evidence that these alternatives kept people away from prison, and some evidence that suggests that they led to net-widening. The use of community alternatives to imprisonment has changed more recently, with the increased use of intensive supervision (strengthened by alcohol and other drug testing, and electronic monitoring) rather than short prison sentences for some people.

Rehabilitation can reduce reoffending

There is good evidence that rehabilitation programmes that follow the Risk-Needs-Responsivity model and principles of effective intervention can reduce reoffending. Well-functioning programmes can reduce reimprisonment by five to ten percentage points. Programmes delivered in therapeutic communities, which provide an environment supportive of change, typically achieve the best results. Rehabilitation in New Zealand prisons increasingly involves bicultural models and partnering with iwi and Māori providers to design and deliver interventions. Further evaluation is needed to assess the effectiveness of more recent innovations.

Reintegration programmes can reduce reoffending

Reintegration support has changed significantly over the last 60 years, with significant investment and professionalisation of community-based reintegration services over time. Evidence shows that reintegration programmes can significantly reduce reoffending; however, results tend to be variable over time and across different types of interventions. Research suggests that the most effective reintegration programmes are those that utilise cognitive behavioural and/or social learning approaches, and target factors shown to reduce reoffending risks, such as practical supports around housing, pro-social support, employment, as well as coping and problem-solving skills.

Looking to the future: what could happen to the prison population in the decades ahead?

In this briefing we have looked to the past in order to better understand what could happen in the future. The justice system currently faces a future where we could see both a significant level of change and the persistent impact of some existing trends. Five key trends are likely to have a particularly strong impact on the prison population:

- changing demographics
- community involvement
- Māori over-representation
- the remand population
- the use of technology

The future prison population will be shaped by policy decisions, and broader social and demographic changes within New Zealand. These wider influences on the prison population make it difficult to predict what it could look like in coming decades.

The prison population could be smaller per capita with proportionately fewer young people

Based on current trends, the prison population is likely to be smaller per capita with a higher average age. The prison population could be higher than in 2022 given that New Zealand's total population is likely to grow to six million people by 2050, but the imprisonment rate may be lower. Half of the prison population could be on remand, which will present ongoing challenges across the criminal justice system.

The criminal justice system will need to continue to address Māori over-representation

It will be critical for the criminal justice system to address Māori over-representation and work with whānau, hapū, iwi and other Māori groups on approaches that improve outcomes in the decades ahead. This briefing emphasises that significantly reducing Māori over-representation would require approaches that grapple with root causes of disparities across multiple sectors.

Broader social changes in New Zealand will shape the prison population

Looking at changes in the prison population over time has underscored that many of the drivers of crime and imprisonment sit outside of the criminal justice system. The broader social changes that take place across New Zealand in the decades ahead will bring both risks and opportunities for the criminal justice system. We are also likely to see increased formal community involvement in the criminal justice system.

The criminal justice system will need to adapt to a changing population over coming decades

The criminal justice system will face challenges and opportunities as it balances public safety, victims' needs, and the delivery of effective rehabilitation and reintegration services. While it is difficult to predict with certainty how the size and composition of the prison system will change, the past suggests that shifts in approach at the initial stages of the system can have ongoing ramifications for the later stages of the system. System-wide approaches offer opportunities to ensure there is sufficient flexibility to respond to future changes.



Contents

Foreword	04
Acknowledgements	05
Executive summary	08
Contents	12
Tables and Figures	15
Introduction	18
Public consultation	20
Structure of this briefing	21
Imprisonment rates in the OECD	23
The offence composition of New Zealand's prison population is different to other countries	25
How has the prison population changed?	28
Explaining the increase in the sentenced population	31
Gradual growth 1960 to the mid-1980s	31
Most people in prison are there for serious crimes	34
Is New Zealand more punitive than other countries?	36
Is New Zealand's release regime more stringent than other countries?	37
The Parole Act 2002 and growth in the long sentence population	38
How and why did the custodial remand population increase?	40
The remand population grew gradually to 2000 before increasing in two phases	40
People are spending longer on remand	43
How and why did the prison population decline?	45
The decline in the sentenced prisoner population since 2018	45
The drop in the custodial remand population since 2020	50
How did the Māori prison population change?	52
Explaining the changes in Māori imprisonment	53
The Māori remand population	57
What has happened to the Māori prison population since 2018?	58

How did the Pacific prison population change?	60
Explaining the growth in the Pacific men's prison population	61
Age differences for Pacific peoples	62
The fall in the Pacific prison population	62
How did the women's prison population change?	64
What factors contributed to the changes in the women's prison population?	66
What factors contributed to the fall in the women's prison population?	67
What happened to the Māori women's prison population?	67
How did the age profile of the prison population change?	69
Fewer young people are going to prison	69
The prison population is aging	74
The needs of people in prison: insights from research	76
What works to keep people out of prison?	78
Community alternatives to imprisonment	78
Rehabilitation: 1960 to 2022	80
How effective are rehabilitation programmes?	81
How do prison programmes compare to community-based programmes?	84
The changing shape of reintegration services 1960 to 2022	86
How effective are reintegration interventions?	87
How has the population of people released from prison changed?	88
What has happened to levels of reoffending over time?	90
Do prisons contribute to reoffending?	91
Does prison encourage people to join gangs?	92
Overarching themes from the past	94
Future risks, opportunities, and policy options	98
Appendix 1: A note on data sources and approach	116
Appendix 2: List of external subject matter experts consulted on the findings	119





Tables and Figures

Figure 1: Imprisonment rates per 100,000 people for OECD member states at 30 June 2022	24	Figure 9: Average days per spell on remand and average days on remand counted as time served against an imprisonment sentence 2015/16 to 2021/22	43
Figure 2: New Zealand and Australian total prison populations by main offence type at 31 December 2021	25	Figure 10: The number of people in prison serving indeterminate, long and short sentences between September 2017 and June 2022	45
Figure 3: Changes in the total prison population, sentenced population, and custodial remand population, 1960 to 2022	29	Figure 11: The number of people starting long and short sentences per annum from 2017/18 to 2021/22	46
Figure 4: Changes in the prison population vs. anticipated level of imprisonment based on growth in the general population	32	Figure 12: The per annum distribution of imprisonment, home detention, intensive supervision and community detention sentences across offences with a maximum penalty of two years or more for the years 2017/18 to 2021/22	47
Figure 5: The proportion of people in prison for serious violence, sexual violation, burglary and dishonesty, 1980 to 2022	33	Figure 13: Average sentence length imposed in days, average days on remand credited to the sentence & average days to serve by people sentenced to short terms of imprisonment (two years or less) for the years 2017-18 to 2021/22	48
Figure 6: The number of people serving a prison sentence for dealing in Class A drugs, June 2000 to June 2022	35	Figure 14: The number of people on custodial remand between June 2018 and June 2022	50
Figure 7: Comparison between the Criminal Justice Act and the Parole Act of the proportion served before first release on parole	39		
Figure 8: The number of people on custodial remand and the proportion of people on custodial remand in the total prison population, 1960 to 2022	41		

Figure 15:

The total Māori prison population and Māori as a proportion of the total prison population, 1960 to 2022

52

Figure 16:

The relative likelihood of Māori men and Māori women being in prison compared to their non-Māori counterparts, 1991 to 2022

58

Figure 17:

The relative likelihood of Māori men being in prison compared to their non-Māori counterparts by age group for the years 2009 and 2019

59

Figure 18:

The Pacific peoples' prison population, 1980 to 2022

60

Figure 19:

The relative likelihood of Pacific men and Pacific women being in prison compared to their non-Pacific counterparts in 1996, 2001, 2006, 2013 and 2018

61

Figure 20:

Women's prison population, 1960 to 2022

64

Figure 21:

The offence composition of the women's prison population in 1980 and 2022

65

Figure 22:

The relative likelihood of Māori women being in prison compared to non-Māori women, 1991 to 2022

68

Figure 23:

Number of people aged under 20, and aged 20 to 24, in the total prison population, 1980 to 2022

69

Figure 24:

Percentage of people first imprisoned by age 21, by year of birth from 1981 to 1999

70

Figure 25:

Total police proceedings, court actions, warnings and other methods of proceeding against people aged 15-19, 2014/15 to 2021/22

71

Figure 26:

The proportion of people in prison aged 40 to 49 and 50 or older, 1980 to 2022

74

Figure 27:

Rates of imprisonment for successive male birth cohorts beginning with the 1966 to 1970 birth cohort and ending with the 1996 to 2000 birth cohort

75

Figure 28:

The Risk-Needs-Responsivity Framework: 15 Core Principles

82

Figure 29:

12 month resentencing and reimprisonment rates, 1990/91 to 2021/22

90





Introduction

Under the Public Services Act 2020¹, public service agencies must publish briefings every three years that share insights with the public on medium and long-term trends, risks, and opportunities that may affect Aotearoa New Zealand. The briefings must include impartial analysis of future issues and outline policy options for responding to these issues. The briefings are not public policy and are developed independently of Ministers. They are an opportunity to identify and explore issues that are important to our collective future. The briefings must present analysis of trends and insights to develop understanding so that the public can contribute to future decision-making.

A joint Justice-Sector briefing

This first briefing has been undertaken collaboratively by Justice Sector agencies, including Ara Poutama Aotearoa, Ministry of Justice, Oranga Tamariki, Crown Law, and the Serious Fraud Office. While not a public service agency, and therefore not covered by the requirements of the Public Services Act, NZ Police is a core Justice Sector agency and has been consulted on the content of this briefing.

Long-Term Insights Briefings are a new government initiative that invite all New Zealanders to think about the future and what matters most to our long-term wellbeing.

¹ Public Service Act 2020, Schedule 6 Clauses 8 and 9.

Topic: Long-term insights about imprisonment, 1960 to 2050

Chief Executives are required to select the topic for each briefing. The first Justice Sector long-term insights briefing explores the following questions:

- how has the prison population changed and why?
- what works to keep people away from prison?
- what are the future risks and opportunities?

While previous research has examined specific areas of change at key points in time, the selection of this topic provides an opportunity for Justice Sector agencies to look systematically at multiple changes in imprisonment across a 60-year period and gain new insights to inform how we can work together to create a better future.

Our approach

The briefing makes use of data, primary research and analysis, and evaluation evidence to describe how the prison population has changed and identify what factors have been driving those changes.

Long-term time series datasets have been created for the first time by joining data across different systems and agencies to enable the analysis of change over time. This has involved extracting data from paper files, joining data from different parts of the Justice Sector together, and combining

criminal justice data with other social sector and health data to generate new insights. This has involved making use of datasets contained within Statistics New Zealand's Integrated Data Infrastructure.²

We have also made use of international and New Zealand research and evaluation evidence to shed light on key drivers of changes in the prison population, understand “what works” to keep people out of prison, and to contextualise these findings against a backdrop of international trends and best practice.

The briefing includes data up until 30 June 2022 as this was the last full fiscal year available at the time the analysis was undertaken. Changes that have occurred after this point are not included in the historical analysis.

Subject matter experts were also approached to provide comments on earlier drafts of this work and share their visions for the future. This mix of experts included those who had worked in the system at key points in time when significant changes to the population and criminal justice policies occurred, as well as a broad range of academic experts, including Māori academics.³ Feedback and insights were also provided by Ināia Tonu Nei through the Waka Hourua forum, and Ara Poutama Te Poari, a key group of Māori stakeholders who work with Ara Poutama Aotearoa to improve outcomes for Māori in the corrections system.

² A full description of data sources and methods is provided in Appendix 1. Figures have generally been rounded in the briefing.

³ A full list of experts who provided comments and contributions for the Long-Term Insights Briefing is provided in Appendix 2.

Public consultation

Legislation requires the topic choice and findings of Long-Term Insights Briefings to be shared with the public for consultation. Initial public consultation took place in late 2021 and more than 1,500 New Zealanders participated. The consultation involved two parts:

- a nationally representative online public survey undertaken by Research New Zealand, an independent research company. The survey included a Māori booster sample to ensure that Māori perspectives were well canvassed. The survey took place from November to December 2021 and included 1,397 adults aged 18 and over, of whom 402 identified as Māori.
- a self-selecting non-representative survey placed on the Ministry of Justice website. This survey received 176 responses. Demographic information was not collected as part of this survey.

The initial round of consultation asked people for their views on the topic selection for the briefing, as well as some additional questions about their knowledge of the prison system and feelings about the current and future use of imprisonment in New Zealand. The consultation revealed high levels of public support for the selected topic, with both the representative and opt-in surveys showing particularly high levels of support for a focus on understanding what factors help people in prison not to return.⁴

The nationally representative survey showed most New Zealanders reported that they had a low level of knowledge about imprisonment, with 60 percent of respondents suggesting they knew “a little” and 18 percent suggesting they “knew nothing at all” about this topic.

A second round of public consultation, focusing on the key findings from the report, occurred between September and October 2022. This consultation included:

- a small number of interviews (n=12) with members of the public to inform the development of questions for a nationally-representative survey undertaken by Research New Zealand.
- a nationally representative online public survey undertaken by Research New Zealand. The survey included a Māori booster. It took place in October 2022 and included 1,269 adults, of whom 400 identified as Māori.
- a non-representative survey placed on the Ministry of Justice’s website. This survey received 47 responses.

The second national survey similarly found that the New Zealand public knew little or nothing about the bail system (77 percent), rehabilitation interventions (79 percent), and reintegration support provided to people leaving prison (79 percent). Furthermore, it showed that despite the drop in crime levels over time, most of the New Zealand public believes that crime is increasing and that the prison population is also increasing.⁵

⁴ Research New Zealand (2021) *Long-Term Insights Briefing - The Future of Imprisonment: Findings from the first round of public consultation*. December 2021. Wellington: Research New Zealand.

⁵ Research New Zealand (2022) *Long-Term Insights Briefing - The Future of Imprisonment: Findings from the second round of public consultation*. December 2022. Wellington: Research New Zealand.

As has been found in earlier research, low levels of knowledge are associated with lower levels of public confidence.⁶ Improving knowledge and understanding about the prison system therefore has the potential to increase public trust and confidence, as well as supporting more informed debate. This, in turn, may encourage a greater willingness on the part of communities to support people after they leave prison.

Key findings from the second round of public consultation have been included through this briefing and are particularly reflected in the "Future risks, opportunities and policy options" section of the briefing. A full summary of the findings from the public consultation is available on the Ministry of Justice website.⁷

Structure of this briefing

The first part of this briefing describes what happened to the prison population between 1960 and 2022 and explores why these changes occurred. Within this broad focus, it describes shifts in different parts of the prison population, including changes in the:

- sentenced population (people in prison after sentencing)
- custodial remand population (people in prison awaiting the outcome of court processes)
- Māori, Pacific peoples', and women's prison populations
- age profile of the prison population.

⁶ Colmar Brunton (2014) *Public perceptions of crime and the criminal justice system: 2014 Results*. Wellington: Ministry of Justice; Colmar Brunton (2016) *Public perceptions of crime and the criminal justice system: 2016 Results*. Wellington: Ministry of Justice. See also Jones, C., Weatherburn, D. & McFarlane, K. (2008) Public confidence in the NSW criminal justice system. *Crime and Justice Bulletin*, No.118: 1-20.

⁷ <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/justice-sector-long-term-insights-briefing/>

In addition to explaining how the prison population changed, the briefing explores why the prison population changed. Many complex factors have influenced changes in the prison population, including:

- social factors (for example, education, health, employment)
- the make-up of the general population (particularly, age structure)
- legal settings
- operational policy and practice (for example, policing numbers, deployment, and technology, charging and prosecution practice, sentencing, and release decision-making)
- social and political attitudes towards different types of behaviours
- serious offending or crime levels.

These factors are affected by the impacts of colonisation on Māori, and have occurred against a backdrop of direct, indirect and long-term systemic racism.⁸

For the first time, this briefing begins to provide evidence of some of the proximate factors that have driven the changing level and composition of the prison population (for example, changes in legislative settings). While the briefing is not fully comprehensive – owing to the scope and complexity of the issues involved – it aims to promote greater understanding and a focus on some of the key issues. In doing so, it is hoped that this briefing will help to shape future cross-agency research programmes, foster research partnerships

with others, such as university researchers, and improve our collective knowledge and understanding of imprisonment in New Zealand.

Following an historical review of how and why the prison population changed, the second part of the briefing explores efforts to limit the use of imprisonment and reduce reoffending. It provides a short history of alternatives to imprisonment tried in New Zealand since 1960 and distils learnings. It also describes changes in prison rehabilitation and reintegration over this period, and summarises what has been learnt about “what works” to keep people out of prison.

It is acknowledged that there are many options available at earlier points in the criminal justice system to divert people from prison (for example, police and court diversion, as well as various dedicated problem solving and therapeutic courts). Because this briefing is about keeping people away from prison, the focus has been on offending at the more serious end of the spectrum that is most likely to result in imprisonment. We have explored alternatives to prison as opposed to alternatives to formal criminal justice processes more generally. We further consider what helps people who enter the prison system not return. In selecting this focus we recognise that prison is regularly the last link in a long chain of criminal justice interventions experienced by people, and that for some the path to prison can begin prior to any formal engagement with the criminal justice system. We encourage further work which explores alternatives at earlier stages of the criminal justice system.

⁸ Jackson, M. (1988) *The Māori and the criminal justice system: A new perspective: He Whaipaanga Hou, Part 2*. Wellington: Department of Justice; Bull, S. (2001) *The land of murder, cannibalism, and all kinds of atrocious crimes? 'Māori crime' from pre-colonial times to the present day*. Doctoral Thesis. Wellington: Victoria University of Wellington; Webb, R. (2003) *Māori crime: possibilities and limits of an indigenous criminology*. Doctoral Thesis. Auckland: Auckland University; Mihaere, R. (2015) A kaupapa Māori analysis of the use of cultural identity in the prison system. Doctoral Thesis. Wellington: Victoria University of Wellington; Quince, K. (2010). The Bottom of the Heap? Why Māori Women are Over-Criminalised in New Zealand. *Te Tai Haruru*, 3: 99-128; Cunneen, C. & Tauri, J.M. (2019) Indigenous Peoples, Criminology, and Criminal Justice, *Annual Review of Criminology*, 2 (1): 359–81; McIntosh, T. & Curcic, M. (2020) Prison as destiny? Descent or dissent? in L. George, A. N. Norris & J. Tauri (eds) *Neo-Colonial Injustice and the Mass Incarceration of Indigenous Women*. London: Palgrave Macmillan, 223-238.; McIntosh, T. & Workman, K. (2017). 'Māori and prison', in A. Deckert, & R. Sarre (eds.), *The Palgrave Handbook of Australian and New Zealand Criminology, Crime and Justice*, Auckland: Palgrave Macmillan, 725-735.

The final section reflects on the briefing's findings and considers the implications for the future of imprisonment in New Zealand. In doing so, it incorporates policy directions, and presents the views expressed by key academic, practitioner and policy experts, Māori stakeholders, people who responded to the invitation for feedback posted on the Ministry of Justice's Citizen Space online portal, and the views of the general public (as captured through the representative public surveys conducted by Research New Zealand).

Before addressing New Zealand-specific developments it is useful to compare imprisonment in New Zealand with other jurisdictions. The following two sections contrast New Zealand's imprisonment rate with the other OECD countries and compare the composition of New Zealand's prison population with selected countries.

Imprisonment rates in the OECD

New Zealand's imprisonment rate has traditionally been high compared to similar jurisdictions, and much higher than many European countries. Figure 1 shows comparisons taken from the World Prison Brief, compiled at Birkbeck University of London, using the most recently reported rates (2022 for most countries).

Incarceration rates are usually calculated as the number of people in prison per 100,000 people in the population. It should be noted that this is a crude measure, because it does not recognise some important differences when comparing with other countries. For instance, there are differences between

jurisdictions in the age threshold at which people can be sentenced to imprisonment. The age structure of populations can vary between countries all other things being equal, those countries with the oldest populations will typically have lower imprisonment rates.

Furthermore, not all jurisdictions report at the same point in the year, and prison populations can be seasonal with highs and lows during the year. For example, New Zealand has tended to have a lower population heading into Christmas and a higher one during the first quarter of the calendar year. There are also other factors relating to the nature of offending and the likelihood of arrest that can generate differences between jurisdictions that limit the validity of comparisons.

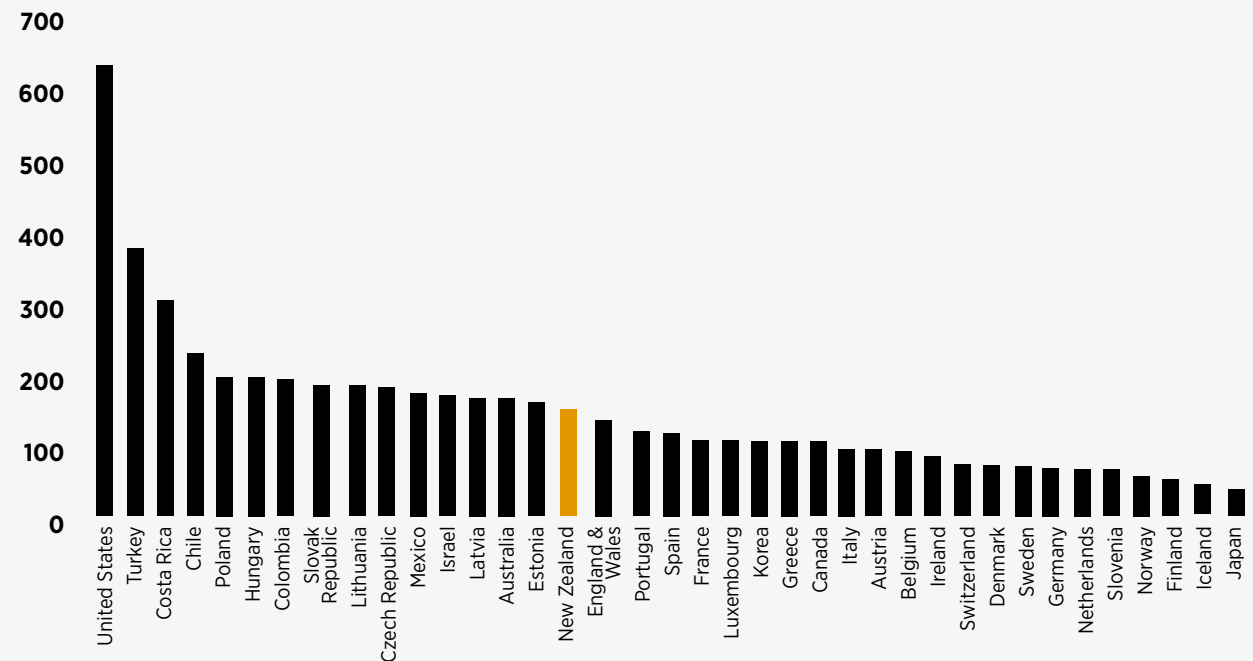
On the basis of the Birkbeck University data, New Zealand had the 8th highest imprisonment rate in the OECD in 2018: in 2022 it had the 16th highest rate. Figure 1 shows the position of New Zealand in June 2022 relative to other OECD countries.⁹

The gap between the New Zealand rate and those countries with lower rates in 2018 has narrowed in the last four years. For most of the last ten years New Zealand has had higher rates than the two jurisdictions we intuitively compare ourselves to: Australia, and England and Wales. In 2018 New Zealand's rate (214) was higher than that of Australia (172) and much higher than that of England and Wales (140); however, by 2022 New Zealand's rate (149) was lower than that of Australia (165) and much closer to that of England and Wales (134).

⁹ For some countries the rates are from 2021.

New Zealand's imprisonment rate has dropped in recent years compared to other countries. In June 2022, we had the 16th highest imprisonment rate in the OECD out of 38 countries: in 2018 we had the 8th highest rate.

Figure 1: Imprisonment rates per 100,000 people for OECD member states at 30 June 2022



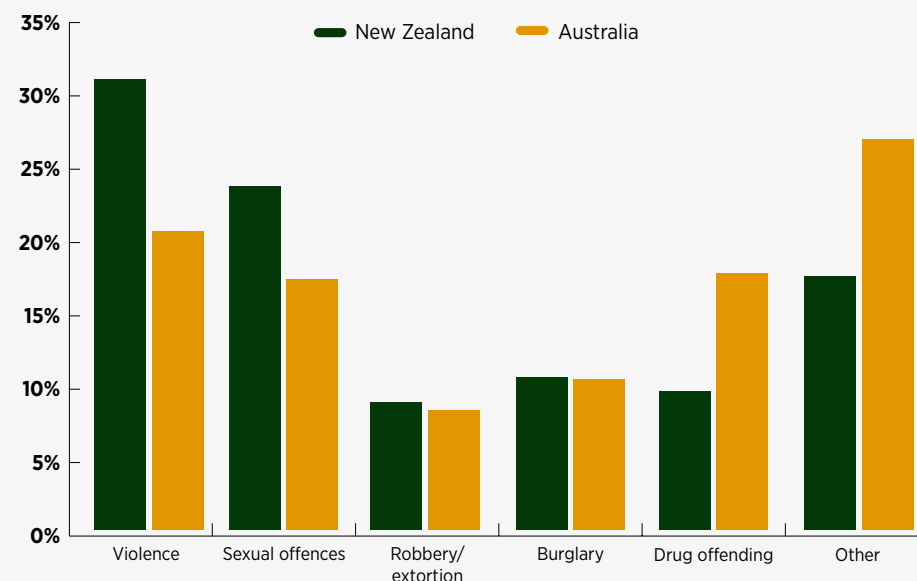
The offence composition of New Zealand's prison population is different to other countries

Comparing the make-up of prison populations internationally is complicated by differences in the way offences are grouped and reported, and the way in which imprisonment is reported. Some jurisdictions report entry to prison (*throughput*) as opposed to who is in prison at any given time (*snapshot*). Offence classification systems often differ between countries and can be difficult to reconcile.

New Zealand and Australia jointly developed a common classification system (ANZSOC) making comparison simple and accurate. Population snapshots are available for both countries. The compositions of the New Zealand and Australian¹⁰ prison populations at 31 December 2021 are compared in Figure 2. Offences have been aggregated into six groups. More than 54 percent of the New Zealand prison population are either serving sentences or facing charges for sexual or violent offending compared to 37 percent of Australian prisoners. There are proportionately more people in prison for drug offending in Australia (17 percent compared to nine percent).

Comparing New Zealand to England and Wales reveals similar points of difference, and some additional ones. The New Zealand prison population has higher proportions of people in prison for sexual and violent offending (60 percent vs. 46 percent), and burglary and robbery (19 percent vs. eight percent).

Figure 2: New Zealand and Australian total prison populations by main offence type at 31 December 2021



A higher proportion of New Zealand's prison population is in prison for violent and sexual offending, and a smaller proportion for drug offending, than other countries. These differences matter when it comes to comparing different policies and practices across jurisdictions.

¹⁰ Prisoners in Australia, 2021 | Australian Bureau of Statistics (abs.gov.au)

New Zealand has a much lower proportion of people in prison for drug offences (eight percent vs. 18 percent).¹¹ Similar differences are evident when comparing New Zealand's prison population with that of Ireland.¹²

The New Zealand prison population is often unfavourably compared with Scandinavian countries. Comparing prison populations with these jurisdictions is difficult as Scandinavian countries tend to report imprisonment starts, rather than population figures, and the offence categorisations are very different.¹³ Having reorganised the New Zealand data to approximate Swedish data categorisations as far as possible, the most obvious difference is in the proportion of imprisonment starts for Crimes against Life and Health (which loosely translates to violent offences) and drug offences. The proportion of people imprisoned for violent offending in New Zealand is almost three times greater than in Sweden. Conversely, Sweden imprisons five times the proportion of people for drug offences that New Zealand does.

Differences in the offence composition of prison populations matter when it comes to comparing different policies and practices across jurisdictions. For example, the regime and treatment requirements for a population largely comprised of people convicted of property and drug offending will be different to those required for a population comprised of a greater proportion of violent and sexually violent prisoners. As reoffending rates differ considerably across different types of offence, these differences also place limits on our ability to make simple comparisons of reoffending rates across different jurisdictions.

¹¹ <https://www.gov.uk/government/collections/offender-management-statistics-quarterly>

¹² https://www.irishprisons.ie/wp-content/uploads/documents_pdf/SNAPSHOT-Offence-Group-Year-2007-to-2020.pdf

¹³ As imprisonment starts for Sweden are reported only by broad categories, it was necessary to use a translation of the Swedish Criminal Code to re-categorise New Zealand offending.







How has the prison population changed?

The prison population did not change evenly between 1960 and 2022. Rates of growth were faster in some periods than others and were greater for some groups than others at different points in time. Different factors were associated with changes for different groups at different times. For example, the pattern of change was different between the sentenced population (people who have been convicted, sentenced to prison, and are serving their sentence) and the custodial remand population (people who are in prison awaiting a court hearing, trial or sentencing).

An overview of changes in the total prison population, the sentenced prisoner population and the custodial remand population is presented in Figure 3.

As shown in Figure 3, the total prison population grew gradually between 1960 and the mid-1980s, and then increased sharply until 2018 when the population began to decline. The sentenced prisoner population followed a very similar pattern. The main periods of growth in the custodial remand population came later, with an initial increase evident from the late 1990s/early 2000s, followed by a sharper increase from 2014 to 2020 (after which time, the remand population began to fall).

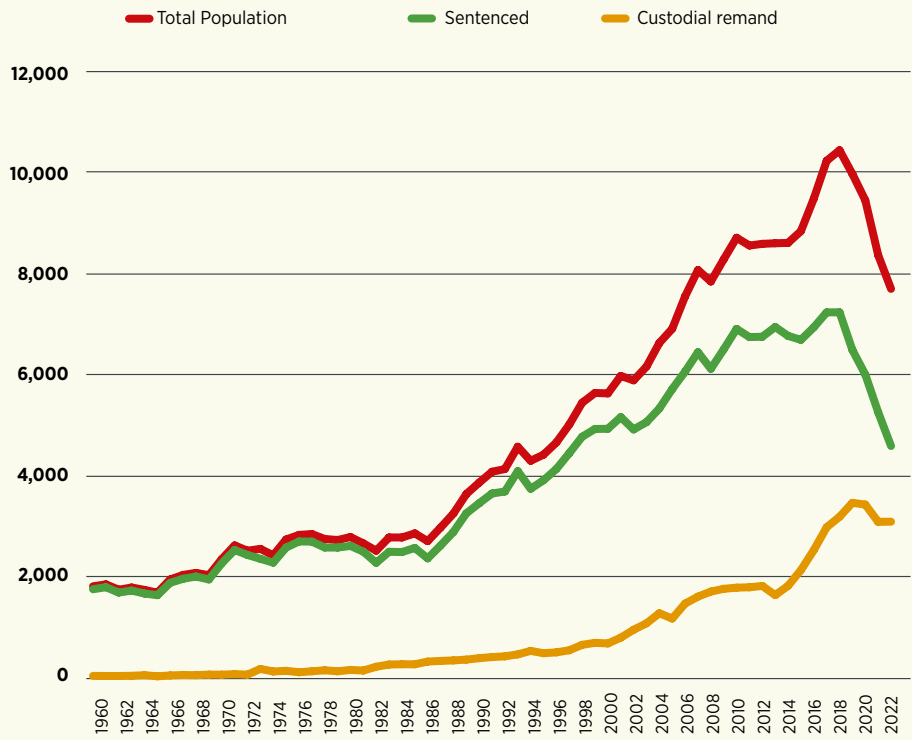
In the context of these overarching trends, the briefing focuses on explaining two main changes in the prison population over the last 60 years:

- the period of rapid growth from the mid-1980s until 2018 (sentenced population) and 2020 (custodial remand population)
- the more recent drop in the prison population occurring over the last three to five years.

Acknowledging the different patterns of change for the sentenced and custodial remand populations, this briefing explores changes in these two populations separately. In doing so we recognise that there are interactions between the two populations. The longer a person is in prison on custodial remand, the less time they will spend in prison when they are sentenced. It should also be recognised that at times the same drivers have influenced changes in both the sentenced and custodial remand populations; however, the separation of these two populations for analytical reasons reflects the fact that there are also some different drivers that require a separate focus.

It should be noted that within these overarching trends, different groups experienced different rates of change at different points. While similar drivers affected many of these changes, this is not always the case; moreover, similar changes often had different impacts for different groups. In recognition of these differences, separate sections exploring changes for Māori, Pacific peoples, women and young people, have been included in the briefing.

Figure 3: Changes in the total prison population, sentenced population, and custodial remand population, 1960 to 2022







Explaining the increase in the sentenced population

Gradual growth from 1960 to the mid-1980s

As shown in Figure 4, between 1960 and the mid-1980s the prison population grew gradually, and in line with the increase in the general adult population. The increase was not evenly spread across all groups and for some, particularly Māori men, the growth in imprisonment was more rapid. The increase and circumstances contributing to the increase in Māori imprisonment during this period are discussed below in the section titled “How did the Māori prison population change?” From the mid-1980s, New Zealand’s prison population began to climb rapidly, outstripping population growth, to reach a peak of 10,800 in March 2018.

Both the remand population and the sentenced population contributed to this growth. Changes in the remand population are described in the section “How and why did the remand population increase?”. This section deals with changes in the sentenced population, which, particularly at the start of the period, accounted for most of the prison population.

The sentenced prisoner population grew by almost 180 percent between June 1985 and June 2018, from 2,590 to 7,230. The highest point was 7,490, which was reached in November 2017. Overall, 84 percent of this growth was due to increases in the number of people in prison for:

- serious violence (increasing 420 percent from 460 in 1985 to 2,400 in 2018)
- sexual violation (increasing 850 percent from 150 in 1985 to 1,460 in 2018)
- Class A drug dealing (increasing by 990 percent from 70 in 2003 to 765 by June 2018).

As shown in Figure 5, the proportion of the prison population sentenced for serious violence and sexual violence has grown substantially in recent decades. Serious violence, accounted for less than 15 percent of the prison population in 1980, and made up over a third in 2022. Sexual violation accounted for less than five percent of the sentenced prison population in 1980 and accounted for just under 20 percent in 2022.

IN 1980

1 in 7

people in prison were facing a charge or serving a sentence for serious violence: **IN 2022 1 IN 3 WERE.**

IN 1980,

1 in 25

people in prison were facing a charge or serving a sentence for sexual violation: **IN 2022 1 IN 5 WERE.**

84% of the increase in the sentenced population was due to **INCREASES IN THE NUMBER OF PEOPLE IN PRISON FOR SERIOUS VIOLENCE, SEXUAL VIOLATION AND CLASS A DRUG DEALING.**

While the proportion of people in prison for serious violence and sexual violation increased, the proportion of people in prison for burglary and dishonesty offending dropped. In 1980, 45 percent of the prison population was there for burglary and dishonesty offending; however, by 2022, less than 15 percent was. This change was at least in part related to policy decisions from the 1980s onwards which recommended that prison should be a last resort option for property offenders, while emphasising the use of imprisonment to deal with serious violence and sexual offending.

Why did the number of people in prison for serious violence and sexual offending increase?

At its most proximate level, the rise of the prison population from the mid-1980s was driven by an increase in the number of people convicted of serious violence and sexual offending. In addition to more people arriving in prison for these offences, longer sentences were imposed for these offence types, and, following changes made to the parole system in 2002, people served a greater proportion of their sentence in prison prior to release.

The imprisonment rate (the proportion of cases coming before the courts for sentence resulting in imprisonment) did not change markedly over this period. This suggests that the courts were not more inclined to imprison people for this offending than previously; however, there was a significant increase in the volume of violent and sexual offences coming before the courts over this period. This was, in turn, the product of an increase in the number of these types of offences reported to, recorded, and prosecuted by, Police.

Figure 4: Changes in the prison population vs. anticipated level of imprisonment based on growth in the general population

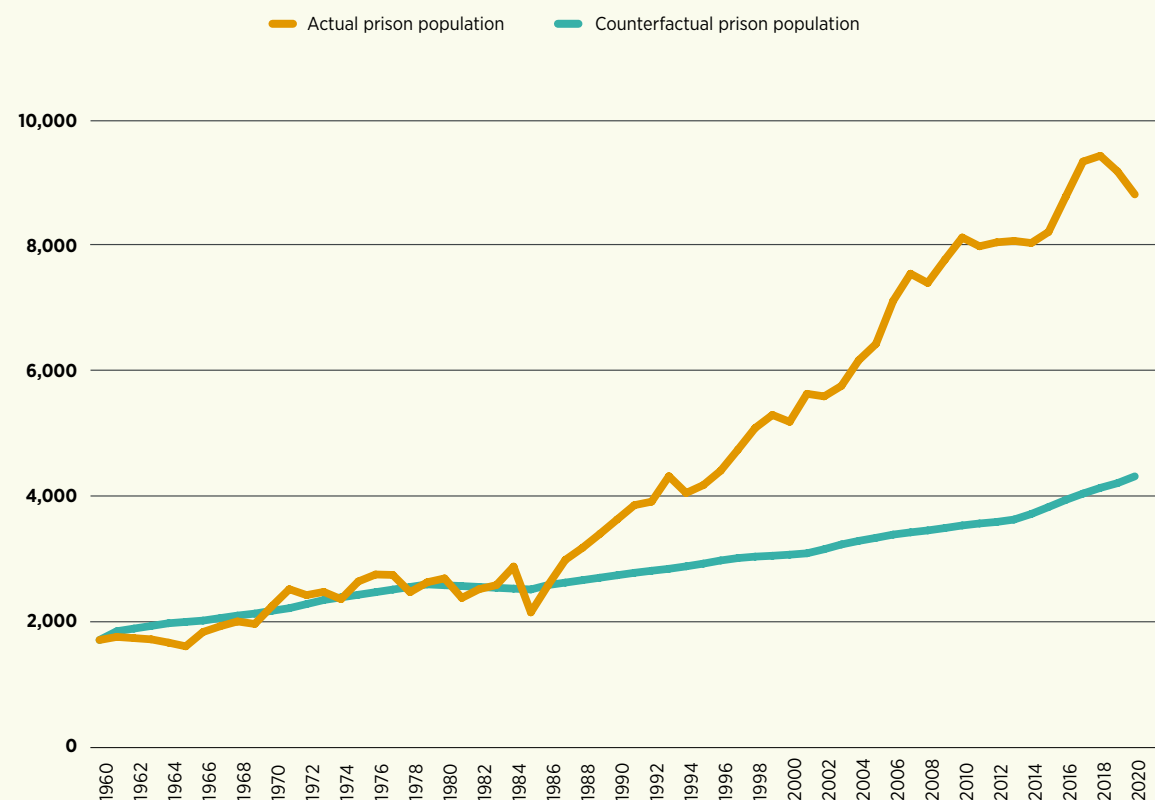
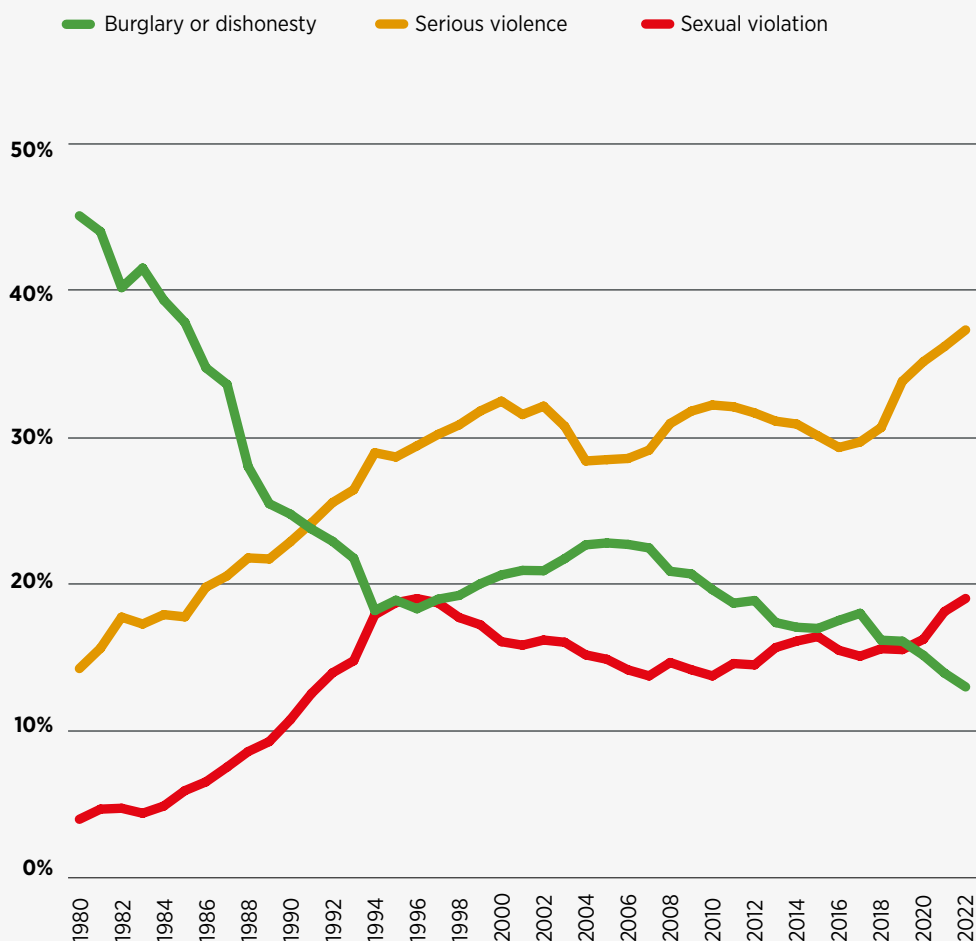


Figure 5: The proportion of people in prison for serious violence, sexual violation, burglary and dishonesty, 1980 to 2022



“

Criminal Justice administrators need much earlier warning of, if not input into, law enforcement policies that could place the criminal justice system under severe strain. Governments that want to reduce or contain the growth in their prison populations also need to look closely at the law enforcement policies they condone or encourage”

Don Weatherburn, previous Director of the NSW Bureau of Crime Statistics and Research, 2020.¹⁴

¹⁴ Weatherburn, D. (2020) Is tougher sentencing and bail policy the cause of rising imprisonment: A NSW Case Study, *Australian and New Zealand Journal of Criminology*, 53(4): 563-584.

A precise quantification of the factors which drove the increase in violent and sexual offending is complex and beyond the scope of this briefing; however, it is likely to be a combination of:

- changing social attitudes towards sexual and physical violence, particularly reduced tolerance for violence against women and children influenced, in turn, by the rise of second wave feminism¹⁵ and reflected in the 1999 Citizen's Referendum
- an increased political focus on violent and sexual offending from the mid-1980s onwards, including a series of Ministerial Reviews focused on violent crime, penal policy, and the initiation of the Rape Study¹⁶
- the introduction of a series of legal changes which broadened the scope of serious sexual offending, increased the maximum sentence for sexual violation and extended the proportion of sentence served for serious offences¹⁷
- an increase in numbers, and better deployment of, frontline Police staff¹⁸
- the development of more advanced centralised crime recording technology, with the introduction of the Wanganui Computer system¹⁹
- rise of mass media production, consumption, and competition, with a greater focus on crime-related news.²⁰

Most people in prison are there for serious crimes

Most people serving sentences in prison in New Zealand have been convicted of serious sexual or violent offending. New Zealand prisons are not full of people in prison for minor charges. For example, the idea that people are routinely sent to prison for cannabis possession is untrue – it is very rare for anyone to be sentenced solely for that offence. Even cannabis dealing makes only a small contribution to the prison population. On 30 June 2022 there were 48 people in prison serving sentences or facing charges for dealing cannabis – ten fewer than in 1980.

It is, of course, also possible that the *actual level* of violent and sexual crime in New Zealand increased throughout this period; however, real levels of crime remain unknown, with high levels of interpersonal crime – including violence and sexual crime – not reported to Police.²¹ Importantly, these changes are not unique to New Zealand,²² and there is little evidence that the New Zealand legal framework was more punitive than those found in other jurisdictions during this period (with the exception of parole, which is discussed below).

¹⁵ Jordan, J. (2001) Worlds apart? Women, rape and the Police reporting process, *British Journal of Criminology*, 41, 679-706; Jordan, J. (2004) *The word of a woman: Police, rape and belief*. London: Palgrave Macmillan.

¹⁶ Roberts, J. V. (2003) Sentencing reform in New Zealand: An analysis of the Sentencing Act 2002, *Australian and New Zealand Journal of Criminology*, 36(3): 249-271; Pratt, J. (2007) *Penal Populism*. London: Routledge; Pratt, J. & Treacher, P. (1988) Law and order and the 1987 NZ Election, *Australian and New Zealand Journal of Criminology*, 21: 253-268; *Penal Policy Review Committee 1981; Ministerial Inquiry into Violent Offending 1986*; see also, Young, W. (1983) *The Rape Study, Volume 1: A discussion of law and practice*. Wellington: Department of Justice; Young, W. & Brown, M. (2000) Recent Trends in Sentencing and Penal Policy in New Zealand, *International Criminal Justice Review*, 10 (1): 1-31.

¹⁷ For example, The Criminal Justice Act 1985; Parole Act 2002.

¹⁸ Butterworth, S. (2005) *More than Law and Order: Policing a changing society 1942-1992, The History of Policing in New Zealand*, Volume 5. Dunedin. University of Otago Press.

¹⁹ Butterworth (2005).

²⁰ Pratt (2007).

²¹ Ministry of Justice (2021) *New Zealand Crime and Victims Survey (NZCVS) – 4th Cycle – Core Report*. Wellington: Ministry of Justice.

²² See, Weatherburn, D. & Rahman, S. (2021) *The Vanishing Criminal: Causes of decline in Australia's crime rate*. Melbourne: Melbourne University Press; Weatherburn. (2020).

Irrespective of the explanation, there is evidence that New Zealand has relatively high per capita rates of violence and sexual violence compared to many equivalent countries.²³ As demonstrated elsewhere in this briefing, a much higher proportion of New Zealand's prison population is made up of people sentenced for violent and sexual offending. The drivers of violent and sexual offending in New Zealand are worthy of more detailed research.

The effects of the increase of dealing in Class A drugs (methamphetamine) on the prison population

Until the early 2000s the number of people serving prison sentences for dealing Class A drugs in New Zealand was small, fluctuating at around 60. The increase in the use and availability of methamphetamine in New Zealand during the early 2000s changed this landscape (see Figure 6). In 2001, 55 people were in prison for Class A drug dealing; however, by June 2018 there were over 765 people in prison for this offence. The increase in use and availability of methamphetamine and concerns about the effects on users and those around them resulted in the reclassification of methamphetamine from a Class B drug to a Class A drug in 2003. Reclassification automatically increased the maximum penalty for methamphetamine dealing from 14 years to life imprisonment. Following the increase in the maximum penalty, the Court of Appeal issued a guideline judgment in 2005 introducing higher sentences for dealing methamphetamine²⁴ resulting in an increase in the average sentence imposed from three years two months to four years four months.

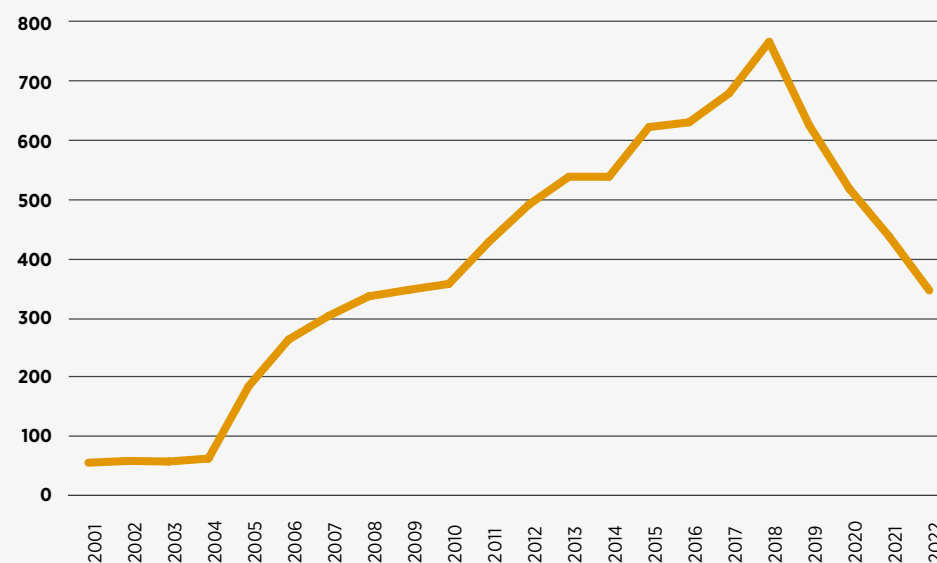
²³ Fanslow, J., Hashemi, L., Gulliver, P., & McIntosh, T. (2021) A century of sexual abuse victimisation: A birth cohort analysis, *Social Science and Medicine*, 270, 113574; Fanslow, J.L., Malihi, Z., Hashemi, L., Gulliver, P. & McIntosh, T. (2022) Prevalence of interpersonal violence against women and men in New Zealand: Results of a cross-sectional study, *Australian and New Zealand Journal of Public Health*, 46 (2): 117-126; Abraham, N., Devries, K., Watts, C., Pallitto, C., Petzold, M., Shamu, S. & Garcia-Moreno, C. (2014) Worldwide prevalence of non-partner sexual violence: A systematic review, *The Lancet*, 383, 1648-1654.

²⁴ *R v Fatu* CA415/04 [2005] NZCA 278; [2006] 2 NZLR 72; (2005) 22 CRNZ 410 (18 November 2005). See also Foulds, J.A. & Nutt, D. (2020) Principled sentencing for drug supply offences: Revised methamphetamine sentencing guidelines in NZ, *Drug Science, Policy and Law*, 6. DOI 10.1177/2050324520942347.

The impact of longer sentences was compounded further by an increase in the proportion of sentence served (from 45 percent under the Criminal Justice Act 1985 to 63 percent under the Parole Act 2002).

The number of people in prison for Class A drug dealing increased ten-fold between 2000 and 2018. This was due to an increase in people being convicted for dealing methamphetamine.

Figure 6: The number of people serving a prison sentence for dealing in Class A drugs, June 2000 to June 2022



New Zealand's sentencing settings are like most other countries, except Finland, which has more liberal settings.

Is New Zealand more punitive than other countries?

It is commonly suggested that New Zealand's historically high imprisonment rate was the product of more punitive criminal justice settings. To gain some insight into differences between New Zealand and other jurisdictions we compared information across several system settings (maximum penalties, sentencing law and release provisions) to see whether New Zealand appears to be out of step with other countries. Where possible we compared New Zealand with New South Wales (NSW), Victoria,²⁵ England and Wales, Canada, Ireland, Sweden, Finland, and Germany. For all points of interest, the comparisons were challenging and the information located was often not comprehensive or consistent, meaning differences need to be interpreted cautiously.

New Zealand's legal settings appear broadly similar to those of comparison jurisdictions in setting out a number of aggravating and mitigating factors that must be considered when sentencing. The sentencing discount given for guilty pleas is also similar internationally.²⁶ New Zealand is one of two countries (the other being Canada) that recognises cultural factors or circumstances when sentencing indigenous offenders, and is the only jurisdiction reviewed to explicitly require the imposition of the maximum penalty "if the offending is within the most serious of cases."

An analysis of maximum penalties for a selection of offences (burglary/aggravated burglary, robbery/aggravated robbery, serious physical

assaults, sexual assaults, fraud and drink driving) revealed that New Zealand generally has similar penalties to those of other jurisdictions. For example, the most severe penalty for the most serious physical and sexual assaults in New Zealand is preventive detention.²⁷ This is in line with most other jurisdictions, a key exception being Finland, where the maximum penalty available for physical and sexual assaults is ten years.

Likewise, life is the maximum penalty for dealing in Class A drugs in most countries, except Germany (maximum of 15 years) and Finland (ten year maximum).

A similar pattern emerges when the maximum penalties for burglary are examined. Finland has the lowest maximum penalty for burglary at four years; New Zealand is equivalent to Germany at ten years, while the other jurisdictions range from 14 to 25 years.

Finland's regime is clearly the least severe overall. New Zealand's maximum penalties are similar to other jurisdictions for serious physical and sexual assaults and lower for theft, deception, and burglary.

On this comparison New Zealand's sentencing framework cannot be said to be excessively punitive; however, it is important to note that this comparison does not consider how these settings translate to actual sentencing practice. To conduct an international comparison of sentencing practice is a highly complex task and was beyond the scope of the current briefing. Such work would, however, offer valuable insights.

²⁵ Australia does not have a unified criminal justice system; imprisonment is largely governed by laws made at state level. We aimed to cover a variety of jurisdictions.

²⁶ This is not set out in legislation in New Zealand. Instead, the discount has been determined by the courts. Most recently *Hessel v R* [2010] NZSC 135; [2011] 1 NZLR 607; (2010) 24 CRNZ 966 (16 November 2010).

²⁷ Preventive detention is similar to life imprisonment except that the minimum time to be served before becoming eligible for parole is often shorter.

Is New Zealand's release regime more stringent than other countries?

Release or parole provisions play a key part in determining the imprisonment rate within a jurisdiction. Some jurisdictions allow for release at a fixed proportion of sentence served, while others allow for release at the discretion of a parole board or other authority. Sometimes both can apply to a specified group of prisoners. Release systems vary between jurisdictions.

In New Zealand, prisoners serving sentences of two years or less are automatically released after serving half the imposed sentence. For prisoners serving sentences over two years, release is at the discretion of the Parole Board, with prisoners eligible to be released on parole after serving one-third of the sentence, unless the sentencing judge ordered a longer non-parole period.

Once released on parole, people are subject to supervision by a Probation Officer, and may be required to take part in treatment programmes in the community. Prisoners subject to discretionary release (i.e. parole) may serve their full sentence in prison.

When comparing release laws across different jurisdictions it is notable that New Zealand has a stricter release regime than England and Wales, Canada, Ireland, and Finland and a more lenient regime than New South Wales. England and Wales, Canada, and Finland all feature automatic release points with more limited provision for discretionary release. Finland has the least stringent regime, with automatic releases from one-third to two-thirds depending on age and whether a person has recently served another prison term. New South Wales has the most stringent release regime of any jurisdiction analysed for this briefing, with sentences of less than six months served in full, people serving sentences more than six months and up to three years serving 75 percent of their sentence before being automatically released, and people serving sentences over three years eligible for discretionary release on parole after serving 75 percent of their sentence.

New Zealand has a more stringent parole regime than most comparable jurisdictions. Despite most prisoners on sentences over two years being eligible for release after serving one-third of the imposed sentence, in 2021/22 around a quarter of prisoners served at least 95% of their sentence in prison.

A vertical teal marbled background on the left side of the page, featuring swirling patterns of various shades of teal and green.

The Parole Act 2002 and growth in the long sentence population

The Parole Act 2002 was a wholesale revision of the prison release regime. Eligibility for parole was extended to all prisoners serving sentences greater than two years irrespective of offence type. Automatic release of prisoners serving shorter sentences after serving half their sentence was retained, with the scope extended from those serving 12 months or less to those serving up to two years. For those serving fixed sentences over two years, the system was revolutionised. All prisoners, including serious violent and sexual offenders, were eligible for release on parole after serving one-third of their sentence or a longer minimum non-parole period fixed by the court. Automatic early release on parole at two-thirds of the sentence was abolished. This meant prisoners could serve anywhere from one-third through to their full sentence in prison.

In stating the principles guiding release decisions, the Act also provided that the paramount consideration for the Parole Board in every case is the safety of the community. The elevation of safety of the community as the paramount consideration was a substantial departure from the previous test, which had balanced public safety with offender welfare and the nature of the offence.

These changes collectively had significant effects on the time served by all prisoners on long sentences.

Figure 7 shows the average proportion served under the Criminal Justice Act and the Parole Act.²⁸ It illustrates that the proportion of sentence served was higher for all listed

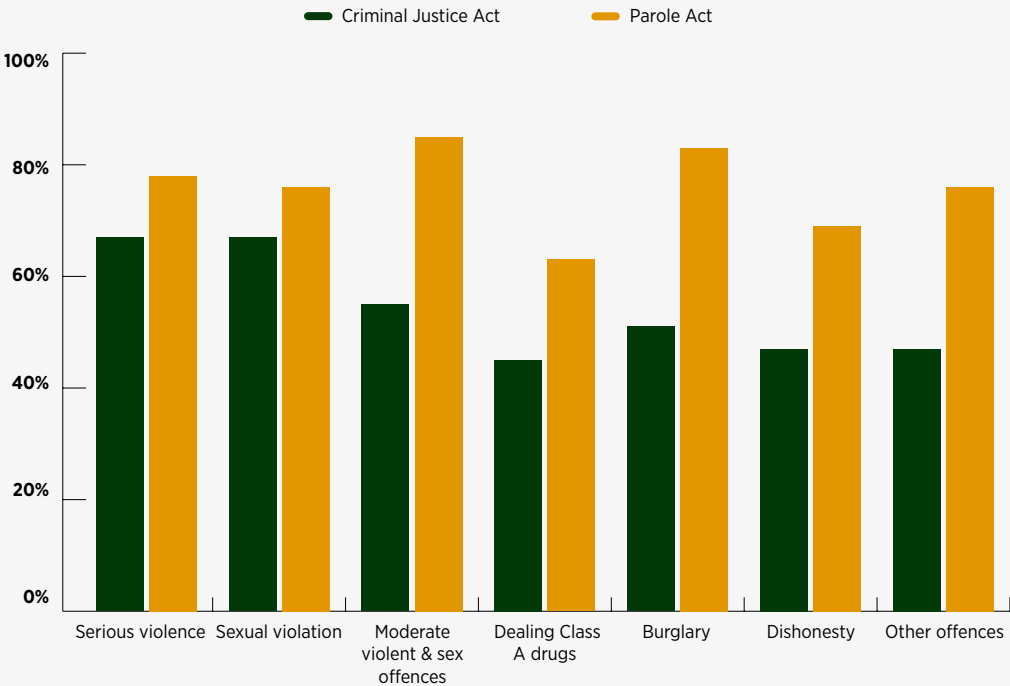
²⁸ Releases on compassionate grounds, due to a successful appeal or on grounds other than consideration of suitability for release, were excluded from the calculations.

offence groups under the Parole Act 2002 settings. The most significant increases occurred for people serving sentences for violent and sexual offending in the tier below the most serious offences (which rose from 55 percent to 85 percent) and people serving sentences for burglary (which rose from 51 percent to 83 percent).

Since the Parole Act 2002 was enacted, a substantial proportion of prisoners have not been released until the completion of their full sentence (or near to the completion). With the safety of the community as the paramount consideration, and the abolition of release at two-thirds of the sentence, 26 percent of prisoners released under the Parole Act 2002 have served at least 95 percent of their sentence. Previously less than one percent of people served 95 percent of their sentence because release at the two-thirds point was mandatory unless there were exceptional circumstances to hold people beyond this point.

The impact of the parole changes on the prison population is dependent on the number of people starting long sentences. At peak effect in 2017, the Parole Act added approximately 1,800 people to the prison population compared to what would have happened if the parole reforms had not been made. With falling volumes the impact has reduced to 1,000 – 1,200 people.

Figure 7: Comparison between the Criminal Justice Act and the Parole Act of the proportion served before first release on parole





How and why did the custodial remand population increase?

IN 1960 JUST 3% OF THE PEOPLE IN PRISON WERE ON CUSTODIAL REMAND: IN 2022 40% WERE

LONG PERIODS SPENT ON REMAND CAN REDUCE OPPORTUNITIES FOR PEOPLE TO ACCESS REHABILITATION PROGRAMMES ONCE THEY ARE SENTENCED.

While waiting for a trial or sentencing, people can either stay out of prison – i.e., they are remanded at large, or remanded on bail with associated conditions imposed on them – or they can be remanded in custody. Any time someone is remanded in custody before conviction is a cause for concern. The presumption of innocence and right to a fair trial requires that there is a good reason for remanding someone in custody. Remand in custody may be made when there is a risk the defendant will offend on bail, will not appear in court, or may otherwise interfere with the process (for example, interfering with evidence or intimidating a witness).

The number and proportion of people on custodial remand in New Zealand has changed significantly over the last 60 years (see Figure 8). On 30 June 1960 there were just under 60 people in prison on remand, and the remand population accounted for just three percent of the total prison population. The remand population peaked at more than 3,900 in January 2020. By June 2022, the number of people on remand had dropped to 3,300 but the proportion of people on remand had increased to 40 percent. This occurred because the drop in the sentenced prisoner population was more rapid than the drop in the remand population, which means remand makes up a greater proportion of the total prison population.

This section focuses on explaining how and why the remand population increased between 1960 and 2020. The more recent drop in the remand population is discussed later in a section called “The drop in the custodial remand population since 2020”.

The remand population grew gradually to 2000 before increasing in two phases

Between 1960 and 2000 the remand population grew slowly, rising from 58 to 700. In the following 20 years the remand population grew by more than 3,000, peaking at over 3,900 in January 2020. The remand population grew in two main stages with:

- sustained growth between 2000 and 2008 increasing the remand population by more than 1,000 people, rising from 12 percent of the prison population to 22 percent.
- more rapid growth between 2014 and 2020 increasing the remand population by 1,600 to account for 36 percent of the prison population.

Explaining initial remand growth 2000 to 2008

Two factors contributed most to the increase in remand between 2000 and 2008.

First, there was a substantial increase in the number of people in custody who met the tests for new reverse

onus provisions introduced in the Bail Act 2000²⁹ for defendants charged with new offences while on bail or with a history of offending on bail. The Act was introduced following growing public and government concern about offending on bail through the 1990s.³⁰ In June 2000, prior to the law change, there were 176 defendants in custody who met the tests. By June 2008 there were 700. This change accounts for about half of the increase in the remand population from 2000 to 2008.

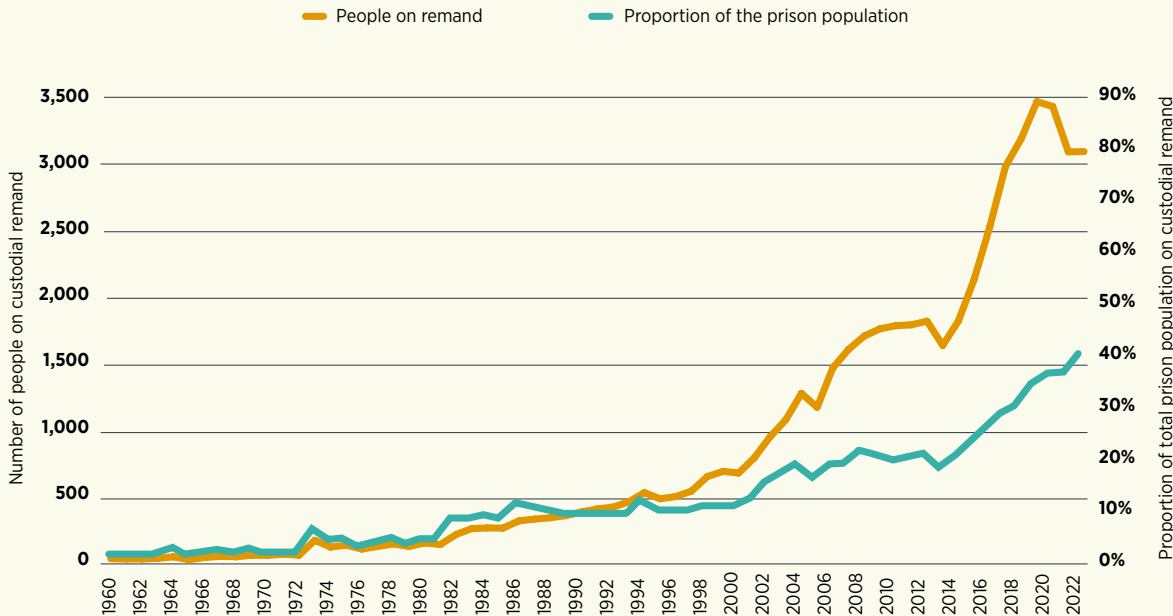
Second, there was an increase in the average time people spent on custodial remand from 42 to 56 days. This accounts for a third of the increase.

The balance of the increase was due to a small growth in the volume of prosecutions for moderate and very serious offences.

²⁹ Reverse onus clauses reverse the normal burden of proof placing a requirement on defendants to prove that they *do not* present an undue risk so that they may be remanded on bail as opposed to being remanded in custody. Remand in custody is the default position in situations where the reverse onus applies.

³⁰ For example, see Lash, B. (1998) *Those on bail in New Zealand in 1994 and their offending*. Wellington: Ministry of Justice.

Figure 8: The number of people on custodial remand and the proportion of people on custodial remand in the total prison population, 1960 to 2022



THE NUMBER OF PEOPLE IN CUSTODY WHO MET THE THRESHOLD FOR THE 'OFFENDING ON BAIL' REVERSE ONUS MORE THAN DOUBLED BETWEEN JANUARY 2015 AND JANUARY 2020, RISING FROM 706 IN 2015 TO 1,490 IN 2020.

Explaining the second period of remand growth from 2014 to 2020

The second period of growth, between 2014 and 2020, has a more complex explanation. Sometimes it is attributed to amendments to the Bail Act passed in 2013, which added additional reverse onus clauses in relation to specific types of serious offending. Research undertaken for this briefing only found one small link. After the amendments were passed the rate of remand in custody at first appearance for dealing in Class A drugs rose from 39 to 43 percent, suggesting the introduction of a reverse onus provision for dealing in Class A drugs (predominantly methamphetamine) had an effect. The impact on the remand population was modest, adding about 20 people.

The other amendments did not generate a large direct effect. The offences added to the serious violence reverse onus provision were all ones that already had a high likelihood of remand in custody. There was no change in the rate of remand in custody for these offences after the amendment. There is no evidence that the amendments were taken by the Judiciary as a signal to remand more people in custody, as rates of remand at first appearance remained steady after 2013.

In late 2014 the rate of subsequent remand in custody for people originally bailed began to increase. There was nothing in the 2013 Bail Act amendments that could have caused this increase; however, the number of people in custody who met the threshold for the 'offending on

bail' reverse onus more than doubled between January 2015 and January 2020, rising from 706 in 2015 to 1,490 in 2020. This accounted for more than 43 percent of the increase in the custodial remand population between 2014 and 2020.

The number of people remanded in custody who were not subject to any reverse onus provision also increased by 500 from 643 to 1,149 over the same period, accounting for 28 percent of the total change. The largest contributors to this growth were an increase in the use of remand in custody for people charged with family violence offences, and people placed before the court for reconsideration of their bail status following breaches of bail conditions.

These increases occurred alongside general improvements in the capture of data by Police and increased availability of information and intelligence to front-line Police and prosecutors. For example, the Police roll-out of the onDuty app in 2014 identified when the reverse onus provisions of the original Bail Act 2000 were triggered and assisted Police to manage bail breaches. The technology enabled easy recognition of defendants who were required to be placed before the court for a bail decision. It also allowed front-line officers to more readily record every interaction with a defendant in a centralised database using their mobile device. It is probable that the ease of recording contributed to an increase in bailees placed before the court for a review of their remand status.

People are spending longer on remand

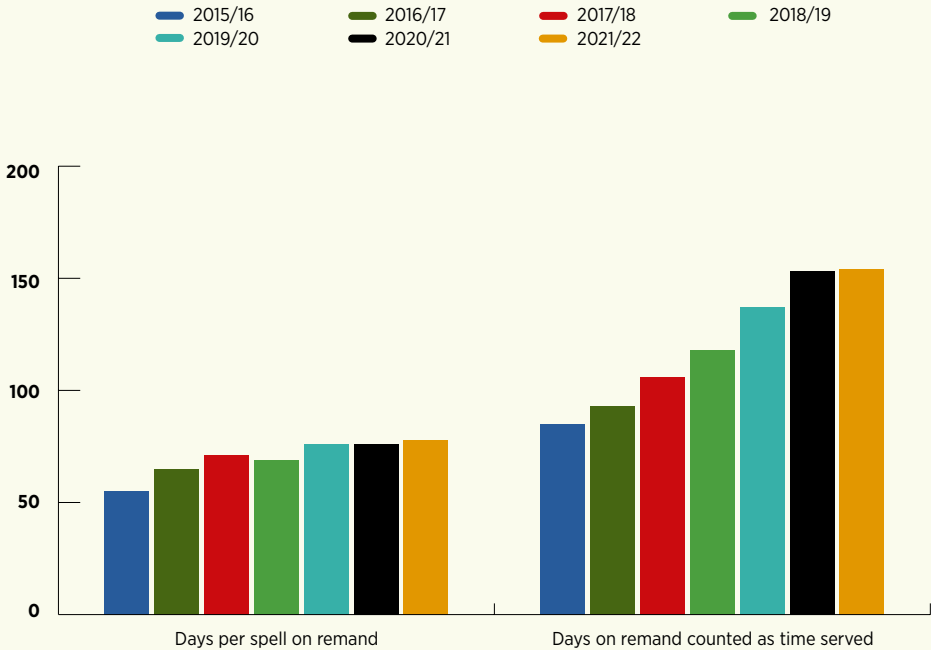
The impact of these changes was compounded by cases taking longer to progress through the courts. This meant longer spells in custody for some people. It also increased the opportunity for defendants on bail to accumulate sufficient bail breaches to reach the threshold for remand in custody and increased the window of time available for new offending to occur.

In addition to greater volumes of people arriving in prison on remand, the length of time defendants spend on remand has increased. This can be measured in two ways: by the increase per spell³¹ (some defendants spend more than one period in remand during the life of their case); and the increase in the average number of days counted as time served against sentence for those subsequently sentenced to imprisonment (this can include one or more spells on remand). The increasing time spent on remand using both measures is shown in Figure 9.

The average remand spell increased 42 percent from 55 days in 2015/16 to 78 days in 2021/22. In the same period, total average days counted as time served for those who spent time on remand increased 81 percent from 85 to 154 days. The increase in time follows an increase in the queue of cases before the courts. The factors which have contributed to the queue are not well understood. Further analytical work could usefully be undertaken to quantify the different factors contributing to increased case disposal times.

³¹ A spell is defined as a single continuous period of custodial remand.

Figure 9: Average days per spell on remand and average days on remand counted as time served against an imprisonment sentence 2015/16 to 2021/22







How and why did the prison population decline?

After more than three decades of growth, the total prison population began to drop in 2018. This initial decline was driven by a drop in the sentenced prisoner population which began in late 2017 and continued on to 2022. The decline in the remand population came in 2020 and mainly occurred between April and July of that year. Although there are some common factors that underpinned the drop in both populations, some different factors were also involved for each. For this reason, the drop in the sentenced population and the custodial remand population are discussed separately below. Interactions between the two are also noted.

The decline in the sentenced prisoner population since June 2018

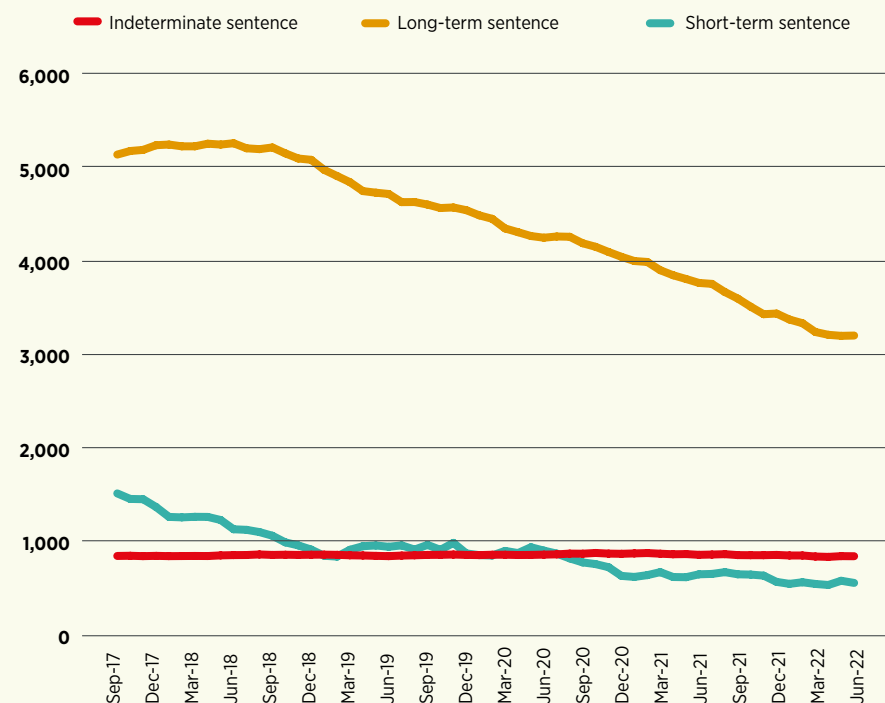
After reaching a high of 7,490 in November 2017 the sentenced prisoner population began to fall. Between June 2018 and June 2022, the sentenced population fell by 37 percent from 7,230 to 4,590.

The decrease was larger for those serving long sentences (sentences greater than two years subject to release on parole) than those serving short sentences (sentences of two years or less with automatic release after serving half the sentence). There was no change in the number serving life or preventive detention sentences (see Figure 10).

Between 30 June 2018 and 30 June 2022, the number of people in prison serving a long sentence fell by 2,050 (39 percent) from 5,250 to 3,200. The population serving a short sentence fell by 570 (51 percent) from 1,130 to 560. Because of the greater numbers involved, the drop in the population serving a long sentence was far more significant.

The sentenced population fell by 37% between 30 June 2018 and 30 June 2022.

Figure 10: The number of people in prison serving indeterminate, long and short sentences between September 2017 and June 2022³²



³² Indeterminate sentences are either life imprisonment or preventive detention, in both cases a person can be released on parole but may not ever be released. A person sentenced to life imprisonment can be ordered to serve the sentence without the prospect of parole. Long and short sentences are determinate sentences. A long sentence is a sentence longer than two years, a person can be released on parole at the discretion of the Parole Board after serving the non-parole period of the sentence. They may alternatively be refused parole and not released until they have served the full sentence. A short sentence is a term of two years or less and a person is automatically released after serving half of the sentence.

Three factors made major contributions to the decline:

- a general change in sentencing patterns for a wide range of offences
- the influence of custodial remand on time served on sentence
- a change in sentencing for dealing in Class A drugs.

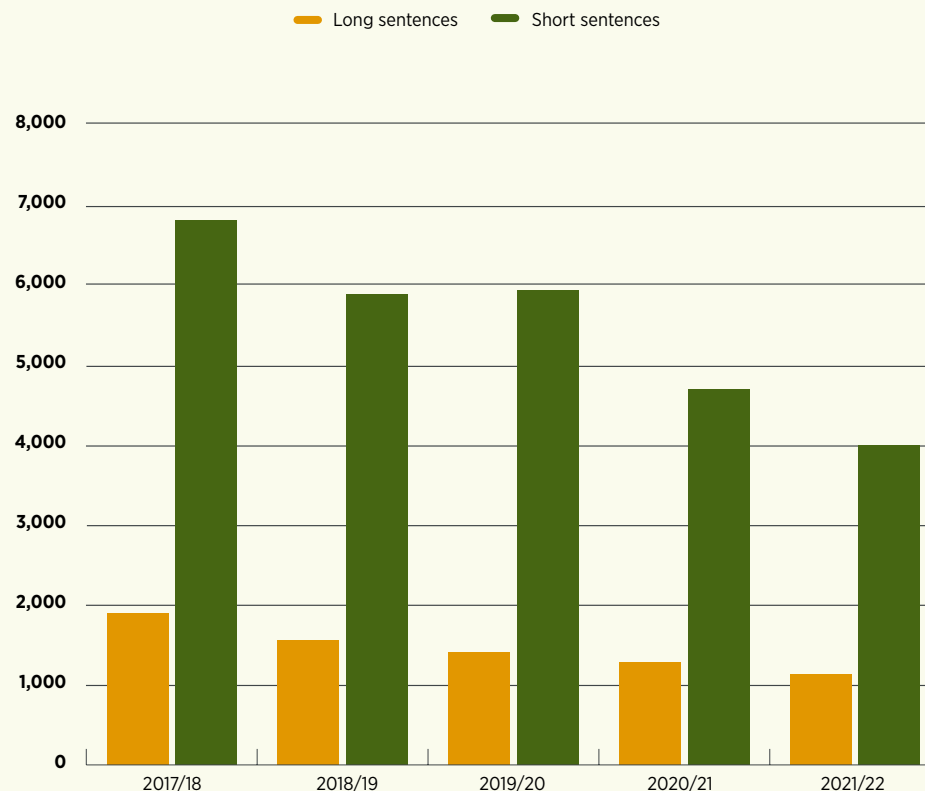
Fewer people are being sentenced to imprisonment and more people are receiving more serious community sentences

From late 2017, the sentencing pattern changed with a different approach followed for people who might be sentenced to a shorter term of imprisonment. The drop in the number of people starting long and short sentences of imprisonment is shown in Figure 11. Between the years ending 30 June 2018 and 30 June 2022, the number of people starting short sentences of imprisonment reduced by 41 percent from 6,810 to 3,990. Over the same period the number of people starting a long sentence of imprisonment reduced by 41 percent from 1,900 to 1,130.

The drop in the number of people being sent to prison coincided with the increased use of non-custodial sentences. Figure 12 shows the change in sentencing pattern for people convicted of offences with maximum penalties of two years or more. Figure 12 only covers imprisonment sentences, home detention and the two highest ranking community sentences (intensive supervision and community detention) because the focus is on the offending at or close to the level that results in imprisonment.

Figure 12 illustrates two things: first, that change occurred progressively and not in a single step; second, the decreasing proportion of imprisonment sentences is matched by an increase in the proportion of people sentenced to intensive supervision with minimal change in the proportions sentenced to community detention or home detention. This is a simplified view. The actual

Figure 11: The number of people starting long and short sentences per annum from 2017/18 to 2021/22



movements will be much more complicated. Ultimately the critical point is that the relative use of imprisonment has decreased while the use of more restrictive and rehabilitation-orientated community sentences has increased.

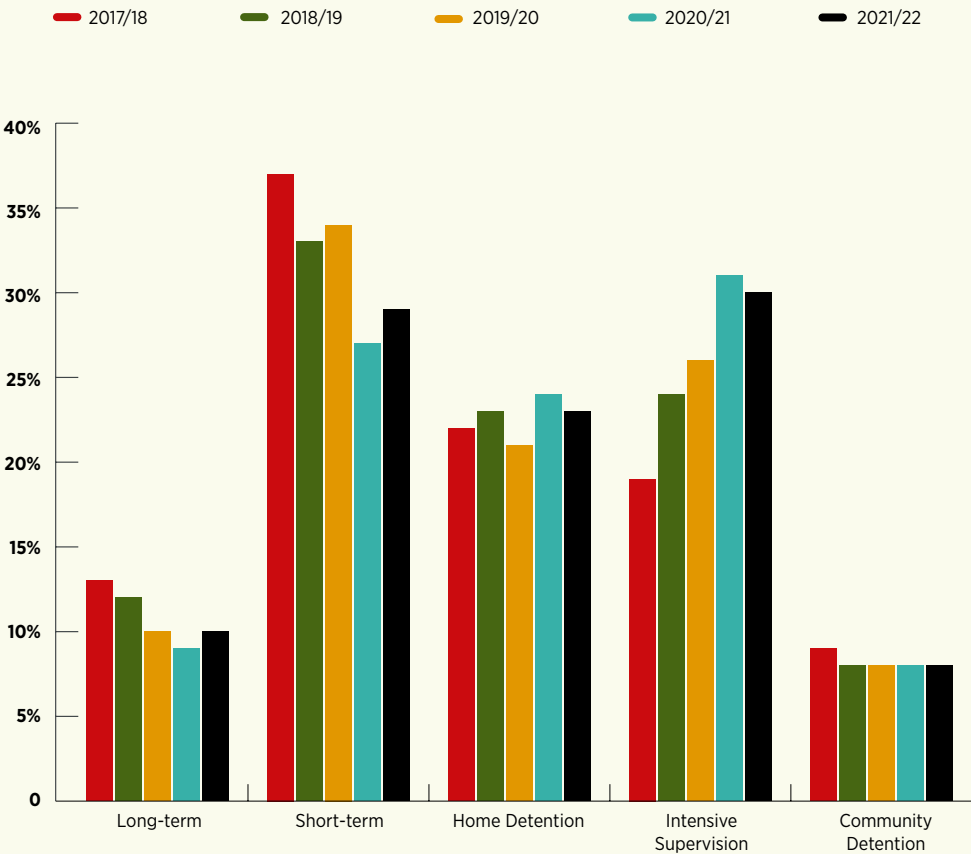
Changes to the Sentencing Act in 2017 added safeguards to the sentence of intensive supervision, making it a more attractive sentencing option. The changes enabled judges to impose abstinence conditions, supported by the introduction of random drug testing and electronic monitoring options to support the enforcement of conditions prohibiting people from specified locations.

The use of intensive supervision in place of imprisonment reflects a wider movement within the District Court towards more therapeutic approaches, which aim to address the root causes of offending. Intensive supervision enables people access to treatment within the community, and avoids the disruption to relationships, employment, and housing that can be associated with short prison sentences.

The increase in the custodial remand population caused a decrease in the sentenced prisoner population

In New Zealand, increases in the custodial remand population can reduce the sentenced prisoner population because time spent in custodial remand counts as time served against a sentence if the person is imprisoned. For example, a person sentenced to 12 months' imprisonment is required to serve six months. If that person did not spend any time on remand they would spend six months as a sentenced prisoner. If they spent three months in custodial remand those three months in prison would count as "time served on sentence" and they would spend three months as a sentenced prisoner. In some cases, time on remand meets the total time required to be served on sentence and the person is received as a sentenced prisoner and released on the same day. When this happens, a person is described as having been "released time served".

Figure 12: The per annum distribution of imprisonment, home detention, intensive supervision and community detention sentences across offences with a maximum penalty of two years or more for the years 2017/18 to 2021/22



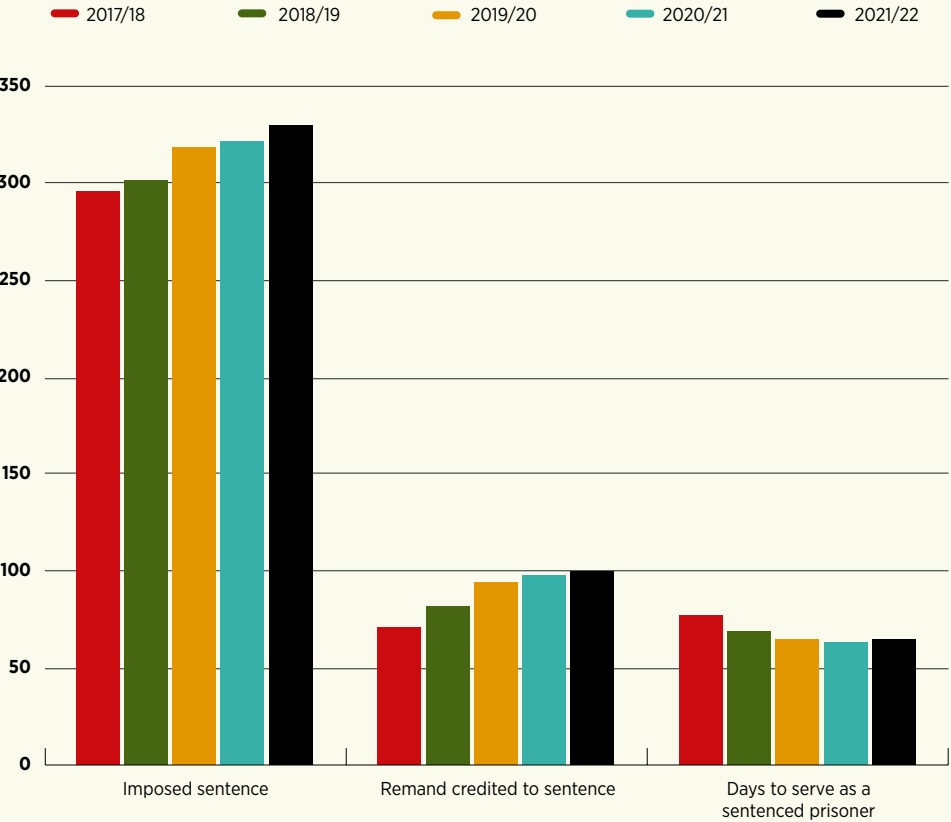
In the last four years people generally spent less time as sentenced prisoners because they have spent more time on remand. As shown in Figure 13, the average time spent on remand by people sentenced to short terms of imprisonment (two years or less) has increased from year to year since 2017/18 reducing the time they spent as a sentenced prisoner.

Despite an increase in imposed sentence length between 2017/18 and 2021/22 (from 296 to 330 days) time spent as a sentenced prisoner decreased (from 77 to 65 days). This was because the amount of remand time credited to people's sentences increased. People starting long sentences (sentences longer than two years) were also affected. Between 2017/18 and 2021/22 the average time spent in remand by people who went on to receive a long sentence increased by 76 days. Reductions in the time spent as a sentenced prisoner means that people have less time available to complete rehabilitation programmes and other interventions while in prison.

An increasing number of cases before the courts

There is a backlog of cases in the court system which began prior to the COVID 19 pandemic but has been further compounded by the pandemic. There has been an increase over time in the number of cases before the courts with defendants facing serious charges waiting for trial.

Figure 13: Average sentence length imposed in days, average days on remand credited to the sentence & average days to serve by people sentenced to short terms of imprisonment (two years or less) for the years 2017-18 to 2021/22



The number of people serving prison sentences for dealing Class A drugs fell by 55% between 2018 and 2022.

Between 30 June 2018 and 30 June 2022, the number of cases waiting trial for:

- serious violence increased by 90 percent (from 770 to 1,460)
- sexual violation increased by 112 percent (from 430 to 910)
- Class A drug dealing increased by 48 percent (from 250 to 370).

The increasing number of cases waiting for trial has reduced the number of people entering prison as sentenced prisoners. Once these cases are resolved it would be anticipated that the prison population would increase; however, to the extent these defendants are on custodial remand awaiting trial, the impact on the total prison population will be negligible, as many people will transition from the remand population to the sentenced prisoner population. A backlog of cases is not new, the numbers in the system have been growing since 2016; however, this growth was exacerbated by the need to suspend jury trials during the pandemic lockdowns, in addition to a greater proportion of defendants opting for trial by jury in more recent years.

Drop in people going to prison for Class A drugs

Since peaking at 765 in June 2018, the number of people serving sentences for dealing in Class A drugs decreased to 350 by June 2022. This decrease follows a change in sentencing patterns in 2019 when the Court of Appeal revised its previous guideline judgment. The previous guideline judgment, issued in 2005, held that the harm associated with methamphetamine was so severe that those sentenced for dealing methamphetamine were to receive a prison sentence (other than in exceptional circumstances).³³ The new guideline took a different approach and allowed for more lenient sentences to be imposed if the judge determined that addiction played a part in a person's offending.³⁴ For those with addictions, a greater emphasis was placed on rehabilitation than on punishment or deterrence. Since the new guideline was issued, people convicted of dealing in Class A drugs have been less likely to be imprisoned and, if imprisoned, have typically received shorter sentences. The imprisonment rate for methamphetamine dealing fell from 68 percent to 47 percent and average sentence lengths reduced from four years four months to three years six months.

³³ *R v Fatu* CA415/04 [2005] NZCA 278, [2006] 2 NZLR 72; (2005) 22 CRNZ 410 (18 November 2005).

³⁴ *Zhang v R* [2019] NZCA 507; [2019] 3 NZLR 648 (21 October 2019).

The drop in the custodial remand population since 2020

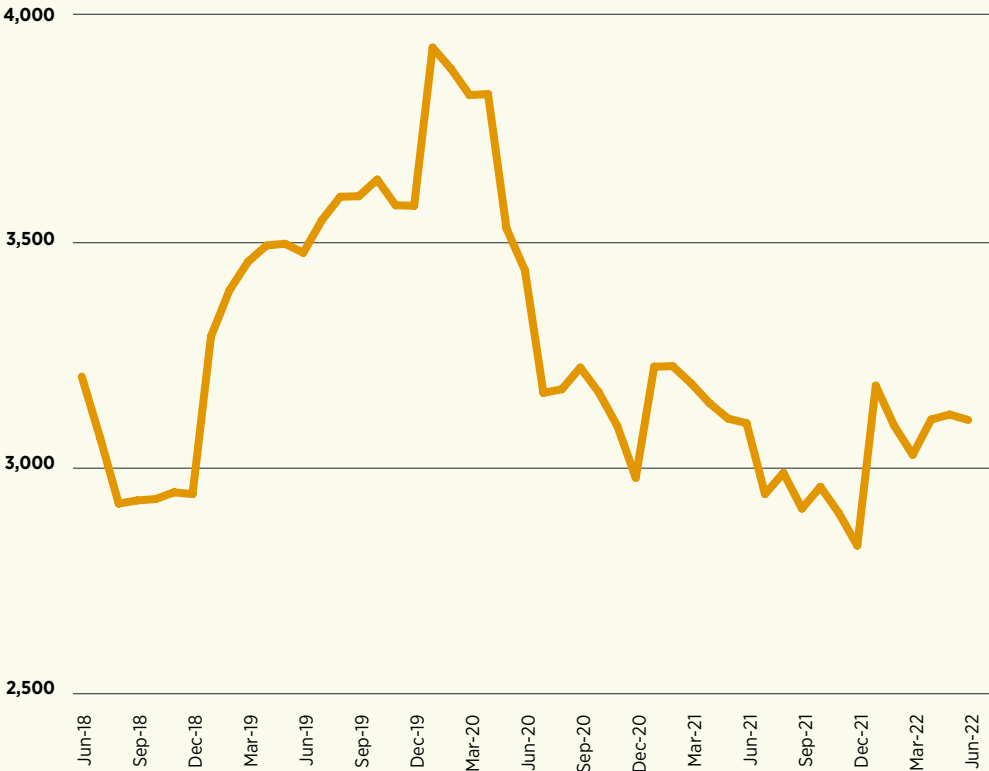
The drop in the remand population began later than the drop in the sentenced prisoner population and, in terms of its overall impact on the total prison population, has been less significant.

As shown in Figure 14, the remand population rose until January 2020, peaking at 3,900, before dropping rapidly during the first COVID 19 lockdown (from April to July 2020). Since then, the population has fluctuated between 3,000 and 3,300.

The first COVID 19 lockdown had two effects: first, there was an immediate drop in prosecutions in April 2020; second, without the ability to run as normal, the courts focused on sentencing people who were already on custodial remand. This caused a drop in the remand population, as people moved from remand into the sentenced population or into the community if they received a non-custodial sentence.

Successive lockdowns (particularly those in Auckland) have reduced people’s opportunities to offend while on bail or breach their bail conditions. Police practice surrounding pro-active bail checks and prosecution of bail breaches was also affected by the pandemic. In the financial years ending 2018 to 2020 approximately 6,800 people per year ended a period on bail having had a breach of bail recorded against them by Police. In the year ending June 2021, 5,900 people had a breach recorded against them: a decrease of 13 percent.

Figure 14: The number of people on custodial remand between June 2018 and June 2022







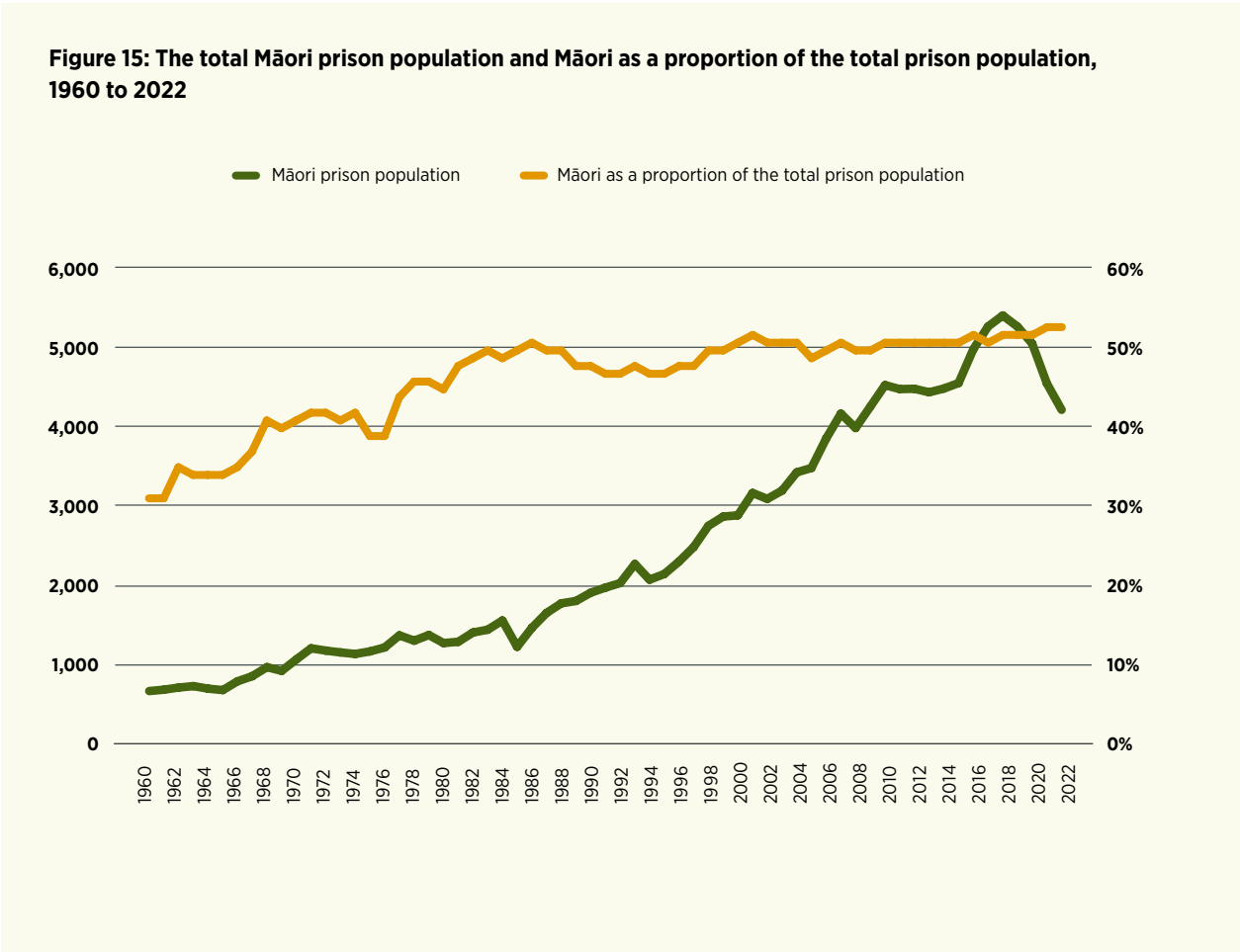
How did the Māori prison population change?

Māori are more adversely affected by the criminal justice system and imprisonment than non-Māori. This is a situation that has developed over the last 100 years. Prior to 1920 Māori and non-Māori were equally likely to be in prison.³⁵ This began to change in the 1920s with Māori increasingly likely to be in prison compared to non-Māori.

By 1960, Māori were 31 percent of the prison population and 5.3 percent of the adult population.³⁶ Figure 15 shows the progressive growth in the number of Māori in prison and the proportion of the prison population identified as Māori. Figure 15 demonstrates that proportions and numbers do not always move in the same direction. For example, despite the number of Māori in prison declining in recent years, Māori now account for a greater proportion of the prison population.

³⁵ Cook, L. (2022) *Young Māori males and prison* Draft unpublished paper produced to inform the Long-Term Insights Briefing.

³⁶ The numbers need to be viewed with caution, especially numbers relating to the general Māori population. Until the 1986 census only those with a minimum of 50 percent Māori blood were recognised as Māori, since 1986 ethnicity is self-identified. From 1986 calculations based on the general Māori and non-Māori populations are more reliable.



While the total prison population grew gradually during the 1960s and 1970s, the number of Māori in prison grew rapidly. Between 1960 and 1979 the Māori prison population grew by 125 percent, whereas the non-Māori population grew by 17 percent. This increase mainly affected Māori men, with the number of Māori men in prison rising by 135 percent.

Māori made up 45 percent of the total prison population in 1980, and by 1985 Māori reached 50 percent for the first time. From 1999 onwards Māori have consistently accounted for around 50 percent of the prison population. In the last five years Māori have incrementally made up more of the total prison population, reaching 53 percent in 2022. Māori over-representation was largely in place by 1985 with little changing in the following 30 years to shift this level. The period leading up to 1985 is therefore of critical importance to understanding the history of Māori over-representation in prison.

While acknowledging the high rates of Māori imprisonment, which significantly exceed those of non-Māori, and that Māori make up over half of the prison population, it is also true that the proportion of the total Māori adult population in prison has averaged 0.8 percent over the last 30 years.

Explaining the changes in Māori imprisonment

The causes of Māori imprisonment are complex and multifaceted, and a full explanation is beyond the scope of this briefing; however, this briefing does highlight three key drivers: Māori urbanisation; net-widening policies and practices; and Māori population dynamism. All of these explanations can be considered against the backdrop of colonisation.

The impacts of urbanisation

The growth of Māori imprisonment post World War II has been routinely linked to Māori urbanisation, and thereafter, growing involvement in crime. This perspective dominated contemporary government accounts in the 1950s and 1960s.³⁷ It was true that the pace of Māori urbanisation was extreme. For example, in 1926 just nine percent of the Māori population lived in cities, by 1956 almost a quarter did so, and by the 1970s three-quarters of the Māori population was urbanised.³⁸ It has been argued that urbanisation caused socio-economic deprivation, reduced levels of informal control, and caused cultural dislocation which, in turn, increased levels of Māori crime. Increased rates of Māori imprisonment were therefore often seen to be the product of increased involvement in crime. High levels of Māori imprisonment were cast in terms of individual urban maladjustment.³⁹

³⁷ Marshall, J. R. (1957) *A Review of Penal Policy. Speech to the House of Representatives*. August 20. Wellington: Department of Justice. Department of Justice (1964) *Crime and the Community: A survey of penal policy in New Zealand*. Wellington: R.E. Owen; Missen, E. A. (1971) *A brief review of New Zealand penal history*. Wellington: Department of Justice.

³⁸ Walker, R. (1992) 'Māori people since 1950', in G. W. Rice (ed) *The Oxford History of New Zealand* (Second edition). Auckland: Auckland University Press, 498-519.

³⁹ See Webb, (2003).



The reality was far more complex. As Moana Jackson has argued, such accounts have “merely presented a descriptive analysis of the situation and have failed to offer an explanation for its existence”.⁴⁰ Simplistic urbanisation arguments do not acknowledge the colonial forces which gave rise to Māori urbanisation, nor account for the ways in which such forces continue to compound social inequalities – including disparate rates of Māori imprisonment.⁴¹ As Māori researchers have well documented, Māori land dispossession, urbanisation, economic and educational marginalisation, social isolation and cultural alienation are best understood as the products of colonisation and associated ethnic assimilation processes.⁴²

Levels of recorded crime are also the result of government priorities and operational decision-making. There is evidence that targeted Police operations, particularly those focused on urban areas with a high density of Māori and Pacific populations, disproportionately impacted young Māori and Pacific youth, particularly young males.⁴³

Changing approaches to reform and net-widening effects

Shifting penal approaches disproportionately impacted Māori. For example, in recognition of the harmful impact of prisons on young people, the borstal system emerged over the first

⁴⁰ Jackson, (1988) p64.

⁴¹ Jackson (1988); Tauri, J. (1999) Empowering Māori or Biculturalising the State? Explaining recent innovations in New Zealand’s criminal justice system, *Australian and New Zealand Journal of Criminology*, 32 (2); Pratt, J. (1992) *Punishment in a perfect society: The New Zealand penal system 1840-1939*. Wellington: Victoria University Press; Cook (2022); Webb (2003); Quince, Walters, R., Bradly, T., with Tauri, J. (2005) ‘Indigenous Perspectives and experiences: Māori and the criminal justice system’, in R. Walters & T. Bradley (eds) *Introduction to Criminological Thought*. Auckland: Pearson Longman.

⁴² Quince, (2010). Cunneen, & Tauri, (2019) Indigenous Peoples, Criminology, and Criminal Justice, *Annual Review of Criminology*, 2(1) 359-381; 359-81; McIntosh, & Curcic, (2020); McIntosh, & Workman, (2017). McClure, M. (1998) *A civilised community: A history of social security in New Zealand 1898 to 1998*. Auckland: Auckland University Press; Walker (1992); Quince *et al.* (2005); Quince, K. (2007) Māori and the criminal justice system in New Zealand/Aotearoa: Māori and the social welfare and criminal justice systems. In P. Havemann (ed) *Indigenous peoples’ rights in Australia, Canada, and New Zealand*. Oxford: Oxford University Press, 316-327.

⁴³ For example, Police operations to target street crime resulted in a disproportionately high level of arrests of Māori and Pacific youth. See Butterworth, (2005).

part of the twentieth century.⁴⁴ The arrival of the borstal system had a disproportionate impact on Māori, who were often sent to borstal for low-level offending which would have previously not warranted imprisonment.⁴⁵ A number of Māori youth were channelled into borstals via residential state care facilities, whereby children deemed unmanageable in residential state care facilities were sent on to borstal.⁴⁶ Māori were vastly over-represented in residential state care facilities. By the 1970s, one in 14 Māori boys were placed in state run boy's homes.⁴⁷ Recent research has shown that those who spent time in residential state care went on to experience five to nine times the level of adult incarceration compared to those who did not spend time in residential state care.⁴⁸

This is not to suggest that residential state care institutions directly “caused” high levels of Māori imprisonment, indeed, most of those who spent time in these institutions did not end up in prison. It is true, however, that a high proportion of people who went on to experience prison as adults experienced residential state care as children.

⁴⁴ Nevitt, C. (1976) *The rise and decline of the borstal system*. Wellington: Unpublished paper.

⁴⁵ Pratt (1992) p244.

⁴⁶ Stanley, L. (2016) *The road to hell: State violence against children in postwar New Zealand*. Auckland: Auckland University Press.

⁴⁷ Cook, L. (2021). *A Statistical window for the justice system: Putting a spotlight on the scale of state custody across generations of Māori*. Wellington: Institute of Governance and Policy Studies - Victoria University of Wellington.

⁴⁸ Synergia (2022). *Care to custody: Incarceration rates*. Wellington: Royal Commission of Inquiry into Abuse in Care. It is important to note that this research did not distinguish between those in residential state care for care and protection reasons and those there for youth justice reasons, acknowledging that these groups were not mutually exclusive.

“

... the disproportionate scale of imprisonment of young Māori males ... has been one of the most enduring consequences of the extreme periods of child custody and incarceration of boys and young men by the state from the mid-1960s to the mid-1980s”.

Len Cook, Social Demographer, (2021) p6

By the late 1960s Māori were vastly over-represented in the borstal population.⁴⁹ Māori boys accounted for eight percent to nine percent of male New Zealanders aged between 15 and 19, but between 35 percent to 40 percent of the male borstal population.⁵⁰ While young women made up a much smaller proportion of the borstal population, Māori girls were even more disproportionately over-represented, accounting for 75 percent of the female borstal population by 1973.⁵¹

Borstals had very high recidivism rates. For example, 67 percent of those released from borstals between 1957 and 1965 were reconvicted within two years.⁵² Many of those released from borstal ended up in the adult prison system, with the “failure rate” of borstals estimated to have exceeded 80 percent by the late 1970s.⁵³ This shows that the reform agenda associated with the introduction of borstals had ‘net-widening’ effects for Māori.⁵⁴

Māori and demographic dynamism

The effects of the reformatory approach and urbanisation were further magnified by what social demographer, Len Cook, terms ‘demographic dynamism.’⁵⁵ The general Māori population grew at its highest rates ever

from 1950 to 1966. High fertility rates among Māori women for much of the twentieth century to the late 1960s, alongside lower child mortality rates, resulted in average Māori family sizes of about six children through to the 1980s. By 1966, half of the Māori population was under the age of 15 years.⁵⁶ Between 1951 and 1966 the number of Māori children doubled but, with continuing urbanisation, the number living in urban areas quadrupled.⁵⁷ These dynamic changes to the Māori population meant there were fewer adults per child at the same time young Māori became increasingly visible in public spaces. This left Māori youth particularly vulnerable to increasingly mobile forms of urban policing.

Increasing numbers of young Māori males were swept into the prison system. By 1979, 74 percent of Māori male prisoners were under the age of 25. Consequently, high levels of Māori imprisonment were, in part, a function of the very youthful Māori population profile, as a high proportion of Māori were in the age bracket most vulnerable to imprisonment.

⁴⁹ Stanley (2016).

⁵⁰ Hanan, J. R. (1969) *Review of borstal policy in New Zealand*. Wellington: Department of Justice, p2.

⁵¹ Savage, C., Moyle, P., Kus-Harbord, L., Ahuriri-Driscoull, A., Hynds, A., Paipa, K., Leonard, G., Maraki, J. & Leonard, J. (2021). *Hāhā uri, hāhā-tea: Māori involvement in State Care 1950 to 1999*. Report prepared for the Crown Secretariat. Christchurch: Ihi Research.

⁵² Williams, D. V. (1984) The abolition of borstal training: A penal policy reform or a failure to reform penal policy? *NZLRFOP*, 238: 78-82.

⁵³ McKenzie, D. F. (1980) *While we have prisons*. Auckland: Methuen Publishers; Williams (1984).

⁵⁴ See Savage et al (2021); For a general discussion of the concept of net-widening see Cohen, S. (1985) *Visions of social control: Crime, punishment and classification*. London: Polity press.

⁵⁵ Cook (2022).

⁵⁶ Cook (2021).

⁵⁷ Cook (2021).

The Māori remand population

Between 2000 and its peak in 2020, the Māori remand population grew by 530 percent (from 350 to 2,200), while the non-Māori remand population grew by 450 percent (from 300 to 1660). The rise for Māori women was even steeper, at 850 percent, although this is in part a reflection of the far smaller number of Māori women on remand (i.e., the number rose from 20 to 190).

The recent drop in the remand population has not been as steep for Māori. While the non-Māori remand population has dropped by 25 percent between 2020 and 2022, the Māori remand population has dropped 20 percent. This means that Māori make up a growing proportion of the total remand population. In 2020 Māori accounted for 57 percent of the remand population, by June 2022 Māori accounted for 59 percent. Māori women accounted for 70 percent of the women's remand population in 2022.

The changes made to bail laws in 2000, alongside more recent operational improvements from 2014, collectively had a greater impact for Māori. This was particularly true for Māori women, who are more likely to enter custodial remand on account of past offending on bail and/or a failure to comply with bail conditions. Research undertaken during the 1990s also found that Māori had higher rates of offending on bail compared to European and Pacific defendants.⁵⁸

Recent analysis has highlighted that while able to access bail at similar rates to non-Māori, Māori defendants, particularly Māori women, are more likely to subsequently spend time on custodial remand. More research is needed

to understand why this is the case, and why recent drops in the remand population have been less pronounced for Māori.

It is also important to consider the disparate impacts that stem from a greater likelihood of Māori spending time on remand while awaiting trial. Historical research from the 1970s found that the greater time spent on remand by Māori was linked to a lower level of legal representation, which was, in turn, related to an increased likelihood of pleading guilty to charges.⁵⁹ This work is now almost 50 years old and could usefully be refreshed to assess the impact of remand on Māori access to justice and charge outcomes.

The impact of changes to parole

Changes to the release regime made through the Parole Act in 2002 have also had a disproportionate impact on Māori. Research has shown that disparities in the proportion of sentence served between Māori and European prisoners increased from three to six percentage points before the parole reforms, to between nine to ten percentage points subsequently.⁶⁰

Māori are also more likely to serve their full sentence or near to their full sentence. In the five years to 30 June 2022, 37 percent of Māori males served at least 95 percent of their full sentence before being released for the first time from that sentence. Twenty-six percent of all other males served at least 95 percent. While other factors (such as differences in criminal history and gang involvement) also play a part in parole decision-making, disparities in treatment experiences, which are, in turn, affected by a greater time spent on remand, play a key role in perpetuating release disparities.⁶¹

⁵⁸ Lash, B. (1998) *Those on bail in New Zealand in 1994 and their offending*. Wellington: Ministry of Justice; Lash, B., and Luketina, F. (1990) *Offending while on bail*. Wellington: Department of Justice

⁵⁹ O'Malley, P. (1973) The amplification of Māori crime: cultural and economic barriers to equal justice in New Zealand. *Race*, 15(1):47-57.

⁶⁰ Goodall, W. (2021) Disparity in the proportion of sentence served before release on parole. Unpublished Paper. Wellington: Ara Poutama Aotearoa.

⁶¹ Goodall (2021).

What has happened to the Māori prison population since 2018?

The number of Māori in prison is now falling, having dropped by 23 percent from 5,300 to 4,100 between June 2018 and June 2022.

Despite the drop, it is also the case that recent changes which have driven reductions in the total prison population, have not benefitted Māori to the same degree as non-Māori. The non-Māori prison population decreased by 27 percent. Consequently, levels of disparity for both Māori men, and to a greater degree Māori women, have been increasing. The less punitive approach to non-violent offending (and less serious violent and sexual offending) has had a more beneficial effect for non-Māori.

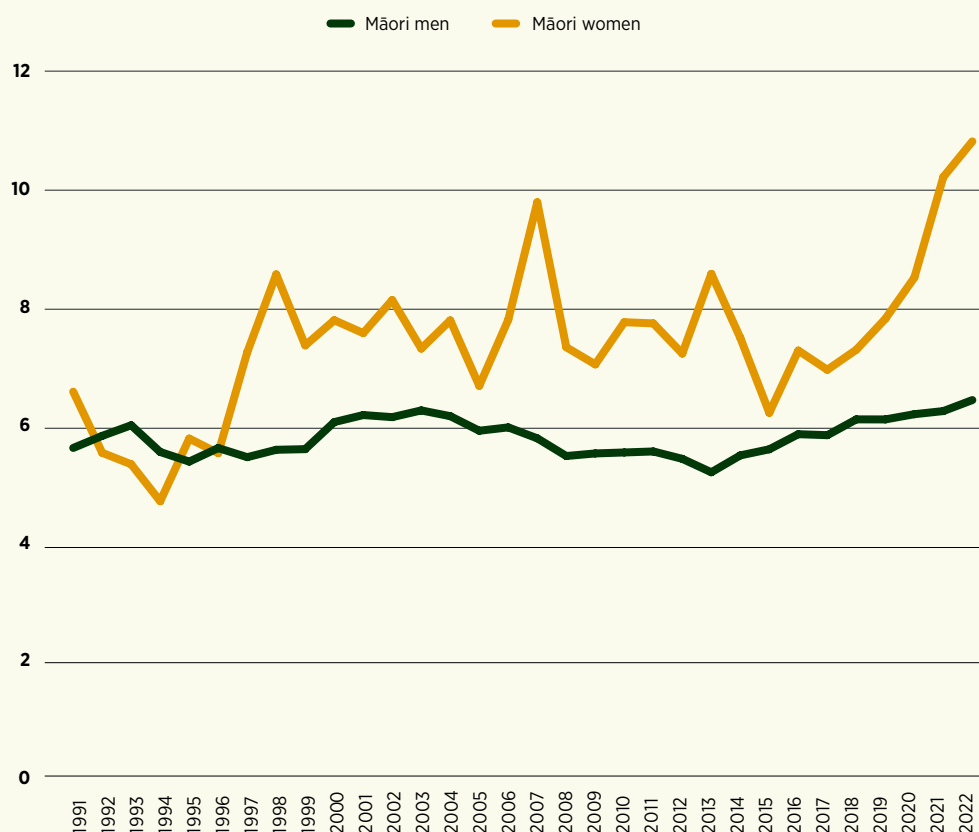
Changes in levels of disparity

Māori men and Māori women are both more likely to be in prison than their non-Māori counterparts. This is demonstrated in Figure 16 which shows the relative likelihood⁶² of Māori being in prison over the period from 1991 to 2022.⁶³

⁶² Figures greater than one indicate that Māori are more likely to be in prison and figures less than one indicate Māori are less likely to be in prison than their non-Māori counterparts.

⁶³ The time series begins in 1991. It is based on Stats NZ estimates of the population which begin in 1991. This means it is based on the 1986 census approach using self-identification as the means of recognising someone as Māori. It comes after the passage of the Children Young Persons & Their Families Act in 1989, which removed most 15 and 16 year-olds from the adult criminal justice system. From a practical perspective it is the point at which we are able to make use of age based information for both the prison and general populations.

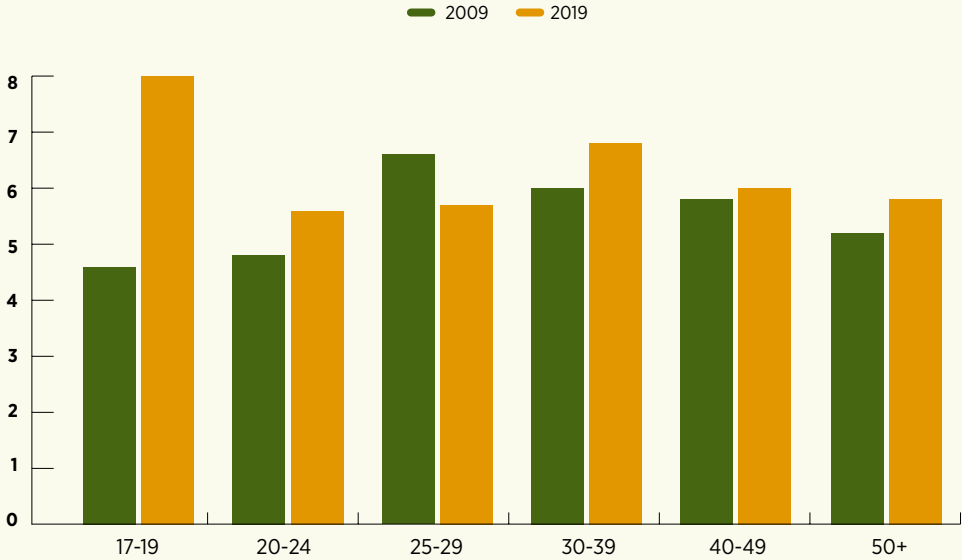
Figure 16: The relative likelihood of Māori men and Māori women being in prison compared to their non-Māori counterparts, 1991 to 2022



Between 1991 and 2018, Māori men were consistently about six times more likely to be in prison than non-Māori men. There has been more fluctuation in disparities for Māori women, which is to be expected because the women’s prison population is much smaller, meaning small changes in the numbers can result in large fluctuations. In the last three to five years rates of disparity have increased above previous levels for Māori men and Māori women.

It is useful to look at disparities for different age groups so that the different age structures of the Māori and non-Māori populations can be considered. As Figure 17 shows, in the ten years from 2009 to 2019 disparities in Māori/non-Māori men’s imprisonment rates increased for every age group except for the 25 to 29 group. Notwithstanding the significant drop in the number of young Māori men in prison, Māori men aged 17 to 19 were eight times more likely to be in prison than non-Māori men in this age bracket in 2019: in 2009 they were five times more likely.

Figure 17: The relative likelihood of Māori men being in prison compared to their non-Māori counterparts by age group for the years 2009 and 2019





How did the Pacific prison population change?

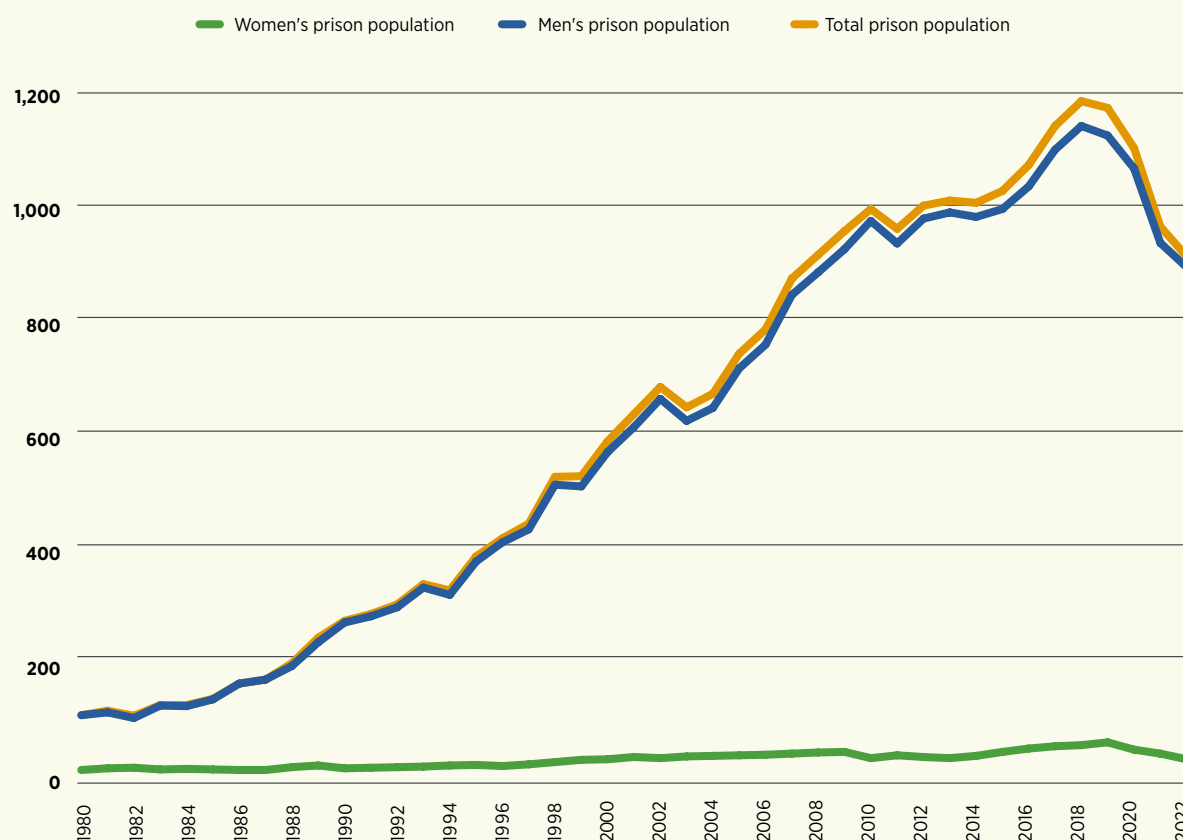
The number of Pacific peoples in prison became significant during the 1990s. From under 100 in 1980,⁶⁴ the number of Pacific peoples in prison reached 500 in 2000 and exceeded 1,200 in 2018, before reducing to 910 in 2022. Like other ethnicities, the Pacific prison population is overwhelmingly male. Figure 18 shows the Pacific men's and women's prison populations, as well as the total prison population since 1980.

Pacific men are over-represented in the prison population. In 1996, Pacific men were five percent of the adult male general population and ten percent of the men's prison population. By 2018, Pacific men were seven percent of the general population and 15 percent of the prison population.

Pacific women have generally been under-represented in the female prison population. In 1996, Pacific women were five percent of the adult female general population and five percent of the women's prison population. By 2018, Pacific women accounted for seven percent of the general population and six percent of the prison population.

⁶⁴ Pre-1980 Imprisonment statistics for Pacific peoples are difficult to find, the first reference in annual yearbooks noted that in 1978, two percent of the prison population were "Polynesian immigrants". This equated to approximately 50 people.

Figure 18: The Pacific peoples' prison population, 1980 to 2022



Explaining the growth in the Pacific men’s prison population

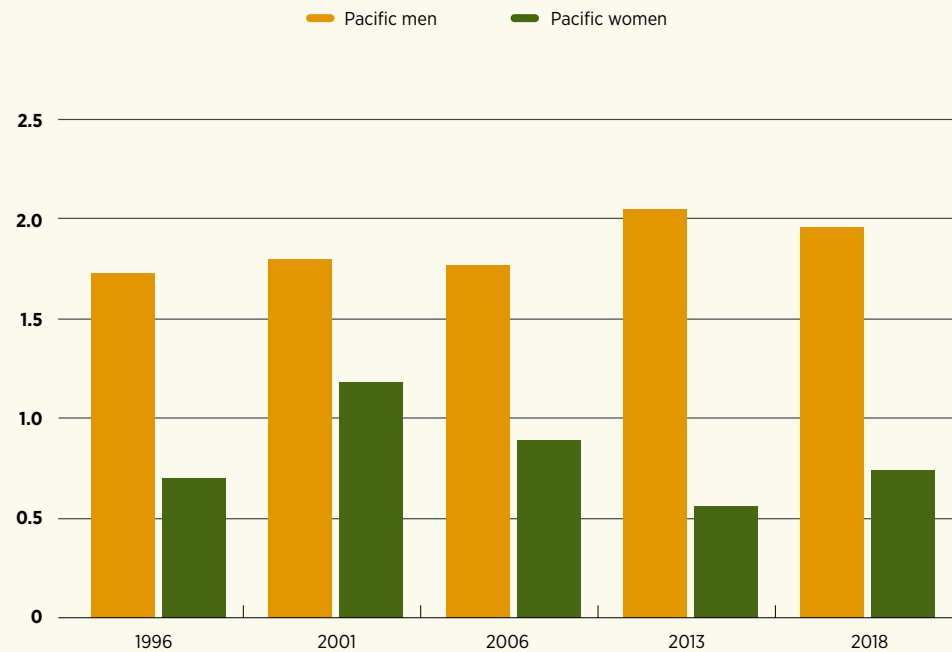
The Pacific men’s prison population grew more quickly between 1980 and 2002 than the non-Pacific men’s prison population: 580 percent compared to 130 percent. Between 2002 and 2018 both prison populations grew at a similar rate: 73 percent for Pacific men and 68 percent for non-Pacific men.

Faster growth in the number of Pacific men in the general New Zealand population, alongside the very young profile of the Pacific population, are key factors in the faster growth of the Pacific men’s prison population in the 1980s and 1990s.

Criminal justice policy changes that occurred between 1985 and 1995 that increased the number of people in prison for violent and sexual offending had a larger effect on Pacific men because their imprisonment was skewed more toward these offence types. In 1980, 43 percent of Pacific men in prison were there for violent or sexual offending compared to 28 percent of non-Pacific men. This should not be interpreted as suggesting Pacific men were more prone to this type of offending. It may be that Pacific men are less prone to other forms of offending. The policy changes affecting violent and sexual offending had a larger proportionate effect on the Pacific men’s prison population.

The subsequent changes to bail/remand, parole and the more recent changes to the sentencing pattern have had a similar net effect on Pacific and non-Pacific men.

Figure 19: The relative likelihood of Pacific men and Pacific women being in prison compared to their non-Pacific counterparts in 1996, 2001, 2006, 2013 and 2018⁶⁵



⁶⁵ Figures greater than one indicate Pacific peoples are more likely to be in prison and figures less than one indicates they are less likely to be in prison than non-Pacific people.

Age differences for Pacific peoples

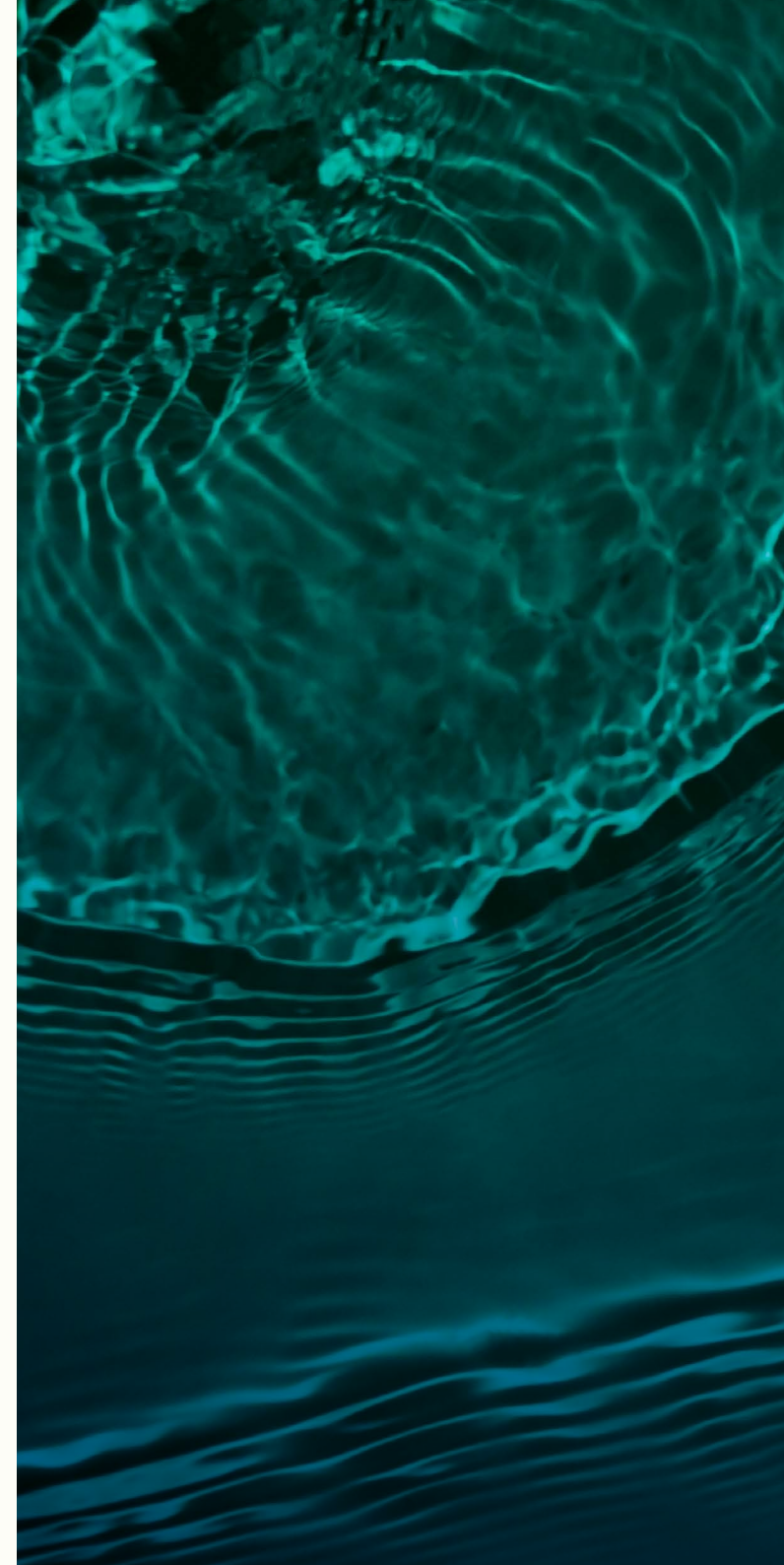
These simple comparisons do not allow for the different age structures of the Pacific and combined non-Pacific general populations. The general Pacific population is much younger than the general New Zealand population. For instance, in 1996, 11 percent of the Pacific men's adult general population was aged 17-19, and 34 percent was aged 40 or older (the figures for non-Pacific men were six percent and 52 percent). Comparisons of imprisonment rates need to take account of differences in the population structure.

After allowing for differences in age structures, Pacific men were generally more likely to be in prison per head of population than non-Pacific men. Pacific women were less likely to be in prison than their non-Pacific counterparts.

The fall in the Pacific prison population

The Pacific men's prison population fell by 22 percent between 2018 and 2022 compared to a 24 percent decrease in the non-Pacific men's population. There has been a small increase in the relative likelihood of a Pacific man being in prison. The Pacific women's prison population fell by 57 percent between 2018 and 2022, compared to a 42 percent decrease in the non-Pacific women's population. There has been a decrease in the relative likelihood of a Pacific woman being in prison.

The outlook is positive, if reductions in the imprisonment rate of young Pacific men is a good guide. For example, the imprisonment rate for young Pacific men reduced from 1,325 per 100,000 to 255 between 1996 (its highest point) and 2018. In 1996 young Pacific males were 2.3 times more likely to be in prison compared to non-Pacific males, whereas by 2018 they were only 1.2 times more likely.







How did the women's prison population change?

Women are a small minority of the prison population

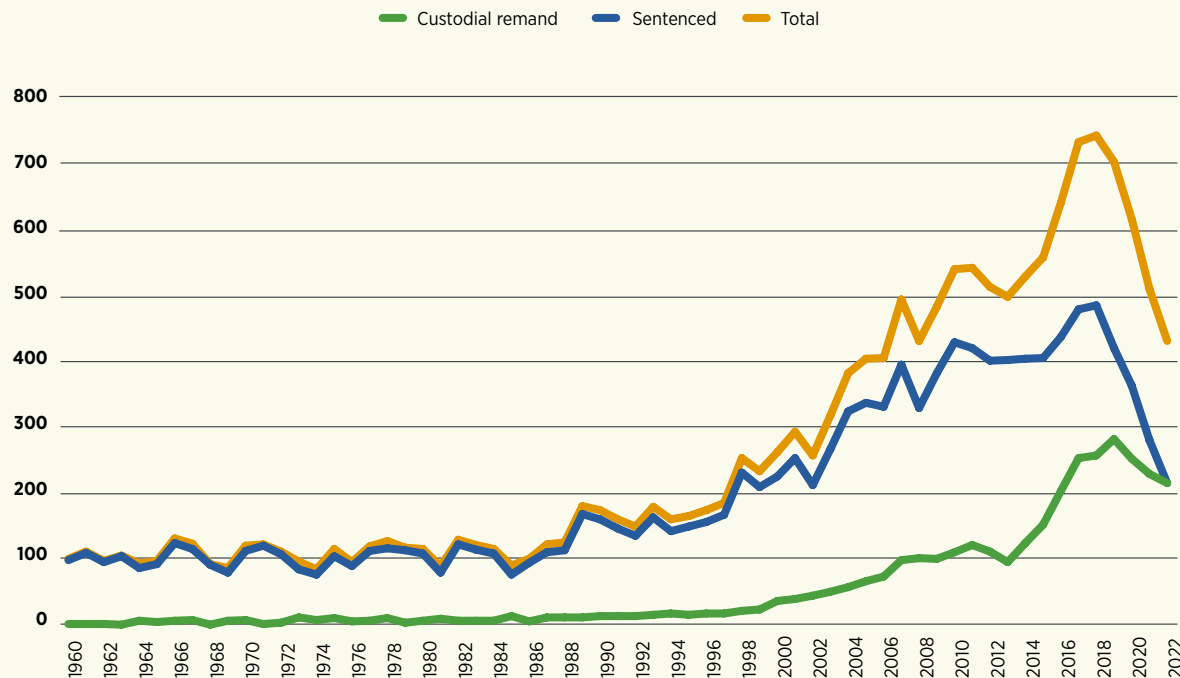
Between 1960 and 2022, women have never accounted for more than seven percent of the total prison population.

From 1960 until the late 1980s, the women's prison population fluctuated between 80 and 130. With a rising general population, there was a reduction in the women's imprisonment rate during this period.

From 1988, the women's prison population began a long period of growth that lasted until 2018. Between June 1988 and June 2018 the women's prison population grew by 470 percent, from 130 to 740 (the population peaked at 809 in January 2018). Since June 2018, the women's population has fallen by 42 percent, from 740 to 430. These three stages can be seen in Figure 20.

Despite the women's population being unchanged for the first 25 years of this period, the women's and men's prison populations both proportionately changed by almost the same amount between 1960 and 2022. The women's population was 328 percent higher in 2022 and the men's was 326 percent higher; however, the comparative changes through the three stages were substantially different. While the men's

Figure 20: Women's prison population, 1960 to 2022



**BETWEEN 1988 AND 2018
THE WOMEN'S PRISON
POPULATION GREW BY**

470%

**THE WOMEN'S
PRISON POPULATION
DROPPED BY**

42%

BETWEEN 2018 AND 2022



50%

**OF THE WOMEN'S PRISON
POPULATION IS ON
CUSTODIAL REMAND IN 2022**

74%

**OF THE INCREASE IN
THE WOMEN'S PRISON
POPULATION BETWEEN
1980 AND 2000 WAS
ASSOCIATED WITH
VIOLENT OFFENDING.**

prison population grew by 86 percent between 1960 and 1988, the women's prison population remained stable.

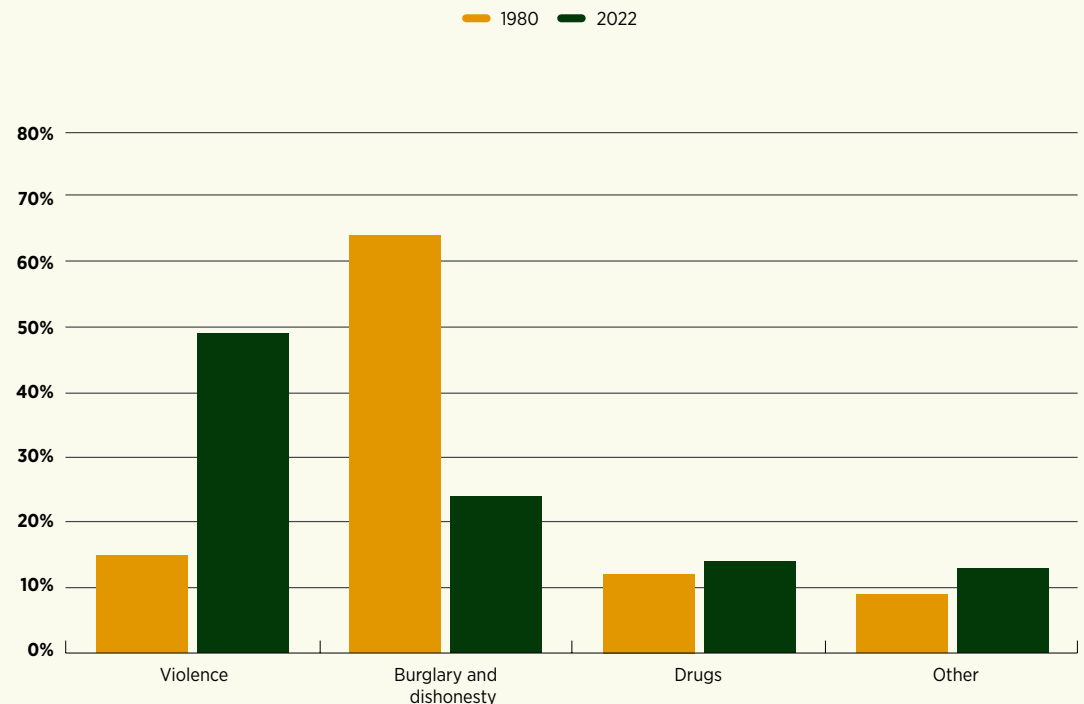
The women's prison population grew much more rapidly than the men's between 1988 and 2018, when it rose by 470 percent, compared to a 200 percent increase in the men's prison population during this period. Since 2018, the women's prison population has fallen faster than the men's: the women's prison population was 42 percent lower in 2022, whereas the men's was 23 percent lower.

The women's prison population differs from the men's prison population

The women's prison population differs from the men's in several respects, although this has not always been the case. In particular:

- a greater proportion of women are on remand (50 percent of women compared to 40 percent of men); however, men are twice as likely to be remanded in custody than women.
- the average age of women in prison has been increasing, but is lower than that of men, and the age difference is increasing.
- the women's prison population has a much lower proportion of sexual offenders. At the end of June 2022 almost 25 percent of men, but just 2.5 percent of women, were serving prison sentences or facing charges for sexual offending.

Figure 21: The offence composition of the women's prison population in 1980 and 2022



IN 1980

64% of women in prison were there for **BURGLARY OR DISHONESTY OFFENCES**

JUST **15%** WERE THERE FOR VIOLENT OFFENCES

IN 2022

24% of women were in prison for **BURGLARY OR DISHONESTY OFFENCES**

49% WERE THERE FOR VIOLENT OFFENCES

There has been a shift in the composition of the women's prison population over time

In 1980, 64 percent of women in prison were there for burglary or dishonesty offences, while just 15 percent were there for violent offences. In 2022, 24 percent of women were in prison for burglary or dishonesty, while almost half (49 percent) were there for violent offences (see Figure 21).

In 1980, 12 percent of women were in prison for drug offences. By 2018 a quarter of the women's prison population were there for drug offences. By 2022, the proportion had dropped to 14 percent.

The women's population is aging. In 1980, the average age of the women's prison population was 24. In 2022 it was 36. The women's prison population has a slightly younger age profile than the men's prison population (the average age of the men's prison population is 39). This is largely due to the higher proportion of sexual offenders in the men's population who typically have an older age profile.

What factors contributed to the changes in the women's prison population?

The same factors which caused the increase in the men's prison population also influenced the women's prison population; however, the specific impacts were different.

The increase in serious violence had a proportionately greater impact for women

- The increase in convictions for serious violence was proportionately larger for women (rising by 180 percent from the early 1980s to late 1990s compared to a general rise of 170 percent for the overall population).
- The *imprisonment rate* for women convicted of serious violence increased (rising from 39 percent in the first half of the 1980s to 44 percent in the decade ending 2001).

Overall, 74 percent of the increase in the women's prison population between 1980 and 2000 was associated with violent offending.

Changes to bail practice had a greater proportionate impact on the women's prison population

Growth in the women's remand population was due to the same factors as the general remand population; particularly, the introduction of the 'recidivist offender' reverse onus provision for people alleged to have offended on bail or with a history of offending on bail in 2000.

The proportion of women in prison on custodial remand increased from 35 percent in 2018 to 50 percent in 2022.

While the number of women in prison on custodial remand or serving sentences both fell, the number of sentenced women fell faster, which means that remand now accounts for a greater proportion of the total women's prison population.

Because women typically receive shorter sentences than men, spending more time on remand has a greater impact on women's opportunities to do rehabilitation programmes in prison

Rehabilitation programmes which address offending usually occur once a person has been convicted and sentenced. Because women typically receive shorter sentences than men, the fact that more women are spending longer periods on custodial remand has a greater impact on women's opportunities to undertake rehabilitation programmes.

In 2021/22 more than half of those women on remand who went on to receive a short prison sentence (two years or less) did not have time to do a rehabilitation programme before being released. A quarter were released directly from remand "time served". Less than half the women on remand who went on to receive a long sentence (over two years) had sufficient time to complete a rehabilitation programme prior to their first parole hearing.

Women are now spending longer in prison than in the past

Changes to the eligibility criteria for parole, the abolition of release at two-thirds of the sentence, and decisions based on the evaluation of community safety as the paramount consideration for parole introduced in the Parole Act 2002, increased the time served by women on long sentences. Following the abolition of automatic release at two-thirds, 14

percent of women serving sentences longer than two years have served at least 95 percent of their sentence before first release.

What factors contributed to the fall in the women's prison population?

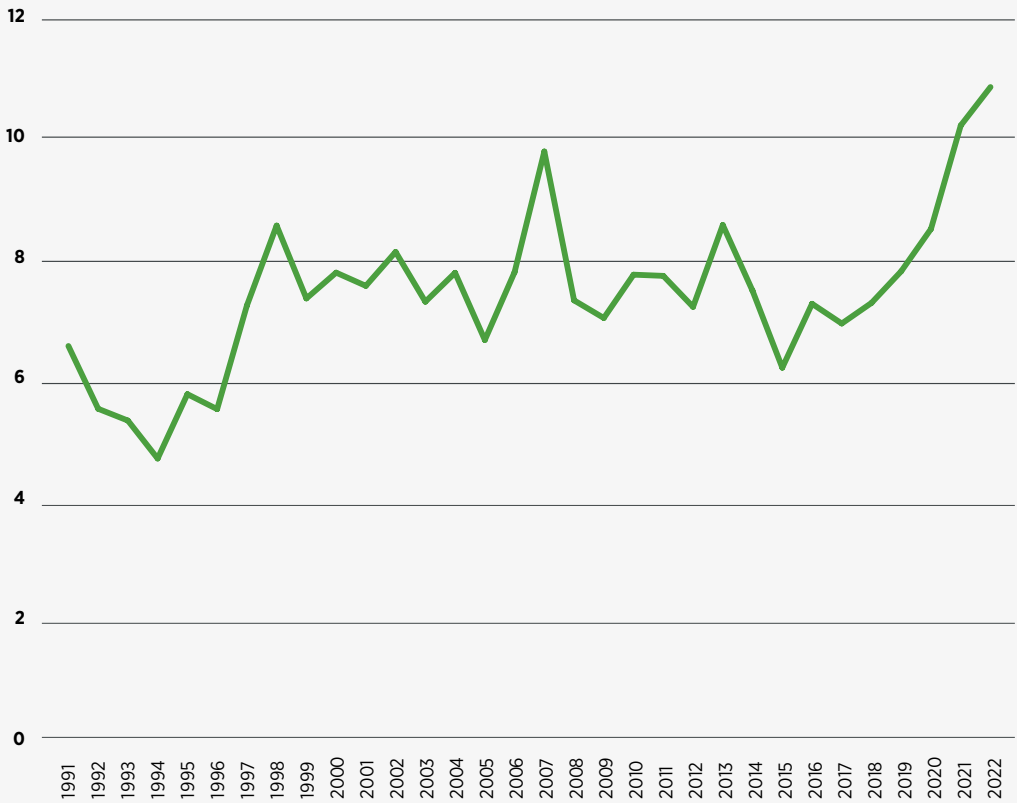
Between 2018 and 2022, the women's prison population fell more quickly than the men's population, (42 percent vs. 23 percent). The same factors affected both populations but the change in general sentencing patterns (for example, the greater use of non-custodial sentences, the specific change to sentencing for dealing in Class A drugs) and the decrease in use of custodial remand all had larger effects on the women's prison population. For instance, the imprisonment rate for women convicted of Class A drug dealing more than halved from 52 percent to 20 percent during this period, whereas the rate for males fell from 70 percent to 47 percent.

What happened to the Māori women's prison population?

Māori women are far more likely to be in prison than non-Māori women, notwithstanding the fact that a small proportion of the general adult Māori women's population are in prison (0.1 percent).

Although the likelihood of a Māori woman being in prison has halved in the last five years from 195 to 99 per 100,000, the relative likelihood of a Māori woman compared to a non-Māori woman being in prison has increased (see Figure 22). The level of disparity has grown substantially since the prison population began to fall in 2018. Māori women are now almost 11 times more likely to be in prison than non-Māori women. The changes that have reduced the women's prison population have not had as great an impact on Māori women.

Figure 22: The relative likelihood of Māori women being in prison compared to non-Māori women, 1991 to 2022⁶⁶



⁶⁶ Figures greater than one indicate that Māori are more likely to be in prison and figures less than one indicate Māori are less likely to be in prison than their non-Māori counterparts.





How did the age profile of the prison population change?

The age profile of New Zealand prisons has changed significantly since 1980. The following sections explore the drop in the number and proportion of young people in the prison system and and, as a consequence, the aging profile of New Zealand’s prison population.

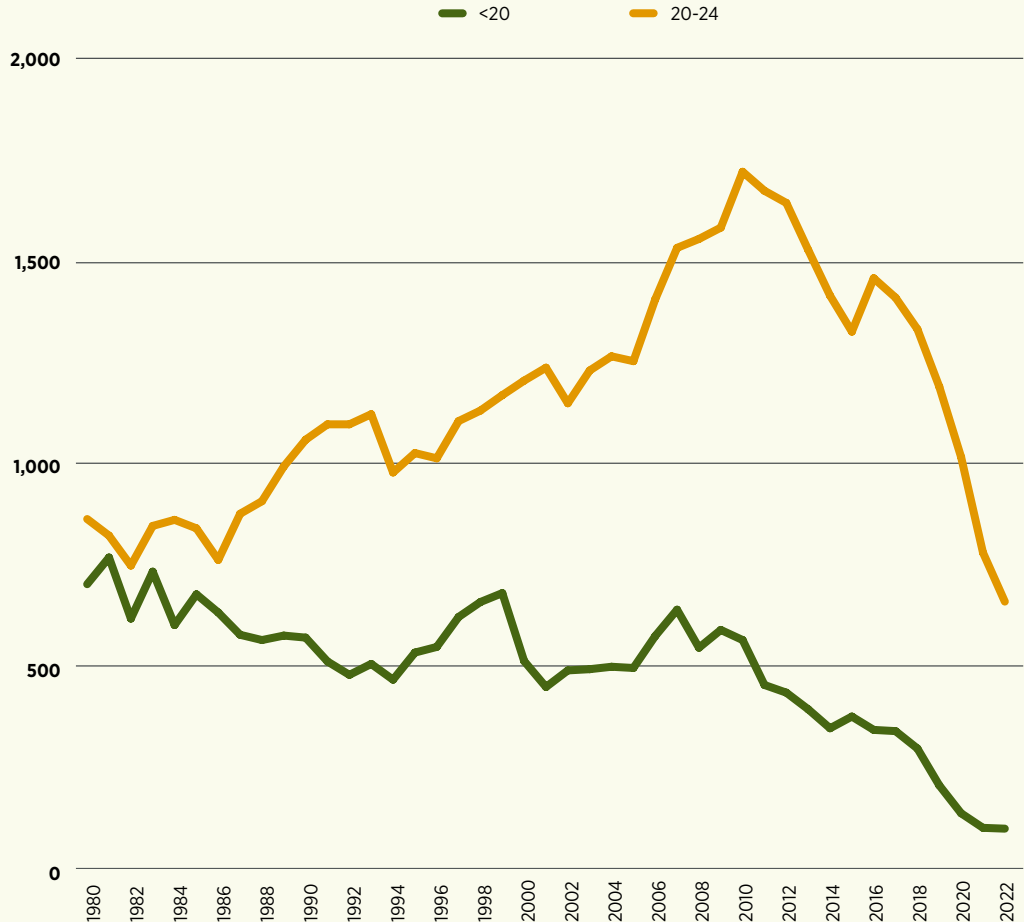
Fewer young people are going to prison

The drop in the number of young people in prison in the last decade is one of the most significant changes observed in the prison population during the last 60 years. The number of people under age 20 in prison has been declining since 2007, while the number of people aged 20 to 24 in prison has been dropping since 2010 (see Figure 23).

Between 2007 and 2022, the number of people aged under 20 in prison dropped 84 percent, from 640 to 100. Between 2010 and 2022, the number of people aged 20 to 24 dropped by 62 percent, from 1,720 to 660. These shifts occurred at a time when changes to the remand and release regimes pushed the general prison population upwards.

Changes in the proportion of young people in the prison population are particularly stark. In 1980, 29 percent of the prison population was under 20; by 2022 only one percent was. In 1980, 35 percent of the prison population was aged 20 to 24; by 2022 nine percent was. Overall, in 1980 64 percent of the prison population was under the age 25; by 2022 ten percent was.

Figure 23: Number of people aged under 20, and aged 20 to 24, in the total prison population, 1980 to 2022



IN 1980

64%



OF THE PEOPLE IN PRISON
WERE UNDER THE AGE 25;
HOWEVER, BY 2022 10%
WERE.

DESPITE SUBSTANTIAL
DROPS IN YOUTH CRIME
IN THE LAST DECADE,

87%

OF THE NEW ZEALAND
PUBLIC THINK THAT
YOUTH CRIME INCREASED.

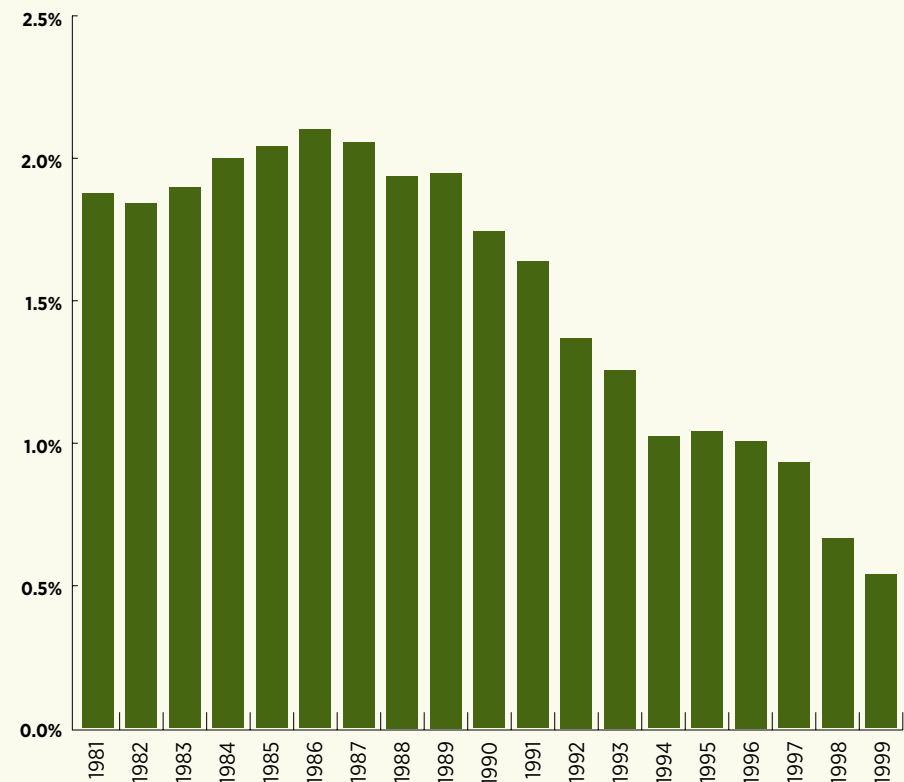
The decline of young people in prison has been substantial across both the men's and women's prison populations and all ethnic groups. The magnitude of the effect has varied. The proportionate drop has been greater for young men compared to young women, and greater for European youth compared to Māori and Pacific youth.

Generally, people born after 1990 have experienced lower levels of imprisonment than previous birth cohorts. Figure 24 shows the percentage of people first imprisoned up until age 21 for successive birth years from 1981 to 1999. Two percent of those born in 1989 had been to prison by age 21, whereas for those born in 1999 just 0.5 percent had been to prison by age 21.

The change was particularly pronounced for Māori. For example, four percent of Māori born in 1985 had been to prison by the age of 21. For Māori born in 1999, 1.2 percent had been to prison by age 21. It is important to note that despite this drop, the level of imprisonment experienced by Māori born in 1999 was still four times that experienced by European youth in the same birth cohort.

Further analysis has revealed that the decrease in the number of young people arriving in prison is not simply the result of young people receiving community-based sentences or being diverted away at earlier stages of the criminal justice system. People born after 1990 are much less likely to have experienced a community-based sentence compared to earlier generations. Eight percent of people born in 1989 had experienced a community-based sentence by the age of 21, whereas just three percent of those born in 1999 had done so.

Figure 24: Percentage of people first imprisoned by age 21, by year of birth from 1981 to 1999



Therefore, not only are younger adults not entering prison, they those are also not entering the corrections system to the same degree as previously.

There has also been a significant drop in the number of young people being proceeded against by Police and being processed through the court system. For example, in the last five years until June 2022, the number of Police proceedings against young people had dropped by 58 percent,⁶⁷ the number of court actions had dropped by 64 percent, and the number of warnings (largely Police pre-charge warnings) dropped by 72 percent. As shown in Figure 25, young people are not entering the criminal justice system in the same numbers as they did previously. Despite this trend, recent survey results suggest that 87 percent of New Zealanders believe that levels of youth crime have increased in the last five years.⁶⁸

The downward trend in youth imprisonment is not unique to New Zealand. Declines in youth imprisonment and youth crime have been observed across the world in recent decades.⁶⁹ In fact, global declines in crime have largely been attributed to a decline in youth offending; a trend which has been particularly pronounced for young men.⁷⁰

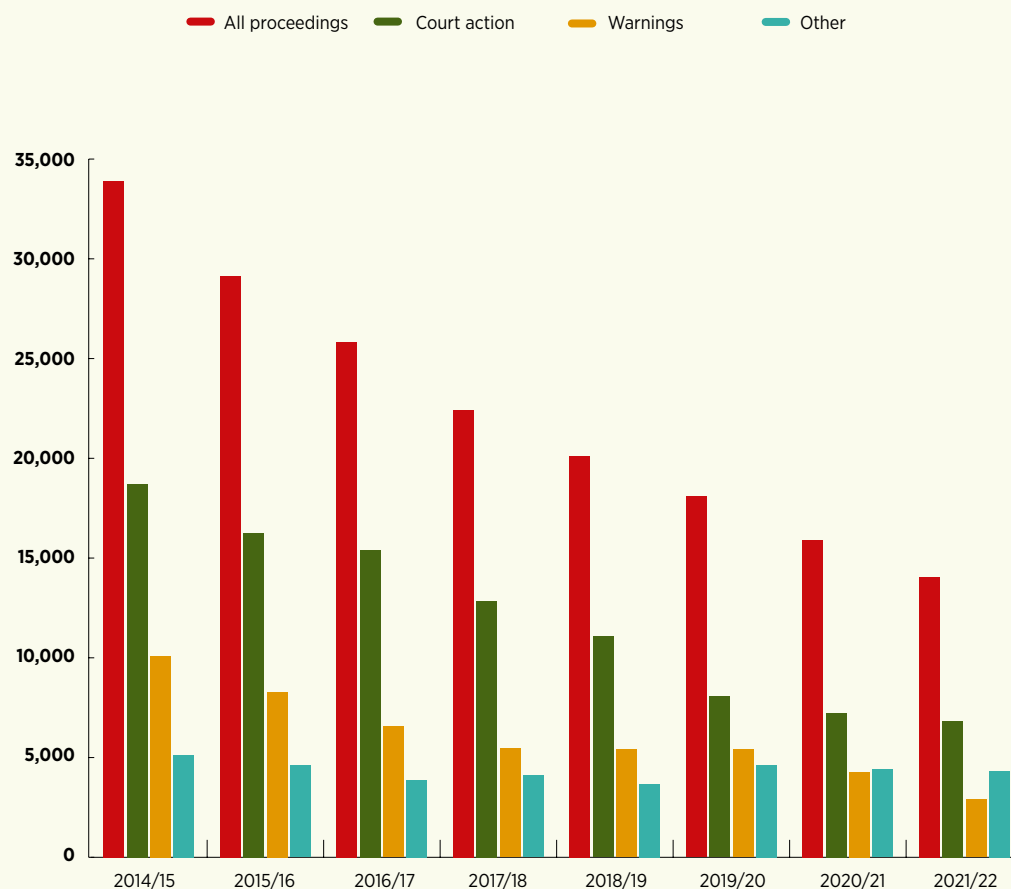
⁶⁷ This data is for the age band 15 to 19 years. This was the closest age band available.

⁶⁸ Research New Zealand (2022) *Long-Term Insights Briefing: The future of imprisonment – A representative survey of the New Zealand public*. Wellington: Ministry of Justice.

⁶⁹ See Weatherburn & Rahman, (2021); Griffiths, G. & Norris, G. (2020) Explaining the crime drop: contributions to declining crime rates from youth cohorts since 2005, *Crime Law and Social Change*, 73(1): 25-53; Payne, J. Brown, R., Broadhurst, K. (2018) Where have all the young offenders gone? Explaining changes in offending between two NSW birth cohorts, *Trends in Crime and Criminal Justice Issues*, 553 (1).

⁷⁰ Matthews, B. & Minton, J. (2017) Rethinking one of criminology's 'brute facts': The age-crime curve and the crime drop in Scotland, *European Journal of Criminology*, 15(3): 296-320. See also Weatherburn & Rahman (2021), Griffiths & Norris (2020).

Figure 25: Total police proceedings, court actions, warnings and other methods of proceeding against people aged 15-19, 2014/15 to 2021/22⁷¹



⁷¹ Data extracted on 29/09/2022 from - <https://www.police.govt.nz/about-us/publications-statistics/data-and-statistics/policedatanz/proceedings-offender-demographics>

Birth cohort analysis makes it clear that the decline in youth crime is not simply a product of the changing age structure of society (i.e., the fact that there are proportionately fewer young people). There is something different happening for subsequent generations of young people. Analyses in other jurisdictions have reached similar conclusions.⁷²

Why are young people not entering the criminal justice system?

International research has identified a range of explanations for the decline in youth crime. These have included the following:

- opportunities and rewards for typical gateway youth crimes (such as property crime, and vehicle crime) have reduced⁷³
- the routine activities of young people have changed meaning they spend more time at home online and less time in public spaces⁷⁴
- levels of alcohol consumption among young people have fallen⁷⁵
- attitudes towards young people have changed, resulting in better parenting and other supports.⁷⁶

Further research is needed to verify the degree to which these changes have influenced youth crime and imprisonment in New Zealand. Initial

analysis undertaken for this briefing using Statistics New Zealand's Integrated Data Infrastructure (IDI) reveals that successive age cohorts appear to be achieving better outcomes in a number of areas. Looking at outcome measures for successive cohorts of 17 year olds between 2013 and 2019 reveals that over time young people are:

- more likely to leave school with a qualification
- less likely to be suspended from school
- less likely to have been the subject of an Oranga Tamariki/Child, Youth and Family intervention
- less likely to have been on an income benefit
- more likely to have accessed mental health services.⁷⁷

Improved educational outcomes for young Māori born from the 1990s onwards are also likely to have been influenced by the Māori Renaissance, a movement which started several decades earlier, which contributed to more opportunities and support for young Māori during the 1990s, for example, the expansion of Kōhanga Reo and Kura Kaupapa.

⁷² Kim, J., Bushway, S. & Tsao, H. S. (2015) Identifying classes of explanations for the crime drop: period and cohort effects for New York State, *Journal of Quantitative Criminology*, 32 (2): 357-375.

⁷³ Farrell, G. (2021) Forty years of declining burglary in the United States: Explanation and evidence relating to the security hypothesis, *Security Journal*, 35: 444-462; Farrell, G., Laycock, G. & Tilley, N. (2015) Debuts and legacies: The crime drop and the rate of adolescent limited and persistent offending' *Crime Science*, 4(1): 4-16.; Matthews and Minton (2017).

⁷⁴ Berghuis, B. & De Waard, J. (2017) Declining juvenile crime – explanations for the international downturn. *Justitiele Verkenningen*, 43 (1); McCord, A., Birch, P., & Bizo, L.A. (2022) Digital Displacement of youth offending: addressing the issue, *The Journal of Forensic Practice*, forthcoming; McAra, L. & McVie, S. (2018) Transformations in youth crime and justice across Europe: evidencing the case for diversion, *Juvenile Justice in Europe*, 73-103; Pitts, J. (2015) Youth Crime and Youth Justice, *Youth and Policy*, 114: 31-42. Farrell *et al.*, (2015).

⁷⁵ Pennay, A., Holmes, J., Törroönen, J., Livingston, M., Kraus, L., & Room, R. (2018) Researching the decline in adolescent drinking: The need for a global and generational approach, *Drug and Alcohol Review*, Supp 1: 115-119; Carlson, P. (2019) Declining alcohol consumption among adolescents and schools in Stockholm, 2010 – 2016, *Nordic Studies on Alcohol and Drugs*, 36 (4): 344-356; Holmes, J., Fairbrother, H., Livingston, H., Meier, P.S., Oldham, M., Pennay, A. & Whitaler, V. (2022) Youth drinking in decline: What are the implications for public health, public policy and public debate? *Journal of international Drug Policy*, April (102); Weatherburn & Rahman (2021). Alcohol Use in New Zealand Survey 2019/2020 – Retrieved from <https://www.hpa.org.nz/research-library/research-publications/alcohol-use-in-new-zealand-survey-auinz-2019-20-%E2%80%93-high-level-results-2019-20>

⁷⁶ Carlson (2019); Pratt, J. (2007) *Penal Populism*. London: Routledge; Furedi, F. (2001) *Paranoid Parenting*. London: Cappella Publishing.

⁷⁷ Taylor Fry (2022) *IDI analysis undertaken to support the Long-Term Insights Briefing*. Wellington: Taylor Fry (unpublished paper).

Oranga Tamariki undertook complementary analyses making use of datasets created in the IDI.⁷⁸ The analysis was informed by international research on young adult offending.⁷⁹ The research focused on a comparison of the lifetime experiences by age 17 of two cohorts separated by time: the first cohort covered people who turned 17 in the five years to the end of 2015 and the second cohort covered those who turned 17 in the five years to the end of 2020. It is a descriptive analysis and like the findings described above cannot be used to infer causal links.⁸⁰

In summary the research identified:

- a decrease in the proportion of people predominantly supported by benefits up to the age of 17
- increases in the level of care and protection activity at the assessment/ investigation and Family Group Conference or Family/Whānau Agreement levels, with no substantive change in terms of people taken into the custody of the State
- increased use of alternative education, decreased stand-down days or suspension spells, and increases in the number of school changes
- increases in mental health treatment and substance abuse treatment, decreases in prevalence of chronic health conditions, and increases in emergency department admissions and in potentially avoidable hospitalisation, and
- decreased involvement in the Youth Justice System and in Youth Justice Family Group Conferences, but no change in youth justice placements.

The Oranga Tamariki research explored differences for selected sub-cohorts, including Māori, Pacific peoples, men, women and people who had had any contact with the Department of Corrections. Oranga Tamariki found that the changes outlined above were consistent for all these groups.

Overall, the two pieces of research identified similar changes that could be broadly considered to be positive for young people, although some changes are open to competing explanations. For example, the increased use of mental health, substance abuse services, and alternative education could either be interpreted as indicators of rising need, or as indicators of a greater proportion of need being addressed, or, indeed, both of these things.

Further research is needed in New Zealand to understand the causal factors which sit behind the drop in youth crime and young people's subsequent involvement in the criminal justice system, including imprisonment.

⁷⁸ Oranga Tamariki Evidence Centre (2022) *IDI analysis undertaken to support the Long-Term Insights Briefing*. Wellington: Evidence Centre (unpublished paper).

⁷⁹ Farrington D.P. (1998) Predictors, Causes and Correlates of Male Youth Violence', in M.H. Tonry & Moore M. H. (eds). *Youth Violence*. Chicago: University of Chicago Press: 421–476; Moffitt T.E., Caspi, A., Dickson N., Silva, P. and Stanton, W. (1996) Childhood-onset versus adolescent-onset antisocial conduct problems in males: Natural history from ages 3 to 18 years, *Development and Psychopathology*, 8:399–424. Farrington D.P. (1998) 'Predictors, Causes and Correlates of Male Youth Violence', in M. Tonry & M. H. Moore (eds) *Youth Violence*. Chicago: University of Chicago Press: 421–476; Miguel Basto-Pereira *et al.* (2022) The global impact of adverse childhood experiences on criminal behavior: A cross-continental study, *Child Abuse & Neglect*, 124; Van Lier P.C., Vuijk, P., Crijnen, A.M. (2005) Understanding mechanisms of change in the development of antisocial behavior: The impact of a universal intervention, *Journal of Abnormal Child Psychology*, 33(5): 521–535. Ou S.R., Reynolds, A.J. (2010) Childhood Predictors of Young Adult Male Crime, *Child & Youth Service Review*, August 1;32(8):1097–1107. doi: 10.1016/j.chldyouth.2010.02.009. PMID: 20657803; PMCID: PMC2907177.

⁸⁰ The research is limited by the short time series for the available data on benefit support, care and protection, education, health and youth justice outcomes.

The prison population is aging

As fewer young people arrive in prison, the age profile of the prison population is getting older. The average age of the prison population has increased from 25 in 1980 to 38 in 2022. In 1980, six percent of the prison population was aged 40 or over, by 2022 40 percent was. In 1980, just two percent of the prison population was aged 50 or over; however, by 2022 19 percent was (see Figure 26).

A key driver of the aging prison population is the increase in people in prison for sexual offences. For example, in June 2022, the average age of people in prison for sexual offending was 48 years. This is ten years older than the average age of the total prison population.

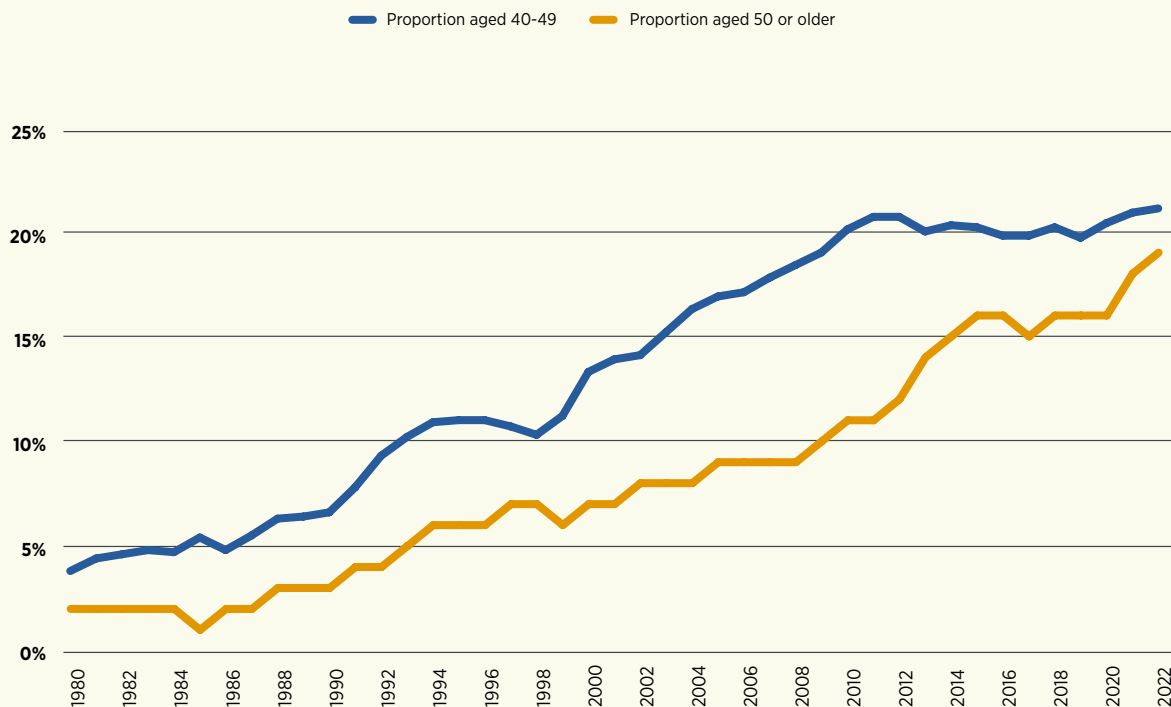
As has been discussed elsewhere in this briefing, people born prior to the 1990s have experienced much higher levels of imprisonment than people born after this point. People born between the mid-1960s through to the late 1980s experienced particularly high levels of imprisonment.

As research undertaken by social demographer, Len Cook, has demonstrated, these generations were also among those who experienced the highest level of State care, including residential State care.⁸¹

As recent research completed for the Royal Commission of Abuse in State Care has shown, birth

IN 1980 6% OF THE PEOPLE IN PRISON WERE AGED 40 OR OVER: IN 2022 40% WERE.

Figure 26: The proportion of people in prison aged 40 to 49 and 50 or older, 1980 to 2022



⁸¹ Cook, (2021); see also Stanley (2016).

cohorts from the mid-1940s to the late-1980s who experienced residential State care as children went on to experience much higher levels of incarceration than those who did not experience residential State care.⁸² During this period, between 32 and 35 percent of people who experienced State residential care as a child went on to be imprisoned as an adult.⁸³

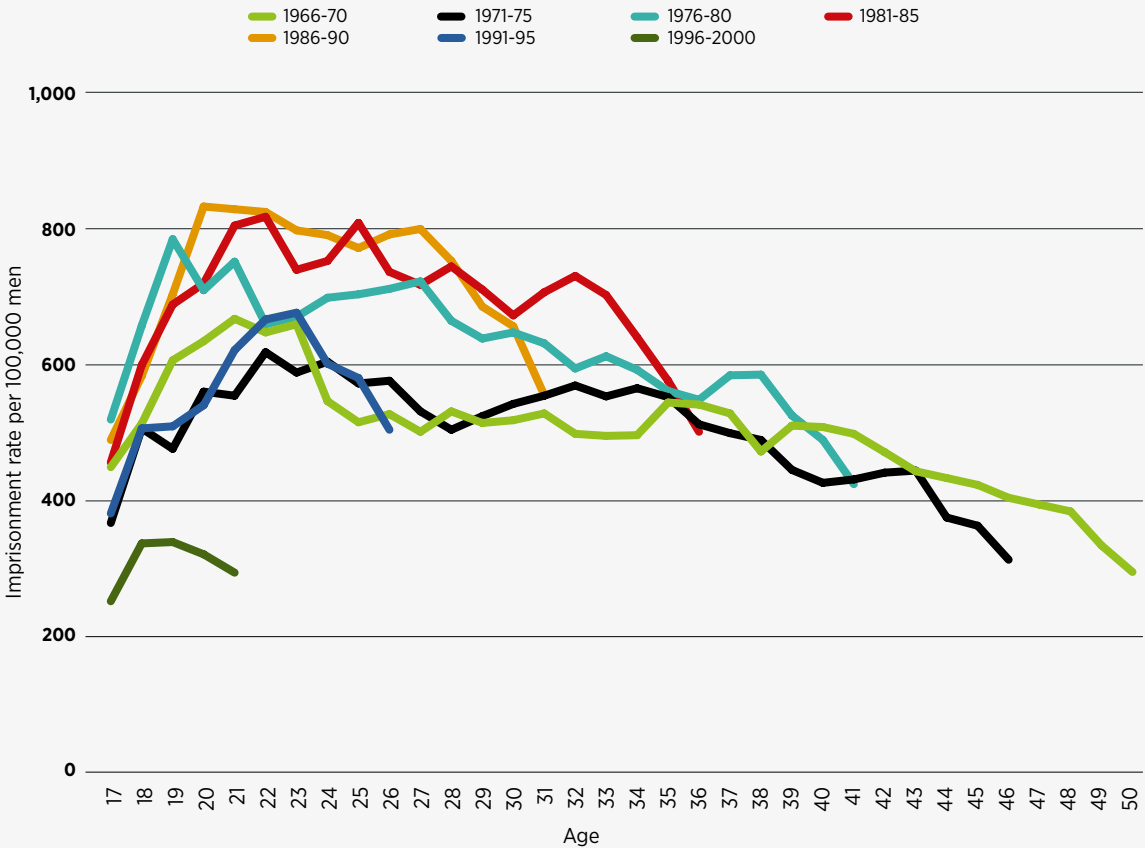
Further cohort analysis of the prison population over time shows that younger generations are not only less likely to be imprisoned, but their imprisonment rate is dropping faster as they age. In other words, they appear to be desisting more swiftly (see Figure 27). Figure 27 shows the rates of imprisonment for successive male birth cohorts at ages 17 to 50 where applicable. Each cohort includes males born within a five-year period with the oldest cohort being those born between 1966 and 1970 and the youngest born between 1996 and 2000. Those born between 1966 and 1975 reveal more persistent criminal careers (as measured through imprisonment rates), with these cohorts showing much higher rates of imprisonment at older ages compared to younger groups (who appear to be desisting from crime at an earlier stage of the life cycle). The youngest birth cohort (1996 to 2000) shows a particularly rapid decline in imprisonment, with imprisonment rates at age 26 being equivalent to the 1966 to 1970 cohort's rate at the

age of 40. By June 2022, the imprisonment rate of the 1996 to 2000 cohort at age 21 is lower than that ever achieved by the 1971-1965 birth cohort.

If these trends continue, two things will be expected to occur. In the first instance, as young people arrive at a lower rate and leave earlier,

we would anticipate an increasingly aging prison population in the short-term future. In the longer term, as the birth cohorts with very high levels of imprisonment and longer criminal careers age out of crime, we would predict this trend to result in a lower overall imprisonment rate all things being equal.

Figure 27: Rates of imprisonment for successive male birth cohorts beginning with the 1966 to 1970 birth cohort and ending with the 1996 to 2000 birth cohort



⁸² Synergia (2022).

⁸³ It is important to note that the research did not distinguish between those who were in residential state care for care and protection reasons versus those who were in residential care for youth justice reasons (acknowledging that these categories are not mutually exclusive). Recent analysis shows that those with youth justice experience go on to have substantially higher rates of adult imprisonment compared to those who experienced residential state care only for care and protection reasons. See Oranga Tamariki Evidence Centre (2021) *Youth Justice Pathways: an examination of wellbeing indicators and outcomes for young people involved with youth justice*. Wellington: Oranga Tamariki, Ministry for Children.

The needs of people in prison: insights from research

Given the significant changes in the composition of the prison population identified in this briefing, it would be anticipated that the needs of people in prison will have changed markedly over time. The needs of an older population, with a greater history of institutionalisation, a higher concentration of people serving sentences for violent and sexual offences, and a much greater proportion of remand prisoners are different from those of a younger sentenced prisoner population, with a different offending profile.

Identifying changes in needs over time is complex. This is because systems and processes for identifying and recording information about people's needs change and improve over time, and very detailed information on particular types of need might be collected at a single point in time, making it impossible to determine change over time. The detailed Comorbidity Survey, which explored mental health conditions and substance abuse disorders undertaken by Department of Corrections in 2015, is an example of this.⁸⁴ Other research, such as that which examines neurocognitive needs is still relatively exploratory and representative prevalence studies of the prison population have yet to be undertaken. More recently, some assessment processes within prisons have been disrupted by the COVID 19 pandemic.

Based on existing research, it has been shown that compared to the general population people in New Zealand prisons are significantly more likely to have:

- basic literacy and numeracy needs⁸⁵
- dyslexia and other learning difficulties⁸⁶
- experienced a traumatic brain injury (TBI)⁸⁷
- substance abuse disorders, mental health disorders, and the combination of the two⁸⁸
- previous violence or sexual violence victimisation experience, including childhood victimisation⁸⁹
- greater exposure to trauma.⁹⁰

Analysis undertaken for this briefing shows some evidence that the needs profile of people in prison is changing over time. Data from Corrections' prison needs assessment tool (S-DAC)⁹¹ from 2015 to 2021 reveals an overall pattern of increasing needs related to risk factors linked to reoffending (for example, there has been an increase in needs related to anti-social attitudes, poor problem-solving skills, low impulse control, low attachment to others) and a drop in protective factors, which have been linked to reduced reoffending (for example, having a prosocial identity, high levels of employability, and good social supports).

Further research is needed to understand how changes in the underlying composition of the prison population have affected needs.

⁸⁴ Indig, D. Gear, C. & Wilhelm, K. (2016) *Comorbid substance use disorder and mental health disorders among New Zealand prisoners*. Wellington: Department of Corrections.

⁸⁵ Bowman, J. (2014) Assessing the literacy and numeracy of prisoners. *Practice: The New Zealand Corrections Journal*, 2(1): 39-41.

⁸⁶ Stewart, M. (2019) Supporting neuro-diverse learners in New Zealand prisons. *Practice: The New Zealand Corrections Journal*, 7(1): 45-47.

⁸⁷ Mitchell, T., Theodom, A. & DuPreez, E. (2017) Prevalence of Traumatic Brain Injury in a male adult prison population and its associated type, *Neuroepidemiology*, 48 (3-4): 164-170; Woolhouse, R., McKinlay, A. & Grace, R. (2018) Women in prison and traumatic brain injury: Prevalence, mechanism & impact on mental health. *International Journal of Offender Therapy and Comparative Criminology*, 62 (10) 3135-3150.

⁸⁸ Bowman, J. (2016) Comorbid substance abuse and mental health disorders among New Zealand prisoners. *Practice: The New Zealand Corrections Journal*. 4(2): 15-20; Indig, Gear & Wilhelm (2016).

⁸⁹ Bevan, M. (2017) New Zealand prisoners' prior exposure to trauma. *Practice: The New Zealand Practice Journal*. 5(1): 8-17.

⁹⁰ Bevan (2017).

⁹¹ S-DAC stands for Structured Dynamic Risk Assessment Case Management Tool. Consistent data from this tool is available from 2015 onwards. The tool is built around the Risk-Needs-Responsivity Framework.





**THE INTRODUCTION
OF ALTERNATIVE
COMMUNITY
SENTENCES DID NOT
RESULT IN REDUCTIONS
IN THE USE OF
IMPRISONMENT.**

**MORE RECENTLY, MORE
INTENSIVE COMMUNITY
SENTENCES HAVE BEEN
USED BY JUDGES AS AN
ALTERNATIVE TO SHORT
PRISON SENTENCES.**

What works to keep people out of prison

The following section explores some of the things that have been tried to keep people out of prison and help those in the prison system get out and stay out. It explores community alternatives to imprisonment, rehabilitation programmes, and reintegration interventions.

Community alternatives to imprisonment

By the start of the twentieth century, it was widely acknowledged that prisons were poorly suited to the purpose of reform and could potentially make people “worse”.⁹² In response to this recognition, the twentieth century saw a proliferation of attempts to divert people away from prisons. These included: the borstal system (1920s), detention centres (1960s), periodic detention (1960s), probation, probation treatment centres and hostels (1960s), community service, supervision, community care (1985), suspended sentences (1993), habilitation centres (1993), home detention (1999/2007), community detention (2007), and intensive supervision (2007). In some instances, New Zealand was world leading in its adoption of community alternatives to imprisonment.

For example, it was the first country in the world to introduce temporary imprisonment (periodic detention) in 1961.⁹³

Alternatives to prison did not reduce the prison population

By the 1980s, the failure of community alternatives to reduce imprisonment was well recognised. Rather than diverting people away from the prison system, most alternative options were reporting very high recidivism rates, with many of those on community alternatives going on to receive prison sentences. High failure rates were regularly attributed to having the “wrong” people (too young, offending considered too serious), high levels of non-compliance, and having insufficient time and treatment intensity to successfully “reform” people. The search for more promising groups to reform, in turn, saw alternative sanctions applied to less serious offenders, further reducing the capacity for such alternatives to make significant inroads into New Zealand’s prison population. As summed up by Donald F McKenzie, New Zealand’s first prison psychologist, in 1980:

⁹² Pratt (1992), p229.

⁹³ Department of Justice (1968) *Review of Penal Policy in New Zealand*. Wellington: Department of Justice.

“

Sadly there is no marked resultant decline in prison populations. Like self-filling dams, they are consistently full no matter how much is diverted away from them ... Efforts to erode the actual population and ratio to the New Zealand population have failed so far.”⁹⁴

D.F. McKenzie, First Prison Psychologist in New Zealand, 1980

⁹⁴ McKenzie (1980), p87.

The increase in the use of community sentences during the 1980s coincided with a proportionate increase in imprisonment. In 1960, just two percent of charges resulted in sentences of imprisonment, with fines being the most frequent sentence imposed (accounting for 85 percent of charge outcomes) followed by non-custodial sentences (six percent). By 2018, 13 percent of charges resulted in imprisonment, while 43 percent resulted in non-custodial sentences, and 34 percent resulted in fines.

Across the period of significant prison population growth, from the mid-1980s to 2018, community sentences continued to act as an adjunct rather than an alternative to imprisonment. Between the 1980s and 2000, the number of people on a Corrections-managed sentence increased by 220 percent. The proportion of charges resulting in imprisonment and community sentences grew, while the proportion of charges resulting in fines declined. This implies that the arrival of additional community sentencing options in the 1980s led to net-widening, as those who would have previously received fines were sentenced to community sentences. When people reoffended or failed to comply with the restrictions of their community sentence, they were more likely to receive more serious sentences on account of being viewed as “failing” less serious options.⁹⁵ In this sense, the growth in alternatives to imprisonment can be understood to have contributed to the rise of imprisonment rather than having reduced it.

More recent advances in technology have seen an increase in the use of more intensive community sentences

Between 2007 and 2016, technological and legal changes associated with electronic monitoring and random drug and alcohol testing⁹⁶ have coincided with the greater use of more serious community sentences, such as intensive supervision, rather than short sentences of imprisonment. As noted elsewhere in this briefing, this has contributed to a decline in the proportion of people in prison on sentences under two years’ duration. For example, the number of people serving short sentences dropped by 56 percent between 2016 and 2021, while the number of people serving an intensive supervision sentence increased by 90 percent across this period.

⁹⁵ Cohen (1985) terms this situation “up-tariffing”.

⁹⁶ The Sentencing (Electronic Monitoring of Offenders) Amendment Act 2016 & the Sentencing (Drug and Alcohol Testing) Amendment Act 2016.

Rehabilitation: 1960 to 2022

For over 100 years, successive governments have considered rehabilitation to be a key function of imprisonment. Rehabilitation has changed significantly over the course of the twentieth century. Whilst in the first half of the century, physical labour, was seen to be the main way to reform or rehabilitate people in prison, by the 1950s and 1960s, the growth of psychology revolutionised approaches to rehabilitation. From the 1960s, psychologists were employed across all prisons in New Zealand; however, it was not until the 1980s that group treatment programmes – the mainstay of modern correctional rehabilitation – were first introduced.

Internationally, and in New Zealand, there was mounting scepticism through the 1970s and early 1980s that correctional rehabilitation could “work” to reduce recidivism, and a belief that prisons generally made people worse. One study by researcher, Robert Martinson, declared that “nothing works” in correctional rehabilitation.⁹⁷ Despite these conclusions being based on an erroneous interpretation of the data (which showed that many programmes did work)

the impression that correctional rehabilitation doesn’t work has endured.⁹⁸

The development of the Risk-Needs-Responsivity Model

In response to this perception, during the 1980s, a group of Canadian researchers worked together to better understand what distinguished effective interventions from less effective interventions. Through this research, the Risk-Needs-Responsivity model was developed.⁹⁹ This model is commonly referred to as RNR and has significantly influenced approaches to correctional interventions in New Zealand and internationally.

In its simplest form, the RNR model holds that the programmes which achieve the greatest reductions in recidivism are those which target people at highest risk of reoffending (risk), focus on addressing factors which are associated with offending (needs), are based on cognitive behavioural and social learning approaches to change, and are tailored to the unique needs of each person (responsivity).¹⁰⁰

⁹⁷ Martinson, R. (1974) What works? Questions and answers about correctional reform, *The Public Interest*, 35, 22-54; Lipton, D. Martinson, R & Wilks, J. (1975) *The effectiveness of correctional treatment: A survey of treatment evaluation studies*. New York: Praeger.

⁹⁸ Palmer, T. (1975) Martinson revisited, *Journal of Research in Crime and Delinquency*, 12, 133-152; Gendreau, P. & Ross, R. R. (1979) Effective correctional treatment: Bibliotherapy for cynics, *Journal of Crime and Delinquency*, 24(4): 463-489; Gendreau, P. & Ross, R. R. (1987) Revivification of rehabilitation: Evidence from the 1980s. *Justice Quarterly*, 4, 349-408.

⁹⁹ Andrews, D. A., Zinger, I., Hope, R.D., Bonta, J., Gendreau, P., & Cullen, F. T. (1990) Does correctional treatment work? A clinically relevant and psychologically-informed meta-analysis, *Criminology*, 28(3): 46-59; Bonta, J. & Andrews, D. A. (2017) *The psychology of criminal conduct*. New York: Routledge.

¹⁰⁰ Bonta, J., & Andrews, D.A. (2007) *Risk-need-responsivity model for offender assessment and rehabilitation*. Ottawa: Public Safety Canada.



**OF THE NZ PUBLIC REPORT
KNOWING “LITTLE”
OR “NOTHING AT ALL”
ABOUT REHABILITATION
PROGRAMMES IN PRISON.**



**OF NEW ZEALANDERS
SUPPORT INCREASED
AVAILABILITY OF
REHABILITATION IN PRISONS.**

The RNR model has evolved over time, and now includes 15 principles of effective intervention.¹⁰¹ Interventions which follow these principles have been consistently shown to be more effective at reducing reoffending than interventions which don't. Research has further shown that the more principles adhered to, the more effective an intervention will be. These findings hold across different jurisdictions and populations, and have been highly consistent over the last three decades.¹⁰² Based on available research evidence, the RNR model remains the most empirically validated correctional treatment model for reducing reoffending.¹⁰³

How effective are rehabilitation programmes?

In New Zealand the effectiveness of interventions is measured through a method known as the Rehabilitation Quotient (RQ). This method involves matching people who have done an intervention (the treatment group) with an equivalent group of people who have not undertaken that intervention (the control group) to measure differences in re-sentencing and (re)imprisonment rates.¹⁰⁴ This analysis has shown that correctional rehabilitation programmes have significantly reduced reoffending. The Special Treatment Unit programme for violent offenders has traditionally delivered the greatest reductions in reoffending, with reductions of between seven and 15 percentage points recorded over time. This places the programme on par with the most effective programmes available internationally. Looking over the last eight years of RQ results reveals that significant reductions in reoffending have been found at points for those who have completed drug treatment programmes, medium intensity and short rehabilitation programmes, and child sex offender programmes.

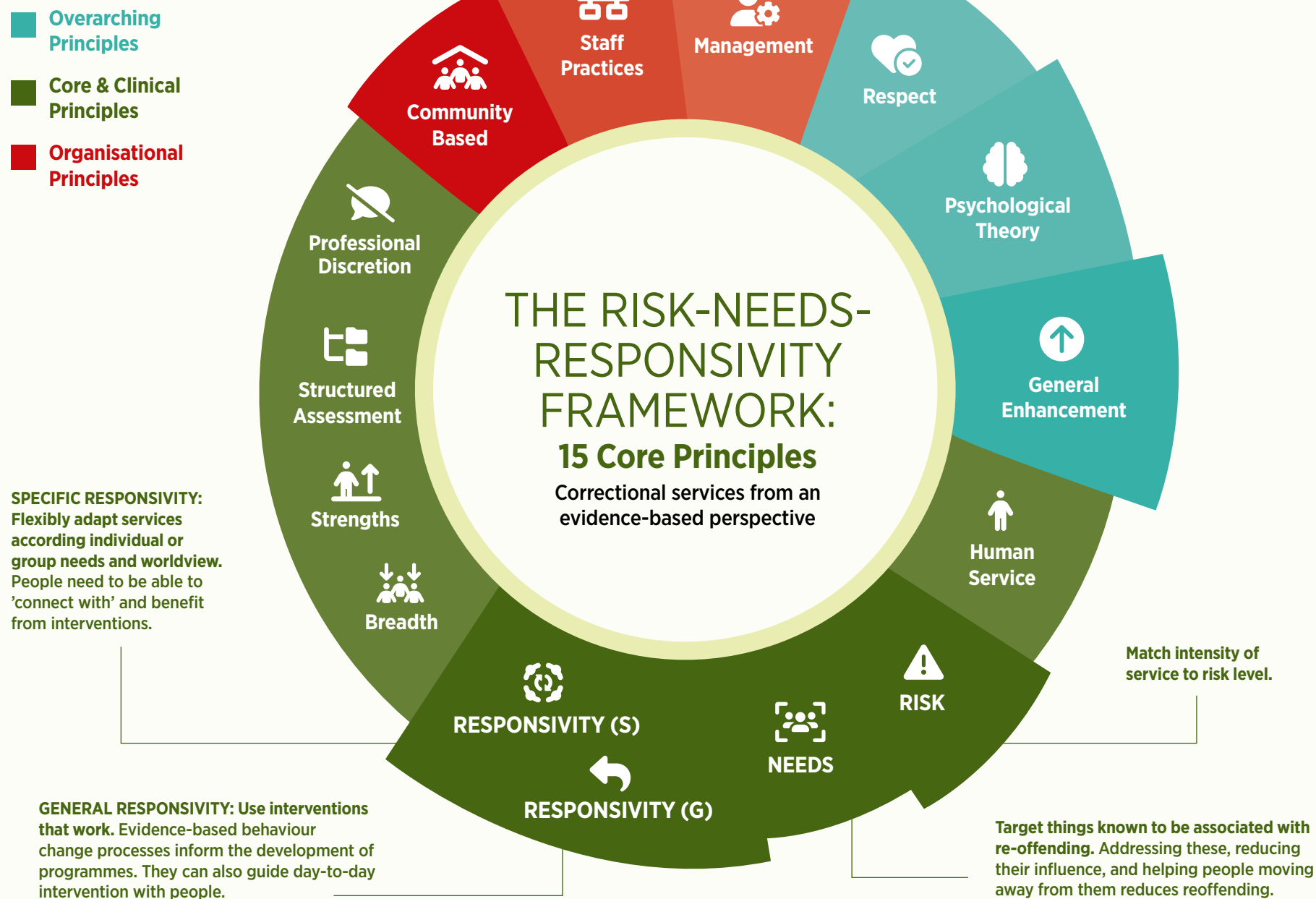
¹⁰¹ Smith, P., Gendreau, P. & Swartz, K. (2009) Validating the Principles of Effective Intervention: A Systematic Review of the Contributions of Meta-Analysis in the Field of Corrections, *Victims & Offenders*, 4 (2): 148-169.

¹⁰² Latessa, E. J., Johnson, S.L., Koetzle, D. (2020). *What works (and doesn't) in reducing recidivism* (second edition). New York: Routledge.

¹⁰³ Latessa et al (2020); Parker, R. J. (2022) *The correctional helicopter: How and why correctional agencies fail to rehabilitate offenders*. California: Tellwell Talent.

¹⁰⁴ For a more detailed discussion of the Rehabilitation Quotient see Johnson, P. (2017). What works in correctional rehabilitation? Lessons from 15 years of outcomes analysis, *Practice: The New Zealand Corrections Journal*, 5(1): 5-7.

Figure 28: The Risk-Needs-Responsivity Framework



THE RNR FRAMEWORK CONTAINS 15 PRINCIPLES THAT OUTLINE WHAT THE RESEARCH SUGGESTS ‘WORKS’ TO REDUCE RE-OFFENDING

Adapted from Chapter 9 of the Psychology of Criminal Conduct (6th ed; Bonta & Andrews, 2017)



Respect

Respect the person and the priorities of the context. Respect people's ability to make their own decisions. Work to act in ways that are ethical, just, humane.



Psychological Theory

Use well-established understandings of people's thinking, emotions, and behaviour (**psychology**) to **inform effective services**.



General Enhancement

These principles can **apply to organisations outside of Corrections**, that provide crime-prevention services.



Human Service

Human service interventions (coming alongside people) are effective in helping people to desist.



RISK

Provide more intensive services to people who are more likely to reoffend. **Match intensity of service to risk level** e.g., providing *high* intensity services to *low* risk people may actually increase offending.



NEEDS

Target things known to be associated with reoffending. e.g., attitudes, personality traits, and associates that support offending behaviour; substance abuse; quality of involvement in work, education, leisure, and relationships.



RESPONSIVITY (GENERAL)

Use interventions that work to change people's behaviour. This includes skill building, helping people address their thinking and emotions, modelling helpful behaviours, and using effective responses to behaviour.



RESPONSIVITY (SPECIFIC)

Flexibly adapt services according to people's individual or group needs and worldview. Focus on the things that will enhance response to services.



Breadth

Target a **range** of needs that are relevant to reducing people's likelihood of reoffending. For example, consider both internal (e.g., attitudes) and external (e.g., employment) factors. Use multiple methods to intervene.



Strengths

Build upon people's strengths, particularly those that could help people move away from offending.



Structured Assessment

Use structured assessment tools. Assessment is an ongoing process.



Professional Discretion

Use professional discretion where it can be clearly justified.



Community Based

Rehabilitation services tend to be more effective when they are delivered in the setting the person will end up (i.e., the community).



Staff Practices

People are less likely to reoffend when the staff demonstrate **high quality relationship and structuring skills** (e.g., use prosocial modelling, are boundaried, respectful, and motivational).



Management

Good outcomes are associated with: hiring people with good 'staff practices' skills, providing training and supervision, monitoring the integrity of services, and using feedback systems.

Significant reductions in reoffending have been found for those who have completed special treatment unit violence programmes, drug treatment programmes, medium intensity and short rehabilitation programmes, and child sex offender programmes.

How do prisons compare to community-based rehabilitation programmes?

Traditionally, prison-based rehabilitation programmes have consistently delivered better results than community-based programmes in New Zealand. There are a range of reasons why this is the case, including the challenges people experience attending programmes in the community alongside other priorities, such as employment, family responsibilities, difficulties accessing transport, as well as managing addiction and other mental health issues. More recent RQ results from 2021/22 reveal that community-based programmes can significantly reduce reoffending, although effect sizes tend to be smaller than those found for the best performing prison-based programmes.

When thinking about all the different factors which contribute to long-term desistance from crime, the impact of rehabilitation programmes is often described as “modest”; however, as international experts have noted, even if rehabilitation programmes reduce reoffending by ten percent, this represents considerable savings to both the criminal justice system and society more broadly.¹⁰⁵

It is also important to recognise that treatment

programmes can only achieve so much, and it is essential that rehabilitation programmes are followed up with ongoing support, both within the prison setting and in the community post release. The importance of following rehabilitation with appropriate reintegration support (for example, housing, employment, and family connection) has been reiterated in recent international research.¹⁰⁶

There have been many critiques of the RNR model. The model has been criticised for its individual (as opposed to collective) deficit-based approach (as opposed to strengths-based), which focuses on what is “wrong” with a person’s thinking and behaviours, rather than what is “right” or good about them.¹⁰⁷ In response to these criticisms, new models (such as the Good Lives Model)¹⁰⁸ have emerged and been integrated into New Zealand correctional interventions which are more strengths-based.

There has also been a greater movement over the last three decades towards integrating Te Ao Māori perspectives and practices within interventions. In fact, most rehabilitation programmes delivered in New Zealand today, while underpinned by RNR principles, include components of other models, including, increasingly, Māori models that

¹⁰⁵ Gendreau, P. (2022) Review comments provided on the Long-Term Insights Briefing. Unpublished correspondence.

¹⁰⁶ Latessa *et al* (2020); Morrison and Bowman (2017).

¹⁰⁷ Woldgabreal, Y., Day, A., Ward, T. (2016) Linking positive psychology to offender supervision outcomes: The mediating role of psychological flexibility, general self-efficacy, optimism and hope, *Criminal Justice and Behaviour*, 43, 697-721.

¹⁰⁸ Ward, T. & Fortune, CA. (2013). The Good Lives Model: Aligning risk reduction with promoting offenders personal goals. *European Journal of Probation*, 5, 29-46.

privilege mātauranga Māori, focus more broadly on whānau- and community-level responses, and include strengths-based approaches that capitalise on individual and whānau strengths, while also addressing those factors most closely linked to reoffending, which can be altered.

A more sustained and systematic commitment to testing and evaluating alternative approaches to rehabilitation is needed to develop the evidence base for different models. Different models should be compared to assess which are most effective for different groups. It is vital that people in prison have access to the most effective forms of treatment: this is important to ensure their safety, the safety of their whānau, hapū and iwi, and the safety of the broader community.

It is also the case that recidivism is just one measure of success, and traditional measures of effectiveness are not particularly commensurate with the realities of people's desistance from crime, which is typically gradual and characterised by periods of reoffending. Programmes not based on RNR can have a range of other positive impacts for participants – including improvements in familial relationships, self-esteem, self-efficacy, self-determination, and general wellbeing. International research has found a weak link between general improvements in wellbeing and recidivism.¹⁰⁹ More research is needed to understand the relationship between wellbeing and recidivism in the New Zealand context.

¹⁰⁹ Latessa et al (2020).



The changing shape of reintegration services 1960 to 2022

New Zealand and international research shows that people can face a variety of challenges following release from prison; including: homelessness, unemployment, poverty, familial tensions and isolation.¹¹⁰ It is often the case that post-release challenges are cumulative and high needs in one area often coincide with high needs in others.¹¹¹ This, in turn, contributes to relatively high recidivism levels, with between half to two thirds of those leaving prison being reconvicted within two to three years.¹¹² The most recent recidivism figures in New Zealand reveal that over half (57 percent) of those released from prison were resentenced, and 36 percent were reimprisoned, within two years.

As attested by New Zealand research, most people express a desire to “go straight” approaching release but experience a wide range of obstacles.¹¹³ Reoffending often occurs relatively swiftly following release, with most people who do go on to reoffend doing so within the six months of leaving prison.¹¹⁴

Like rehabilitation services, reintegration services in New Zealand have changed markedly over the last 60 years. From 1960 to 1980, reintegration services were solely provided by volunteers, most commonly religious groups, Prisoner Aid Societies, and local kaumatua and kuia. Kaumatua and kuia visited prisons in an informal capacity, providing pastoral and cultural support to Māori prisoners, supporting whānau outside prison, and helping Māori on their release. Anglican and Catholic Chaplaincy services also operated throughout New Zealand prisons during this time, providing pastoral support. While the Probation Service was funded to assist those released on supervision or on community sentences, no public funding was made available for any resettlement or visiting services through this earlier period

and little detail is provided in annual reports and reviews about the nature of these services, nor their effectiveness.

Post-release hostels were first introduced in New Zealand during the 1960s. These were typically operated by voluntary organisations, who worked alongside the Probation Service to support people on their release from prison. The first of these hostels, Maryville, was opened by the Catholic Church in Invercargill in 1962. Further hostels were opened across New Zealand through the 1960s and 1970s. The Salvation Army also offered a range of facilities for people suffering from alcoholism, many of whom had some involvement in the criminal justice system (Hutson & Hutson, 2013). From the 1960s The Salvation Army also ran community-based residential addiction programmes in city centres across New Zealand, which eventually became known as the “Bridge Programme”: a programme which still operates today.¹¹⁵

In addition to community-based reintegration services, a range of reintegration activities are available within New Zealand prisons. Many of these, such as prison-based industry, vocational training, and education, have been available in New Zealand prisons for over a hundred years. Today people in prison have access to basic literacy and numeracy tuition and can achieve NCEA level and higher qualifications while in prison. There are also a variety of work and training opportunities available within prisons today, including engineering, manufacturing, whakairo (wood carving), concrete product production, forestry, hospitality, agriculture, horticulture, apiculture, silviculture, printing and design, construction, baking and catering, and barista training.

¹¹⁰ Morrison, B. & Bowman, J. (2017) What happens beyond the gate: Findings from the post release employment study, *Practice: The NZ Corrections Journal*, 5(1): 41-49; for an overview of international research see Latessa *et al* (2020).

¹¹¹ Morrison & Bowman (2017); see also Zamble, E. & Quinsey, V. L. (1997). *The Criminal Recidivism Process*. Cambridge: Cambridge University Press.

¹¹² Latessa *et al* 2020.

¹¹³ Morrison, B. and Bowman, J. (2019) Towards “A life more ordinary”: Possibilities of desistance-orientated probation, *Advancing Corrections: Journal of the International Corrections and Prisons Association*, 7: 17-34.

¹¹⁴ Morrison and Bowman (2017) found that 70 percent of those who reoffended post release did so within six months of release; Latessa *et al.* (2020).

¹¹⁵ Hutson, D. & Hutson, J. (2013) *Set Free: One hundred years of Salvation Army Treatment in New Zealand 1907 – 2006*. Wellington: Flag Publications.

All prisons in New Zealand employ case managers who undertake release planning activities with people prior to leaving prison, and there are a range of additional reintegration activities available to people as they near release: such as guided release (where a case manager accompanies people preparing to leave prison after long sentences into the community on temporary releases prior to their formal release), and release to work (where people in prison temporarily leave prison during the day for employment purposes).

Significant changes in reintegration services have occurred during the last 20 years. The last decade has been a period of particularly rapid and unprecedented expansion. Between 2013 to 2019, for example, investment in reintegration services increased five-fold, from \$6.6 million to \$33 million. Over this period, an employment service for people on Corrections' sentences was introduced and transitional housing provision has expanded. A throughcare service for people leaving prison following short sentences (Out of Gate) was introduced in 2013. Recognising the traditionally high rates of reoffending associated with those released from short sentences, the service helps to navigate to existing services in the community: including, health, housing and employment. The service was positively evaluated after a year of operation, and was subsequently expanded.

The last four years has seen further innovations in the design and delivery of reintegration services. There has been more effort to partner with Māori to deliver reintegration services and a new skills-based reintegration programme delivered by Kaupapa Māori providers has been introduced for men on remand. These innovations have yet to be subject to formal evaluation; however, previous reviews of remand-based reintegration services have shown that such services are generally highly valued by people on remand.¹¹⁶

How effective are reintegration interventions?

The effectiveness of reintegration interventions in New Zealand has generally been measured through the Rehabilitation Quotient (RQ). RQ results for reintegration programmes have been mixed over the years.¹¹⁷ There have been

79% of New Zealanders reported knowing “little” or “nothing at all” about supported accommodation services and employment services for people released from prison.

some very strong results: for example, in 2017/18 supported accommodation services were found to reduce re-sentencing by eight percentage points, while the Corrections-based employment service, 'This Way for Work', was found to significantly reduce re-sentencing by 14 percentage points, and re-imprisonment by nine percentage points. The best result achieved for 'Out of Gate' throughcare services was a five percentage point reduction in 2019/20.

Results, however, have been inconsistent over time, and some results suggest reintegration programmes can do more harm than good. This inconsistency is likely to be at least partially a product of the RQ method, which is unable to adequately control for differences in the level of people's reintegration need. New Zealand research has shown that there are significant differences in people's level of reintegration need, with some people facing much greater challenges than others (e.g., housing, addiction, long-term unemployment, complex mental health conditions).¹¹⁸

Prison-based employment has demonstrated more consistent results over time, with significant reductions evident in re-imprisonment and re-sentencing (e.g., reductions of around four to five percentage points). Education programmes have, again, been mixed, with the best results suggesting literacy and numeracy programmes can reduce re-imprisonment by up to seven percentage points (2018/19), and self-directed learning reducing re-imprisonment by between five to six percentage points (2017/18, 2019/20). Release to work has also been found to significantly reduce imprisonment by four percentage points (2015/16).

¹¹⁶ Morrison, B., Bowman, J., Bevan, M (2017) *Remand reintegration service pilot: Client perspectives*. Wellington: Department of Corrections.

¹¹⁷ The following results have been taken from the Department of Corrections annual reports 2015/16 to 2021/22.

¹¹⁸ Morrison, & Bowman, (2017)

85% of New Zealanders support the increased availability of reintegration programmes.

The inconsistency of RQ results for reintegration interventions raises questions about their effectiveness, while also highlighting challenges with the use of RQ analysis to measure the success of reintegration interventions. Further qualitative research undertaken in New Zealand suggests that the relationship between education, employment, and recidivism is complex, and that these interventions may have an indirect (rather than a direct) impact on recidivism outcomes (for example, by increasing self-esteem and/or motivating people to undertake other interventions).¹¹⁹

International research has consistently shown that the most effective reintegration interventions are those that follow RNR and the principles of effective intervention.¹²⁰ Evidence reveals that effective reintegration interventions are those that focus on people at greatest risk of reoffending, target risk factors known to be associated with reoffending and which can be changed (including employment, housing stability, and family (re)connection), are underpinned by cognitive behavioural and/social learning approaches, and are responsive to client characteristics (e.g., cultural, gender, age, learning and neuro-cognitive factors).¹²¹ Reintegration programmes which teach cognitive skills such as problem solving, coping, and practical ways to avoid or mitigate risky situations, have also been found to be more effective in reducing recidivism compared to those which focus on teaching broader life skills.¹²²

How has the population released from prison changed?

The decrease in the prison population in recent years has coincided with a drop in the number of people released from prison. From a peak of 7,800 releases in 2016/17, the number of people released¹²³ from prison dropped by 34 percent to 5,150 in 2021/22.

¹¹⁹ Morrison & Bowman (2017).

¹²⁰ Latessa et al (2020).

¹²¹ Latessa et al (2020).

¹²² Zamble & Quinsey (1997); Latessa et al 2020.

¹²³ This is the number of unique releases for the sentenced population only. People are sometimes released multiple times, or are “released” to instantly enter remand or start a new sentence. These multiple releases are not included in this count.

How has the population of people released from prison changed?



The number of people released from prison dropped

34%

between 2016/17 and 2021/22



In 1990/91 18% of people released from prison had been in prison for violent offending. In 2021/22

35% were



The average age of people released from prison increased from 27 in the early 1990s to 36 in 2021/22



In 1990/91 Māori made up 37% of releases. In 2021/22 they made up

61%



In 1990/91 Pacific people made up 3% of releases. In 2021/22, they accounted for

9%

The offence composition of releases has changed, with a significant growth in people being released after serving sentences for violence. In 1990/91 35 percent of those released had been in prison for burglary or dishonesty offending, 21 percent for traffic offences, 18 percent for violent offences, and six percent for sexual offences. In 2022/21, 35 percent had been in prison for violent offences, 24 percent for dishonesty offences, six percent for sexual offences and just five percent for traffic offences. The proportion released following sentences for drug offences remained the same at seven percent.

The average age of people released from prison has increased over this period from 27 to 36. Māori account for a much greater proportion of releases, increasing from 37 percent in 1990/91 to 61 percent in 2021/22. The proportion for Pacific peoples rose from three percent to nine percent over this time. The proportion of people released from prison who are gang affiliated increased from nine percent in 2009/10¹²⁴ to 38 percent in 2021/22.

The number of people released from short sentences has declined by 45 percent since 2016/17 from 7,380 to 4,070. Releases from short sentences now comprise a smaller proportion of total releases (dropping from 82 percent to 69 percent from 2016/17 to 2021/22). As noted elsewhere in this briefing, increasing remand times have reduced the time available for those on short sentences to undertake rehabilitation programmes before release. Those released from short sentences are therefore less likely than previously to leave prison with their rehabilitative needs fully addressed. There are also an increasing proportion of those on short sentences leaving prison directly from remand. For example, in 2002/03 ten percent of people receiving short sentences were released time served from remand: in 2021/22 33 percent were.

¹²⁴ This is the point at which gang affiliation data becomes more reliable.



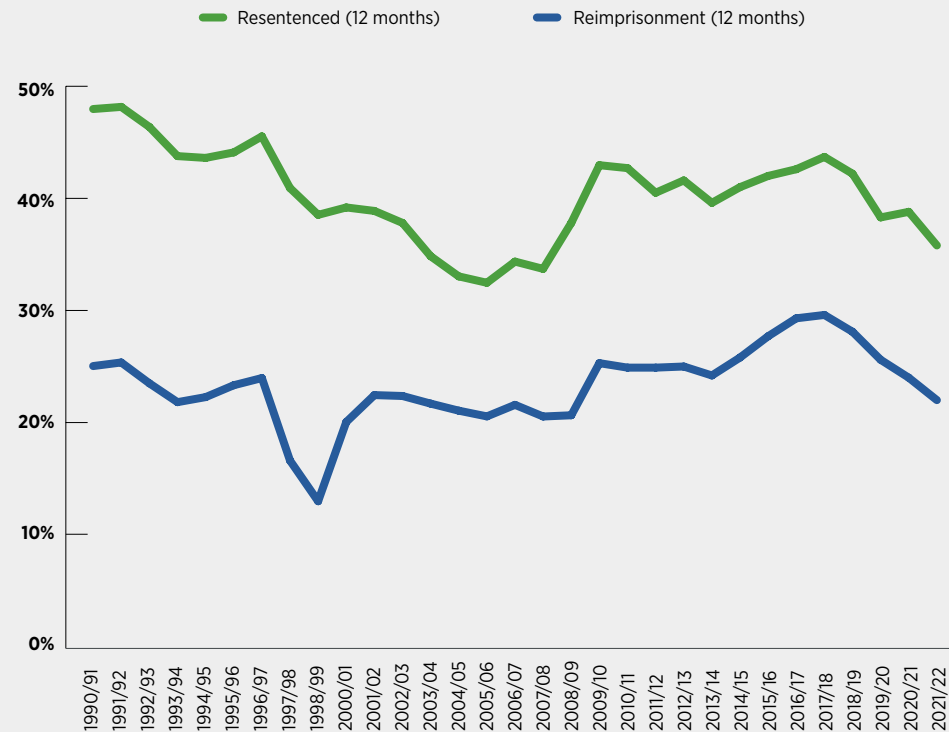
What has happened to levels of reoffending over time?

As shown in Figure 29, levels of reoffending have not altered significantly over time despite significant changes in the underlying composition of the prison population. In the last 30 years, reoffending rates have fluctuated, with between 33 percent and 48 percent of those leaving prison being resentenced to a Corrections sentence within 12 months of release, and between 25 percent and 30 percent of people being reimprisoned within 12 months of leaving prison. In more recent years, levels of reoffending have started to drop; however, it is too early to understand whether these shifts are mostly caused by the COVID 19 pandemic or whether the drop reflects real reductions in reoffending.

The COVID 19 pandemic and associated restrictions reduced opportunities for reoffending, altered Police deployment models, and increased the time taken for matters to progress through the court system. All these factors will have affected reoffending statistics. Results from 2021/22 show that around two-thirds of those released (64 percent) were not resentenced, and the majority (almost 80 percent) did not return to prison, within the first year of release.

Reoffending levels have fluctuated over time. Latest results show that **64% of people were *not* resentenced** and almost 80% *didn't return to prison* within a year of being released.

Figure 29: 12 month resentencing and reimprisonment rates, 1990/91 to 2021/22



Do prisons contribute to reoffending?

It is often argued that prisons are criminogenic, which means that they increase the likelihood of reoffending. In this sense, it has been suggested that prisons are “schools of crime” in which people are influenced by, and learn from, more experienced offenders, which, in turn, increases reoffending.

This issue has been well researched internationally. A recent meta-analysis of international studies found that prison has a relatively weak criminogenic effect.¹²⁵ In other words, imprisonment increased the likelihood of reoffending, but only very slightly. Other research has found that the criminogenic effect of imprisonment is more complex. For example, the effect has been found to vary for different types of offending, increasing the risk of drug reoffending, for example, but having a deterrent effect on violent and sexual reoffending.¹²⁶ Scandinavian research has also found that mixing offenders in supported accommodation with non-offending populations reduces the risk of reoffending in the offender group without negatively impacting the non-offending population.¹²⁷

No equivalent research has been undertaken in New Zealand; however, as discussed elsewhere in this briefing, evaluations have shown that certain types of rehabilitation in prison can significantly reduce reoffending. Administrative data from 1990 to 2018

There is some international evidence that shows prisons have a small criminogenic effect. In New Zealand most people who enter prison for the first time do not return within five years.

consistently shows that around 60 percent of people who go to prison for the first time do not return to prison within the first five years after release. This suggests that to the extent it occurs, the criminogenic impact of prison is not immediate and/or does not lead to reoffending serious enough to result in reimprisonment. Previous analysis has also shown that once differences in risk are controlled for, people on home detention sentences (which avoid people encountering criminal peers in prison settings) reoffend at a similar rate to people sent to prison on short sentences.¹²⁸ Such findings do not support the proposition that prisons are inherently criminogenic.

¹²⁵ Petrich, D. M., Pratt, T.C., Johnson., C. L., & Cullen, F.T. (2020) *A revolving door: a metanalysis of the impact of custodial sanctions on reoffending*. Working paper. University of Cincinnati.

¹²⁶ Damm, A. P and Gorina, C. (2016) *Prison as a criminal school: peer effects and criminal learning behind bars*. The Rockwood Foundation Research Unit Study Paper no 105. Copenhagen, Denmark: The Rockwood Foundation Research Unit.

¹²⁷ Minke, L.K (2011) The effect of mixing offenders with non-offenders: Findings from a Danish quasi-experiment, *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 12 (1): 80-99.

¹²⁸ Goodall, W. (2019) Comparison of socio-economic and reconviction outcomes for offenders sentenced to home detention or a short sentence of imprisonment respectively, *Practice: The New Zealand Corrections Journal*, 7(1): 63-65.

Does prison encourage people to join gangs?

Although an increasing proportion of the prison population is gang affiliated, most people in prison are not affiliated to gangs. Administrative data suggests that most people do not change their gang status over the course of their prison sentence.

Reoffending data shows that people affiliated with gangs are more likely to be resentenced and imprisoned than those who are not.

It has been argued that imprisonment encourages people to join gangs, which, in turn, increases the likelihood of further offending on release. This issue has not been well researched, with a lack of research focused on understanding the dynamics of gang recruitment within prisons.¹²⁹ A recent study based on a large-scale longitudinal sample of prisoners in the United States found little evidence to support the idea that imprisonment causes people to join gangs or that gang membership alters as people move between prison and the community; however, the study did find that imprisonment could intensify and prolong gang membership.

Administrative data suggests that most gang members in New Zealand prisons were identified as gang members on arrival. Very few people who are not identified as having a gang affiliation when they

enter prison leave prison identified as having a gang affiliation. Given that most people have experienced community-based sentences prior to their arrival in prison, it is possible that they were influenced to join gangs at an earlier stage of the Corrections process. It is also possible that their links to gangs happened before their arrival in the corrections system.

People affiliated to gangs are more likely to be in prison for violent crime than those not affiliated to gangs. They are also more likely to be involved in violent incidents (for example, assaults on other prisoners, and on staff) and misconducts (such as having contraband in prison or causing damage to property). Gang affiliates are also more likely to be placed in directed segregation, where access to rehabilitation programmes and reintegration activities is limited.

While on 30 June 2010

**15% OF THE PRISON
POPULATION WAS GANG
AFFILIATED,**

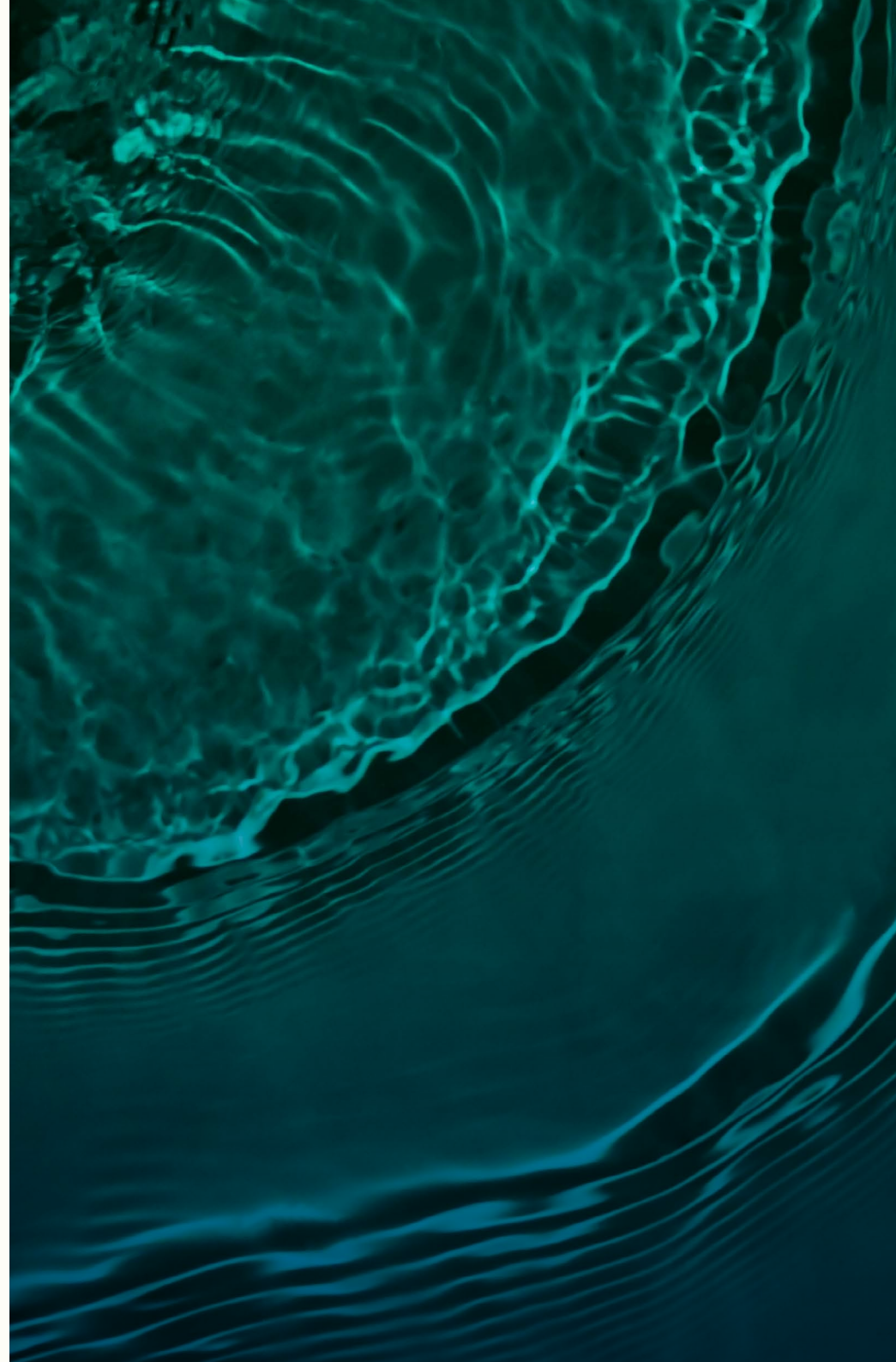
**35% OF THE
POPULATION WAS
BY 30 JUNE 2022.**

¹²⁹ Pyrooz, D.C., Gartner, N., and Smith, M. (2017) Consequences of incarceration for gang membership: A longitudinal study of serious offenders in Philadelphia and Phoenix, *Criminology*, 55(2): 1-51. Research into this issue in New Zealand prisons is currently being undertaken by Dr Jarrod Gilbert.

Due to having, on average, longer and more serious criminal histories, those affiliated to gangs are more likely to be classified at higher risk of reoffending and are more likely to serve a greater proportion of their sentences than those not affiliated to gangs. Gang affiliates also have higher levels of reoffending compared to those not involved with gangs (70 percent compared to 50 percent in 2021/22). More research is needed in New Zealand to understand the dynamics of gang membership and imprisonment, and how this impacts reoffending outcomes.

It is also important to note that most people in prison are not gang affiliated. This is especially true for the women's prison population, with only two percent to four percent of women in prison over the last decade affiliated with gangs.

While the *number* of people in prison affiliated to gangs has declined by 16 percent, from a peak of 3,200 on 30 June 2020 to 2,700 on 30 June 2022, an increasing *proportion* of people in prison are affiliated to gangs.



Overarching themes from the past

Looking across all the changes which have occurred in the past 60 years, it is possible to distil some overarching themes which have implications for the future. These are briefly outlined below.

The prison population has entered a stage of uncertainty requiring flexible approaches to accommodate future change

Looking back over the last 60 years it is evident that the sharp drop in the prison population over the past five years marks a significant departure from decades of almost continuous growth. The future of New Zealand's prison population is uncertain. While the COVID 19 pandemic contributed to changes in the prison population, it is clear from the evidence presented here that other longer running changes have had a greater impact. The impact of systems changes occurring in recent years is still not fully evident. This has implications for the future of imprisonment as we accept this uncertainty and contemplate how to build flexibility into a system which has traditionally been slow to adjust to change. This will have implications for prison infrastructure as well as resourcing, both within the prison system and the broader criminal justice system.

Changes made in one part of the system can have significant and enduring impacts for other parts of the system

As this briefing has illustrated, responses to offending at the front end of the system can have significant downstream impacts. In the case of sexual offending, for example, we have seen that

front-end legislative and policing settings have had delayed impacts on the latter stages of the system. The impacts of the increases in prosecutions and convictions which contributed to the growth of the prison population from the mid-1980s onwards were to some extent predictable, but often under-estimated. This, in turn, illustrates the value of systems-thinking and sector-wide collaboration when introducing changes at one point of the justice system (and the broader social system), so that systems impacts are well understood and factored into decision-making.

Serious social problems cannot be solved by the prison system or criminal justice system alone

New Zealand's prisons have a comparatively high proportion of people there for committing serious sexual and violent offences. People in New Zealand prisons also have a high level of lifetime violent and sexual victimisation. The causes of serious offending are complex and multifaceted: and the responsibility for preventing these harms lies beyond the prison system, and, indeed, beyond the remit of the criminal justice system.

This is not to suggest that crime prevention should be a primary objective of other areas of the social sector, but rather to note that improvements in other parts of the social system can be expected to have crime prevention benefits that will be likely to flow through to the criminal justice system. As this briefing has shown in relation to young people, improvements in broader social indicators have occurred hand in hand with the long-term

drop in youth imprisonment. The criminal justice system (and prison system) must therefore be understood as part of a broader social system.

People in prison have a range of complex needs which must be addressed to ensure community safety

People are typically in prison for serious offending, and typically this offending has caused harm to others. The public consultation and surveys undertaken for this briefing reveal that imprisonment continues to be perceived as a necessary part of the criminal justice system by most. That said, the public suggested that prisons could be different, with many identifying improving access to rehabilitation and reintegration services as key means to improve public confidence in the prison system. Many people could visualise an alternative prison system, far fewer could envision a future entirely without prisons.

Māori over-representation in the prison system is an enduring problem

Despite a longstanding strategic focus on reducing Māori over-representation within the criminal justice system, high levels of over-representation have endured, particularly within the prison system. As this briefing has shown, having first exceeded 50 percent of the prison population in the mid-1980s, Māori over-representation has continued at this level for over three decades. Recently, following steeper drops in the non-Māori prison population, levels

have increased. Disparities in imprisonment rates are increasing, particularly for Māori women and those in younger age groups.

The solutions to Māori over-representation lie beyond the prison and criminal justice systems; however, it is important to understand why past criminal justice efforts have not successfully reduced Māori over-representation. It is also critical to reflect on the ways that seemingly neutral policy, legal and practice changes result in disparate outcomes, and what can be done to offset these outcomes. It is clear from this briefing that what works for non-Māori does not always work as well for Māori.

Technology has played a key role in both the growth and drop of the prison population

Advancements in technology – for example, improvements in Police mobility, and information gathering and retrieval systems – have played a role in the increase in the custodial remand population. Similarly, the rise of large and complex amounts of digital evidence has had an impact on the time it takes for some cases to progress through the court system. Technological improvements in one part of the system have therefore had impacts on other parts. More recently the use of electronic monitoring, particularly in relation to bail and intensive supervision, have contributed to a drop in the prison population. Both the opportunities and risks offered by technology need to be considered, as the role of technology in the New Zealand's criminal justice system continues to evolve into the future.

Birth cohort analysis offers important opportunities

The use of birth cohort analysis in this briefing has offered a range of new insights into how and why the prison population changed over time and has enabled changes in imprisonment to be considered alongside broader societal changes affecting different cohorts.

It also offers a different lens for thinking about the future. For example, this briefing has observed that young people are less likely to come to prison now than they were previously, and that the prison population is aging. Birth cohort analysis reveals that some generations have had much higher levels of imprisonment than subsequent ones, and that criminal lifecycles are changing over time. Instead of ending up with a very skewed age profile, therefore, this analysis suggests that the generations with the highest level of incarceration and longest criminal careers are slowly moving out of the system. If these trends continue, we might expect a lower overall imprisonment rate 20 to 30 years from now.

Further birth cohort analysis could usefully be applied to better understand why some cohorts have higher levels of criminal justice involvement than others and could help to better tailor rehabilitation and reintegration supports, as well as directing broader prevention efforts.

Public knowledge about the prison system is limited

Public knowledge about the different components of the prison system is limited. Most of the New Zealand public report knowing little or nothing about what happens inside New Zealand prisons, who is there, and why. Knowledge is strongly linked to confidence: we feel less confident about things we know less about. Calls for community involvement in the criminal justice system are not new and have reverberated throughout the last 60 years. Greater community willingness to be involved in the system is likely to require a better public understanding of the realities of prison and the pathways that lead people there, as well as what helps to keep people, their families, and the community safe when people leave prison. This briefing represents the first sector-wide attempt to improve public understanding about New Zealand's prison population in the past to inform decisions about the future.







Future risks,
opportunities,
and policy
options

Future trends and insights: what could happen to the prison population as we look to the future?

PART ONE: the context behind the criminal justice system's exploration of long-term trends

This section considers what could happen to the prison population in the decades from 2030 to 2050, and explores potential responses. We will also consider how future choices could shape the prison population in the decades ahead.

It is difficult to predict what could happen to the prison population in the future. The drivers of crime and the prison population are complex, and many of the key factors sit outside of the criminal justice system. The prison population will be shaped by decisions made within the justice system, changes in other sectors, and broader shifts in New Zealand between now and 2050.

This section explores the potential impact of five trends that are likely to have a significant bearing on the prison population in the decades ahead:

- changing demographics within the prison population
- community involvement
- Māori over-representation
- the remand population
- the use of technology

INDEPENDENT PERSPECTIVE



It's hard to predict if it's going to continue in the current trajectory or if things will change due to other pressures and sentinel events."

Dr Kim McGregor, (QSO) Chief Victims Adviser to Government



INSIGHT

Prisons will continue to serve a range of purposes for people convicted of serious offending, but in coming decades some may be designed and operate differently to current models

Exploring the role of imprisonment in New Zealand society as we look to the decades ahead

Prisons serve a range of purposes in New Zealand society, for people charged with, or convicted of, serious offences. These purposes include public safety, providing accountability for harm, deterrence, supporting victims’ interests, and assisting people with their reintegration and rehabilitation.¹³⁰ Imprisonment is sometimes the only safe option where people are accused or convicted of, sometimes repeated, serious violence or sexual offences.¹³¹ It is important to recognise that imprisonment restricts personal freedom and can have long-term impacts on people who are imprisoned, and their whānau and families.

New Zealanders have a range of perspectives on the role of imprisonment in public safety and rehabilitation. Many people see prisons as critical to public safety, rehabilitation, and reintegration, including those who call for a greater range of community alternatives to imprisonment where safe and appropriate. Others call for the underlying justice system settings to be fundamentally revisited. For instance, Ināia Tonu Nei envisages a future where prisons are replaced with therapeutic habilitation centres, decarceration and excarceration strategies are used, where power is rebalanced to the rangatiratanga sphere, so that community approaches become the norm, and there is a strong focus on the socio-economic drivers that impact whānau wellbeing.¹³²

In 2021 and 2022, the broad range of perspectives on imprisonment were reflected in representative surveys of New Zealanders carried out to inform this briefing.

Views about imprisonment across New Zealand’s population	General population		Māori population	
	2021	2022	2021	2022
Proportion who say that imprisonment is used “too little”	35%	47%	23%	34%
Proportion who say that imprisonment is used “about right”	31%	17%	29%	14%
Proportion who say that imprisonment is used “too much”	15%	15%	32%	31%
Proportion who say that they “do not know”	19%	21%	16%	21%

The representative surveys indicated that Māori are more likely to think that imprisonment is used “too much” than the general population, with 31 percent of Māori holding this view in 2022. The surveys also indicated that the percentage of the general population and Māori who think imprisonment is used “too little” increased significantly between 2021 and 2022. This demonstrates the degree to which public sentiment about the criminal justice system can change in a short space of time.

¹³⁰ These purposes are reflected the Sentencing Act 2002, the Bail Act 2000, Parole Act 2002 and the Corrections Act 2004.

¹³¹ <https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-6/key-issues/1--introducing-the-aims-of-punishment--imprisonment-and-the-concept-of-prison-reform.html> accessed on 21 November 2022.

¹³² Inaia Tonu Nei (2022).

Trends outside the justice system will influence the prison population in 2030 to 2050

The future prison population will be influenced by the shifts that take place within New Zealand society in the decades ahead. New Zealand could be home to six million people by 2050 and the average age of New Zealanders will increase steadily in coming decades.¹³³ New Zealand will become increasingly diverse with a higher proportion of Māori, Asian, and Pacific peoples. The median ages of Māori and Pacific peoples are likely to increase but are likely to remain lower than the median age of the general population.¹³⁴ Socio-economic indicators are generally trending upwards across New Zealand's population, but Māori and Pacific peoples could continue to experience inequitable outcomes, including the possibility of rising inequality.¹³⁵

Workforces are likely to go through a period of significant change as technology becomes progressively more embedded and there is increased automation. New Zealand is likely to become more urbanised, with 40 percent of New Zealanders predicted to live in Auckland by 2050.¹³⁶ Changing workforce dynamics and increased remote working could shift this trend.

People will still enter the criminal justice system with a range of complex needs, but the way that these needs are diagnosed and met could change. For some people these needs will be identified for the first time in prison. This includes people with limited literacy and numeracy, mental health needs, addiction issues, neurodevelopmental issues, traumatic brain injuries and those who have experienced significant trauma. Research in 2015 found that nine out of 10 people in prison are likely to have met the criteria for a mental health or addictions diagnosis within their lifetime.¹³⁷ People are likely to face ongoing challenges with securing housing and employment on release from prison.

¹³³ [https://www.stats.govt.nz/information-releases/national-population-projections2022base2073/#:~:text=New%20Zealand's%20population%20\(5.13%20million,and%205.85%20million%20in%202033](https://www.stats.govt.nz/information-releases/national-population-projections2022base2073/#:~:text=New%20Zealand's%20population%20(5.13%20million,and%205.85%20million%20in%202033), accessed 1 December 2022.

¹³⁴ <https://www.stats.govt.nz/reports/how-is-our-maori-population-changing>, accessed on 30 November 2022 and

¹³⁵ <https://www.treasury.govt.nz/sites/default/files/2022-04/bp-trends-wellbeing-aotearoa-newzealand-2000-2020.pdf> accessed on 30 November 2022.

¹³⁶ "The 2050 Challenge: Future-proofing our communities", <https://www.lgnz.co.nz/assets/e1a77509ff/42597-LGNZ-2050-Challenge-Final-WEB-small.pdf>, Local Government New Zealand, 2016.

¹³⁷ J Bowman (2016), "Co-morbid substance use disorders and mental health disorders among New Zealand Prisoners." *Corrections Practice Journal*, 15-20.



INSIGHT

A range of external factors influence crime and the prison population. Collaboration with other sectors, focused on prevention, will be key in the decades ahead

INDEPENDENT PERSPECTIVE



The criminal justice system's focus on individual offenders and victims does not fit well with those cultures which are more collective and holistic in nature, such as Māori and Pacific communities. Aotearoa is going to become increasingly more diverse, so it is important this is reflected and accommodated for in the justice system."

Dr Kim McGregor, (QSO) Chief Victims Advisor to Government

More research is required to understand the likely future prevalence of these needs within the prison population. Providing early responses to these needs could reduce the number of people who enter, or return to, prison. The role of socio-economic drivers in offending and imprisonment also requires further research.¹³⁸ However, this briefing suggests that improvements in social indicators and broader societal change can flow through to the criminal justice system. The reduction in the number of young people who committed serious crime and entered prison over the past decade illustrates the strong role of these indicators.

Many of the responses that would prevent offending and keep people out of prison sit outside of the justice system in the social, economic, health and education sectors. Providing wrap-around support to meet urgent need as early as possible could lead to fewer people entering the criminal justice system and prison. These sectors will continue to face a range of different demands and pressures in the decades that lie ahead, and the answers may not be straightforward.

In response to urgent need, Justice Sector agencies have increasingly adopted a social sector role. To detail a few examples, Corrections and Oranga Tamariki are involved in delivering supported and transitional housing, including services co-designed with iwi and delivered by Māori providers. Furthermore, Police dedicate significant resources to mental health crisis call outs and helping people to access social services. There are likely to be ongoing conversations across coming decades about the implications for the justice system in taking on this role.

¹³⁸ <https://www.stats.govt.nz/indicators-and-snapshots/indicators-aotearoa-new-zealand-nga-tutohu-aotearoa/> accessed on 5 December 2022.

INDEPENDENT PERSPECTIVES

“

If we had a blank slate, we would never design a system the way it is today. We need a sensible system to make decisions for offenders and victims.”

Dr Warren Young, (QSO) former Deputy Secretary of Justice and former Deputy President of the New Zealand Law Commission

“

While to feel safe, some victims/survivors will want long sentences, many won't want any prison sentence at all, but most will want the person who harmed them to have effective rehabilitation to ensure they don't harm again and instead will lead a positive life and contribute back to the community. To be victim-focussed would involve listening and attending to victims' safety and other needs. Rather than an adversarial court, most victims would want crime processed in a therapeutic court where they could have their voices heard. If there is genuine remorse and full acknowledgement of harm then there are more possibilities of repairing relationships and safe reintegration.”

Dr Kim McGregor, (QSO) Chief Victims Advisor to Government

A range of policy levers are available to decision-makers to respond to issues and opportunities

A range of tools can be used to respond to issues and opportunities, which are often called policy levers. Legislation is often the most visible lever, but it is not always the most impactful option and may need to be used in conjunction with other levers to address the issue at hand. Legislative change can also have significant unforeseen implications and does not always address the root causes of a problem.

We have outlined key policy levers below. When policy levers are used, changes in one part of the justice system, including legislation and practice changes, can have impacts in other parts of the system for workforces, people who commit offences and victims. It can be difficult to fully understand the implications of proposed changes without adopting a system-wide, collaborative approach.

INDEPENDENT PERSPECTIVE



We could perhaps look towards a model that moves away from large, isolated prisons to the development of smaller, community-based facilities. Such facilities would better enable community input, reduce the degree of prisoner isolation, and allow for easier reintegration on release.”

Dr Jarrod Gilbert, Senior Lecturer of Sociology, University of Canterbury

Policy lever	Brief explanation
Legislation and regulation	Legislation is passed by Parliament and provides the overarching settings for the justice system.
Relationships	The relationships that exist between justice system agencies and other entities, including hapū, iwi, other Māori groups, non-governmental organisations, charities, the private sector, and community providers.
Strategies and action plans	Strategies set out high-level direction for an agency or a sector. Action plans generally provide a list of specific actions that need to be carried out to achieve the intended direction.
Funding	Investment involves decisions about funding and how to prioritise resources, such as a decision to acquire an asset or fund a service. This includes decisions about appropriations to agencies, including the reprioritisation of funding or new funding.
Practice guidance	Justice sector frontline workforces have practice guidance to support decision-making and prioritisation of resources.
Training and education	Frontline workforces receive training to support them in their roles. Training is often provided to support a shift in approach or the implementation of a new service.

PART TWO: In-depth exploration of future trends, risks, and opportunities

This part will explore the five trends outlined above in more detail. For each of these trends, we will outline the most likely scenario, opportunities to respond and the risks that lie ahead. Public safety will be a critical consideration as these opportunities are contemplated over coming decades. Any future exploration of these opportunities would require thorough exploration of benefits and risks.

Trend One: Changing demographics - New Zealand is likely to have a smaller prison population per capita in the decades ahead due to an aging general population¹³⁹

It is difficult to predict what the prison population could look like in 2030 to 2050, because the wide range of influences could shift the prison population in a different direction. In 2030 to 2050, New Zealand is likely to have a prison population that is smaller per capita than in 2022. This will not necessarily result in a smaller prison population due to New Zealand's growing general population. It is likely that physical violence and sexual violence will still be the most common offence types contributing to the prison population.

There could be fewer young people in prison

Young people could enter prison in reduced numbers, but those who do enter prison are likely to have a range of complex needs. Young people are more likely to stop offending earlier than previous generations based on a decades long trend. The justice system will need to provide effective responses where young people commit serious offences.

The average age of people in prison is likely to increase over the next decade, but this trend could change in 2040

The proportion of people aged over 40 in prison could rise steadily over the next decade. This trend will be driven by the reduction of young people in prison and the ongoing influence of higher rates of imprisonment for people born in the 1960s to 1980s. By 2040, this group will be aged 60 to 80 and most will no longer be in the prison population.¹⁴⁰

There is also likely to be a small group of elderly people in prison with distinct age-related needs

Most older people in prison will be serving long or indefinite sentences for sexual offences and many will have age related needs, including those who require rest-home or hospice-level care.¹⁴¹ Older people who are eligible for parole may continue to experience significant difficulties finding suitable housing or care options in the community.

It is difficult to predict what the prison population will look like beyond 2040 given the range of dynamics that will be at play. One possibility is that the average age of people in prison will decrease after people born in the 1960s to 1980s leave the prison population. Another possibility is that the average age in prison will drop slightly and then plateau as New Zealand's population ages.

¹³⁹ Population demographics for Māori and the proportion of people on remand will be discussed later in this section.

¹⁴⁰ By 2050, almost all people in this group will no longer be in the prison population.

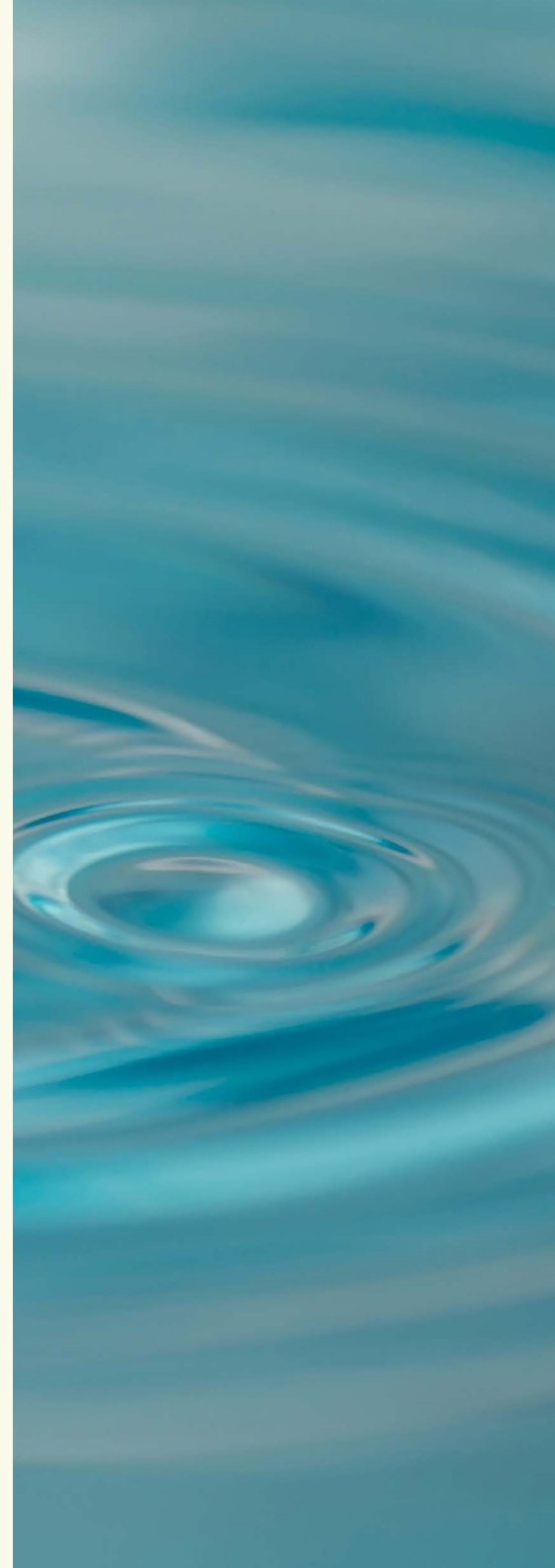
¹⁴¹ In this briefing, older people means those aged over 65.

Potential opportunities

- Exploring new ways to deliver services in prisons as demographics change. Approaches need to be sufficiently flexible and resilient to accommodate any future rises and falls in the prison population.
- Resourcing and enabling by Māori for Māori approaches delivered by hapū, iwi and other Māori entities.
- Planning the future infrastructure required within prisons, so that rehabilitation programmes, education, training, and work can be delivered in fit-for-purpose infrastructure that supports rehabilitation.
- Continuing to assess whether bail, sentencing, and parole settings are fit for purpose as part of regulatory stewardship.
- Working with the health, economic and social sectors to further explore the social indicators that impact crime and the prison population, including whether people are granted bail or parole.
- Exploring options in the community, including different types of custodial facilities that still provide wrap-around support, rehabilitation, and intensive oversight where safe and appropriate.

Risks

- It could be challenging to plan for future demand which could lead to too much, or insufficient, prison capacity.
- It can be difficult to deliver tailored services to a changing population.
- Continuing to plan for the risks that may arise in prisons in the decades ahead. This includes considering responses to violence when it occurs against custodial staff and other people in the prison population.
- The risks associated with community approaches are outlined in trend two.





INSIGHT

Community involvement could drive changes in the way that people are supported with their rehabilitation and reintegration, and services in the community could look quite different in coming decades

Trend Two: Community involvement in the rehabilitation and reintegration of people in the justice system could become increasingly professionalised and formalised

In the decades ahead, community involvement in the criminal justice system is likely to become more professionalised and formalised. This could include services delivered by hapū, iwi, other Māori entities, NGOs, and the private sector. Community involvement could potentially expand into new areas.

Over the past decade, community involvement in the criminal justice system has become increasingly formalised with contracted community providers funded to deliver services. This builds on, and sits alongside, successive decades of community involvement through volunteers, kaiwhakamana, whānau, families, and charities.¹⁴² In coming decades, questions are likely to emerge about how to enable less formal involvement alongside increasingly professionalised community workforces.

¹⁴² Kaiwhakamana are kaumātua who support Māori prisoners to connect with their whānau, hapū and iwi.

INDEPENDENT PERSPECTIVES



We need to move away from state imprisonment as a commonplace option and toward community powered options as the default settings.”

Anne Waapu, Rongomaiwahine, Ngāti Kahungunu, Ngāti Hinemanu, Te Ati Haunui-ā-Pāpārangi, Justness Advocate



I cannot emphasise enough the value of reintegration service that builds upon and reinforce what has been done in effective treatment during prison or on probation. We desperately need to have much more evaluation of reintegrated support services in the community.”

Dr Paul Gendreau, (O.C) Professor Emeritus, University of New Brunswick, Canada

INDEPENDENT PERSPECTIVE



Put the community at the centre of any intervention programme and services. There are evidence-based steps to get young people off the ‘prison pipeline’, the seemingly inevitable journey from early offending to eventual adult prison. Developmental crime prevention views the prison pipeline – and the chance to change the trajectory – as beginning with the previous generation (e.g., parents who have experienced violence and trauma and are in the justice system) and extending from birth through countless opportunities to support non-criminal environments and lives.”

Ian Lambie, (ONZM) Chief Science Advisor for the Justice Sector, Professor of Clinical Psychology at the University of Auckland

Potential opportunities

- Exploring further community-led approaches to support victims as they engage with the justice system.
- Working on prevention approaches with families, whānau, hapū, iwi, community organisations, and other government sectors.
- Considering how the justice system can continue to enable informal community involvement, particularly from families and whānau, in the courts and other justice system settings to support rehabilitation and reintegration.
- Exploring the role of communities in providing oversight for people on sentences and orders.
- Delivering intensive community solutions at scale that support public safety, prevent harm, and provide wrap-around support where there is the capacity and capability to do so (see remand section). This could include services or facilities led, or co-led, by hapū, iwi and other Māori entities. An example is the habilitation centres that were proposed in the Roper report in 1989, which were referenced in *Turuki Turuki! Move Together!*, and supported by Ināia Tonu Nei’s insights report.
- Considering whether future community involvement will be project-driven or constitute more of a system-wide approach.
- Exploring the factors that impact community perceptions about the justice system, including deepening public knowledge about how the justice system works.
- Technology is also a key tool for enabling community approaches, but there are trade-offs (which are explored in the technology trend below).

Risks

- There could be a lack of public buy-in for community approaches driven by perceptions or concerns about risk.
- Not accounting for public safety considerations and accountability sufficiently, where new approaches are considered.
- Developing and scaling up community-based reintegration often requires government agencies and their partners to navigate complex requirements and challenges related to resource consents for infrastructure.
- Approaches could be underused if the criminal justice system does not fully understand and respond to the changing demand for services
- Sentinel events could impact community approaches to rehabilitation and reintegration.

Trend Three: Māori over-representation is predicted to continue over coming decades

If current trends continue, we are likely to face a future where Māori over-representation remains high in the decades ahead. It is also possible that Māori over-representation could increase if future changes within the criminal justice system, and in other sectors, impact unevenly on Māori. While New Zealand's population is aging, Māori will have a younger age profile than the general population through to 2050. While fewer young people are likely to be imprisoned in coming decades, the different age structures across New Zealand's population could contribute to disparities in the prison population.

The Waitangi Tribunal's *Tū Mai Te Rangi!* report underscored that Māori over-representation within the justice system has its roots in colonisation and recommended a concerted strategic focus on Māori reoffending, measurable targets and dedicated resourcing. *Tū Mai Te Rangi!* emphasised that colonisation resulted in the loss of land for whānau, hapū and iwi, urbanisation, extensive impacts on language and culture and social inequities.

It will continue to be important for the justice system to respond to the level of Māori over-representation across coming decades, and to work with whānau, hapū, iwi and other Māori groups on approaches that improve outcomes, including in areas where there are disparities, such as maintaining bail and parole.

This report also emphasises that significantly reducing Māori over-representation would require approaches that grapple with its root causes across multiple sectors. Many of these root causes relate to socio-economic drivers that sit outside of the justice system's direct control. The Justice Sector will have a significant role in continuing to engage about the role of these factors. Effective responses to Māori over-representation would require the ongoing and long-term participation of the economic, health, social and education sectors. Relationships with whānau, hapū, iwi and other Māori groups within the criminal justice system, and more broadly across government, will continue to be key as we look to the future.



INSIGHT

Relationships with whānau, hapū and iwi will continue to be key as we look to the future

INDEPENDENT PERSPECTIVE



Statistics alone paint a dire picture for Māori mass incarceration, but we have a rights and te Tiriti obligation to do much better.”

Kingi Snelgar, Ngāpuhi, Ngāti Whakaue, Te Whakatōhea, Ngāi Tahu, Lawyer, commentator and academic

INDEPENDENT PERSPECTIVE



The moment we disregard various options as being unrealistic is the moment we make it certain that these options are unrealistic. It has been my experience that there is a sense of feeling strongly patronised when raising the topic of the ideal world, as it is regarded as being simply unattainable. This may well be true, but it does not negate the importance of holding the ideal world as the ultimate goal, for in pursuit of this goal, we can make many positive changes to the here and now.”

Annalisa Strauss- Hughes, PhD student in Psychology, Victoria University of Wellington

Potential opportunities

- Māori over-representation can only be meaningfully addressed through grappling with its root causes. Significantly reducing Māori over-representation within the criminal justice system would require long-term engagement with the social, economic and health sectors in the decades ahead.
- There are opportunities to develop responses through relationships with hapū, iwi, and other Māori groups that work towards better outcomes for Māori. This could include longer-term support that starts before, and continues beyond, the criminal justice system’s involvement in conjunction with other sectors.
- Delivering intensive community solutions at scale that support public safety, prevent harm, and provide wrap-around support where there is the capacity and capability to do so (see remand section). This could include services or facilities, led, or co-led, by hapū, iwi and other Māori entities.
- Exploring responses to the higher proportion of Māori who are recalled to prison from parole and remanded in custody from bail.

Risks

- There will be ongoing intergenerational impacts for Māori who are imprisoned, their whānau and families, if over-representation continues.
- Future approaches within the criminal justice system may increase over-representation if impacts for Māori are not specifically considered. This risk would be mitigated if a system-wide, targeted approach is adopted to considering potential implications and through targeted measures (where safe and appropriate) to address disparities.
- Without large-scale interagency co-operation and complex long-term work, across multiple sectors, Māori over-representation is unlikely to reduce.

Trend Four: New Zealand could have a growing remand population in coming decades

Over half of the prison population could be held on remand in 2030 to 2050, in an environment where the women's remand population has already reached this level.¹⁴³ Approximately 80 percent of people who are charged with imprisonable offences are never remanded in custody. Other people spend some time in prison before their matter is resolved in the courts. Less than four percent of people remain in prison until they are convicted and sentenced. Most people who are remanded in custody will be granted bail.

People currently spend an average of 11 weeks on remand, with some spending just a few nights in prison. The average length of time spent on remand could increase over the next decade if court resolution times increase. The remand prison population has grown significantly over the past ten years and now presents a key challenge as the justice system looks to the future.

In the decades ahead, people could spend a steadily increasing proportion of their prison sentence on remand. This would build on current trends where people sentenced to less than two years in prison spend an average of 75 percent of their sentence on remand. Other people will spend time on remand but will then be found not guilty or have their charges dismissed.

People do not spend long periods on remand by and large, but there is a significant amount of movement between bail and remand, which could continue in the decades ahead. There is limited scope for people to participate in offence-focused rehabilitation in these circumstances, which has implications for victims, people on remand, their whānau and families, and communities.

¹⁴³ This figure is based on 2022 justice sector projections that look 10 years out.



INSIGHT

Unless we find ways of doing things differently for people on bail and on remand, we face a future where a large group of people in prison have not been convicted of alleged offending

INDEPENDENT PERSPECTIVE



The two standout features of the current prison population in this country are its very small number of foreign prisoners and the high number of remands.”

Emeritus Professor John Pratt, Institute of Criminology, Victoria University of Wellington

Potential opportunities

- Potential responses to the implications of a high custodial remand population sit across four areas:
 - **improved access to justice and court resolution times**, which are impacted by a range of factors such as the volume of complex cases, high uptake of jury trials, and late guilty pleas.
 - **lessening movement between remand and bail**, particularly where people are bailed and then return to remand.
 - **prevention**, including supporting whānau, family and communities with needs that contribute to offending and remand.
 - **delivering the best possible support** for timely court processes, health, rehabilitation, reintegration, and community safety in remand environments.
- Further research could inform new approaches across these four areas with an emphasis on improving outcomes with appropriate regard for public safety. This would provide a more comprehensive understanding of bail breaches, reoffending on bail, and the role of housing. Key considerations are fair trial rights and the impact of long resolution times on victims and people accused of offences.
- One option is to consider a greater range of safe alternatives for people to be bailed, and the models and infrastructure required, including transitional or supported housing, or different forms of custodial detention with intensive support for those who need it.
- This could include 'remand facilities' in the community. These facilities would primarily support people who are granted bail under current settings but struggle to remain in the community. These alternatives could be developed with hapū, iwi, Māori groups and other community organisations.

Risks

- There are implications for system integrity where people spend a long time in prison in the pre-conviction/sentencing stage of the justice system. This means that a high number of people will be awaiting the resolution of their case in the courts and, as a result, have less time to participate in rehabilitation programmes.
- Lack of planning for suitable community infrastructure.
- There could be a net-widening effect if community alternatives largely support the 80 percent of people who are bailed at the outset and never enter prison, or those who successfully remain on bail after very short periods on remand instead of people who currently struggle to remain on bail.
- Further research is required to develop a more in-depth understanding of the factors that contribute to people moving between bail and custodial remand. New approaches could be underused if these factors are not explored in more depth.
- A significant number of people could leave prison without participating in rehabilitation programmes. For people on sentences of more than two years, parole hearings are impacted where people have not completed rehabilitative programmes.
- Responses may not sufficiently balance the rights of people charged with offences, victims, and communities. For example, victims and communities may perceive that there is less assurance around safety.

Trend five: Technology will bring about change in the way the justice system operates, which could have benefits and implications

Technology is likely to drive a significant amount of change within the justice system in the decades ahead. As an illustration, technology is already used extensively in the following areas:

- supporting workforces to carry out their roles
- enabling contact with whānau and families
- attending court via video link
- delivering education and training within prisons
- providing oversight of electronically monitored bail and community sentence conditions
- as part of the design and infrastructure in prisons, Police jails and the courts.

Over coming decades, the justice system is likely to expand its use of existing technology and new, innovative forms of technology will be introduced. Some forms of technology that the justice system relies on heavily will become obsolete and the introduction of new technology will have fiscal implications.

Technology could be more extensively integrated into infrastructure and service delivery within the criminal justice system. It is likely that new ways of detecting and responding to crime will emerge, which could have implications for the prison population, human rights, the rule of law, and could exacerbate existing disparities in the prison population.¹⁴⁴

Technology has potential benefits across all the scenarios explored in this section. For instance, technology could support new responses geared towards a changing prison population and forge closer links with other sectors and communities, but there are trade-offs involved.

¹⁴⁴ The rule of law refers to the notion that everyone is subject to the law, and everyone should be equal before the law and there should be no arbitrary use of power.

INDEPENDENT PERSPECTIVE



The future use of technology is concerning. As the capability of technology has expanded, so has the carceral net. The net-widening effect of electronic monitoring is a clear example of this. Although access to technology is often framed by Corrections as a window to a better, more convenient future ... the reality for many (including Māori) is that the carceral experience will be extended further into more and more homes. Audio Visual Link (AVL) is not an equal trade for in-person experiences – whether that be visitation with whānau, hui with lawyers, or court appearances.”

*Anne Waapu, Rongomaiwahine, Ngāti Kahungunu,
Ngāti Hinemau, Te Ati Haunui-ā-Pāpārangi,
Justness Advocate*

Potential opportunities

- Technology could provide new means of oversight for people on community sentences or bail. It could also enable the development of custodial facilities that look different to current models. In the representative survey, 61 percent of people supported the use of technology to “ensure that prison is only used where necessary.”
- Technology could forge stronger links between prisons and communities, but there are trade-offs involved with the use, and introduction, of technology (which are explored in more detail in the risks section).
- Technology will also change the types of education programmes, training, work, and health services that are available within prisons. It could also improve access to these services, including for people with disabilities and complex needs.
- Technology enables connections with family, whānau and communities. This could lead to much more extensive community participation in prisons, community-led approaches, and strengthened links where families do not live close by. It also supports victims to participate in the criminal justice system, such as attending parole hearings via video link.
- Prison infrastructure could look quite different in the decades ahead, with more extensive integration of technology.
- Technology could support increasingly joined-up needs assessments between agencies, continuity of services, and improved information sharing.

Risks

- There will be questions around how the criminal justice system balances public safety, rule of law values, human rights, privacy considerations, equitable access, and Māori data sovereignty.
- Technological innovations could reduce the focus on critically important rule of law values related to certainty and fairness within criminal justice, including the right to speak to a lawyer privately and to be present in court when important matters are being considered.
- There could be substantial changes to the structure of justice sector workforces as the roles and skills required change in coming decades.
- Emerging technologies could expand the reach of organised crime within the community and prisons.
- Technology could result in net-widening and enable more extensive oversight for people who are currently on bail and community sentences, which may not be commensurate with their level of risk.
- The use of technology to detect or predict risk could increase the potential for bias and disparate outcomes.
- People with disabilities may sometimes face barriers to accessing technology, including elderly prisoners who have visual or hearing impairments.
- There could be a growing digital divide between prisons and the community.
- There will be safety considerations where new forms of technology are introduced.



OVERARCHING INSIGHT

We need a flexible, resilient criminal justice system to meet the needs of the prison population, victims and New Zealand's communities over time

Conclusion: What do these trends and insights mean as we look to the future?

Preventing people from offending, and entering prison, requires the criminal justice system to work with other sectors and communities. We cannot fully grapple with, and respond to, the challenges and opportunities outlined in this briefing solely from within the criminal justice system. It is critical that we continue to respond to Māori over-representation.

While this briefing explores what keeps people away from prison, we have identified areas where further research is needed. Exploring these areas would build on the knowledge outlined in this briefing and could support evidence-based approaches in the future.

As we look forward, we are likely to see significant changes to demographics within the prison population and may encounter new trends and challenges. The criminal justice system can prepare for these changes by building flexibility and agility into future approaches. This will ensure that it is well positioned to meet the needs of victims, people charged with, or convicted of, offences, and the wider community.



Appendix 1: A note on data sources and approach

Descriptive analysis

The Long-Term Insights Briefing relies on descriptive analysis. Time series, percentage changes and rates of various descriptions are used to describe imprisonment in New Zealand. No statistical techniques were used to establish correlations or to make causal inferences.

The descriptive analysis is as good as the data it relies on and the capacity of the analysts to organise the data and draw out statistics that accurately represent the imprisonment regime in New Zealand over 60 years. For the most part the data is considered to have high integrity, the most significant caveat is in relation to ethnicity data. There is no way of knowing how well ethnicity data was collected in the past, and there continues to be inconsistent recording and reporting of ethnicity across the justice sector today. There is also no consistent long-term count of Māori in the general population.

The prime focus is on the prison population: the number of people in prison at any point in time. Other measures, such as the rate of imposition of prison sentences, the length of those sentences, rate of remand in custody and time spent on remand are mainly used as an aid to understand changes in the prison population.

One of the most important units of measurement used is the imprisonment rate, this term can mean different things to different people and can be used differently in different contexts. It can be used to describe the proportion of people appearing for sentence who are imprisoned, that is not the usage here, we have termed this “the rate of use of imprisonment”. The rate of imprisonment employed here is the number of people in prison per 100,000 people in the population of interest. This measure is commonly used around the world. It enables comparisons to be more easily made between groups.

Often imprisonment rates are calculated against the general population. This is helpful at a high level but can be misleading if the populations being compared have different structures. The most significant structural difference is age. This is significant for the current analysis because the likelihood of being in prison is typically greater for younger adults. Consequently, if the age structure of the general population is older or younger than a comparison population, variations in imprisonment rates may be more reflective of different age structures than actual imprisonment rates.

It is almost always the case that some data is missing or unknown, this is particularly the case with demographic data. In those cases where data was missing or there were positive counts in categories like “Unknown” or “Not Stated” the observations were omitted from the analysis.

The data

Data on the prison population

The data on the prison population was drawn from three sources, each covering a distinct period.

For the period from 1960 to 1979 data was drawn from the annual Justice Statistics reports published by the Department of Statistics. The available data was quite rudimentary, providing the total annual prison population with separate counts for the sentenced prisoner and remand prisoner populations. The data could be used to identify eight demographic sub-populations based on gender (men/women) and ethnicity (Māori/non-Māori). The accuracy of the attribution of ethnicity is unknown. There was no age, offence, or sentence information available.

For the period from 1980 to 1999 data was drawn from 'major management periods' data held by the Department of Corrections. This data came from the case management sub-system of the Law Enforcement System (known to many as the 'Wanganui Computer'). The data was richer, it included a wider view of ethnicity (Māori, European, Pacific and other), age (six age bands were specified), and offence information (a three-level structure commencing at a high level of abstraction was specified). The data only covered the sentenced prisoner population, the source data did

not cover remand prisoners. Data on the number of people on remand was able to be found in other publications (Justice Statistics and its successor the annual Conviction & Sentencing series originally published by the Department of Justice and continued by the Ministry of Justice) but there was little detail available.

For the period from 2000 to 2022 data was drawn from the Department of Corrections Enterprise Data Warehouse which holds demographic information, current and past sentences and offence information relevant to the Long-Term Insights Briefing. The data was able to be organised at unit level (per person at 30 June each year).

The ability to draw time series and describe and analyse the prison population was constrained by the scope of the data. A 62-year series could be drawn but the detail was limited. A 42-year series could be drawn for the sentenced population with considerable ability to specify more than 1,000 sub-series based on age, gender, ethnicity and offence type. A 22-year series could be drawn with additional sub-series bringing in the remand population and some sentencing details.

The population counts did not match perfectly at the transition points (1979/1980 and 1999/2000) but the differences were not large and the general trends were reasonably consistent.

Data on other criminal justice measures

The Ministry of Justice provided datasets on prosecutions, convictions and sentences (type and imprisonment sentence length) for the years to 30 June from 1981 to 2021. This data also had its origins in the case management sub-system of the Law Enforcement System and then from the Ministry's Case Management System.

The data is based on what is described as a person-day case. That is it brings together all charges laid against a person on the same day into a single prosecution and all charges against a person that were sentenced on the same day into a single case. The prosecution and sentenced cases do not match. This method results in an overcount of prosecutions and sentencing but it is a consistent overcount and, therefore, trends and time series are reasonable.

Data on sentence lengths, time served on remand, time served as a sentenced prisoner, proportion of sentenced served were sourced from the Department of Corrections Enterprise Data Warehouse.

Information on Police proceedings used in the section on young adults came from the Police website (<https://www.police.govt.nz/about-us/publications-statistics/data-and-statistics/policedatanz/proceedings-offender-demographics>).

Data on the general population

The data on the general population used to create rates of imprisonment was drawn from Statistics NZ's website. Data on the total and Māori populations were sourced from the Infoshare tool making use of the 'Population estimates' located within the Population. The non-Māori population estimate had to be derived by subtracting the estimate for Māori from the general estimate. The estimates run from 1991. Consideration was given to using other sources for earlier years but given a substantial change to the way the Māori population was counted in the census prior to 1986 this approach was rejected. Prior to 1986 people were only counted as Māori if they had at least 50% Māori blood. In the 1986 census the method changed with a person counted as Māori if they self-identified as Māori.

There is no equivalent source of information on Pacific Peoples. There is an annual series that has a count of Pacific People that includes everyone who identifies as having any Pacific heritage. Unfortunately, the prison population does not have an equivalent count. Within the NZStat tool under the 'Population estimates' tab within the 'Population' tab there are estimates based on ethnicity for 1996, 2002, 2006, 2013 and 2018. This data was used to calculate imprisonment rates for Pacific Peoples.

Appendix 2: List of external subject matter experts consulted on the findings

Emeritus Professor Paul Gendreau (PhD, O.C.)

Emeritus Professor in Psychology, University of New Brunswick, Saint John, Canada

Dr Jarrod Gilbert

Director of Independent Research Solutions and Senior Lecturer in Sociology at the University of Canterbury

Professor Jan Jordan

Emerita Professor in Criminology at the Institute of Criminology, Victoria University of Wellington

Professor Ian Lambie (ONZM)

Chief Science Advisor for the Justice Sector, Professor of Clinical Psychology at the University of Auckland

Dr Kim McGregor (QSO)

Chief Victims Advisor to Government

Professor Tracey McIntosh (MNZM) (Ngāi Tahu)

Professor of Indigenous Studies and Co-Head of Te Wānanga o Waipapa (School of Māori Studies and Pacific Studies) at the University of Auckland; Chief Science Advisor for the Ministry of Social Development; Commissioner of Te Kāhui Tātari Ture: Criminal Cases Review Commission

Emeritus Professor John Pratt

Emeritus Professor in Criminology at the Institute of Criminology, Victoria University of Wellington

John Meek

Retired, formerly Principal Adviser, Sentencing and Rehabilitation, Ministry of Justice

David Riley

Registered Clinical Psychologist, formerly Chief Psychologist for Psychological Services, Department of Corrections

Kingi Snelgar

(Ngāpuhi, Ngāti Whakaue, Te Whakatōhea, Ngāi Tahu) Lawyer, commentator, and academic

Annalisa Strauss-Hughes

MSc (FPSY), PhD student in Psychology, Victoria University of Wellington

Dr Armon J Tamatea

(Rongowhakaata, Te Aitanga-A-Maahaki) Senior Lecturer in Psychology, University of Waikato

Anne Waapu

(Rongomaiwahine, Ngāti Kahungunu, Ngāti Hinemanu, Te Ati Haunui-ā-Pāpārangi) Justness Advocate, IYKYK

Dr Warren Young (QSO)

Former Deputy Secretary for Justice and Former Deputy President of the Law Commission

