



# #JusticeSolutions New Zealand Tour

September 2019





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*We acknowledge the Traditional Custodians of all the lands on which Jesuit Social Services operates and pay respect to their Elders past, present and emerging. We express our gratitude for their love and care of the land and all life.*

*We also acknowledge that our Justice Solutions tour took place on the lands of Māori iwi. We pay respect and express our gratitude for their hospitality.*

# Who we are

Jesuit Social Services has been working for more than 40 years delivering practical support and advocating for improved policies to achieve strong, cohesive and vibrant communities where every individual can play their role and flourish.

We are a social change organisation working with some of the most marginalised individuals and communities, often experiencing multiple and complex challenges. Jesuit Social Services works where the need is greatest and where we have the capacity, experience and skills to make the most difference.

Our services span Victoria, New South Wales, the Northern Territory and Queensland where we support more than 57,000 individuals and families annually.

Our services and advocacy focus on the following key areas:

- Justice and crime prevention – people involved with the justice system
- Mental health and wellbeing – people with multiple and complex needs including mental illness, trauma, homelessness and complex bereavement
- Settlement and community building – recently arrived immigrants and refugees, and disadvantaged communities
- Education, training and employment – people with barriers to sustainable employment
- Gender and culture – providing leadership on the reduction of violence and other harmful behaviours prevalent among boys and men, and building new approaches to improve their wellbeing and keep families and communities safe.
- Ecological justice - inviting discussion on what practices, policies and actions can be taken by governments, individuals, organisations and the community services sector within Australia, to build an ecologically just society.

The promotion of education, lifelong learning and capacity building is fundamental to all our activity. We believe this is the most effective means of helping people to reach their potential and exercise their full citizenship. This, in turn, strengthens the broader community.

Research, advocacy and policy are coordinated across all programs and major interest areas of Jesuit Social Services. Our advocacy is grounded in the knowledge, expertise and experiences of program staff and participants, as well as academic research and evidence. We seek to influence policies, practices, legislation and budget investment to positively influence people's lives and improve approaches to address long term social challenges. We do this by working collaboratively with the community to build coalitions and alliances around key issues, and building strong relationships with business and government.

Our Learning and Practice Development Unit builds the capacity of our services through staff development, training and evaluation, as well as articulating and disseminating information on best practice approaches to working with participants and communities across our programs.



# Foreword

The New Zealand justice system faces similar challenges to Australia's justice system – a high incarceration rate despite a drop in the rate of offending and a significant over-representation of Indigenous people in the justice system.

There are, however, pockets of success and innovation that could help inform us here in Australia. These include: political will and leadership; an appetite for innovation; the strong connection to culture; a commitment to a restorative justice approach to offending; and the acknowledgement of the importance of relationship and connection for all people.

We know that the state of Victoria was once a leader in its approach to Youth Justice. In fact, several of the people we met with in New Zealand acknowledged that fact. However, over the past eight to ten years, we have seen a significant decline of evidence-based policies and practices and a hardening of public attitudes towards young offenders.

Indeed, across Australia, we are seeing prisons (both youth and adult) filling up and more prisons being built, despite an overall drop in offending. We are also seeing rising recidivism and, all too often, reports of 'crises' in the systems.

**“Appalling: Queensland condemned for holding children as young as 10 in police watch houses”<sup>1</sup>**

**“Young Indigenous 17 times more likely to be in detention than other Australians”<sup>2</sup>**

**“Bimberi detention centre ‘breached human rights’ by unlawfully separating teen for two months, case alleges”<sup>3</sup>**

**“NSW youth detainees subjected to inappropriate strip searches and isolation, report finds”<sup>4</sup>**

**“‘Lock your doors’: Idyllic suburb rocked by youth crime issues”<sup>5</sup>**

**“Victorian Premier Daniel Andrews vows to deal with ‘nasty’ youth crime”<sup>6</sup>**

This situation is not sustainable – either morally or financially. This is recognized in some quarters, but change is slow. For instance, the Northern Territory Government has vowed to implement recommendations of the Royal Commission into the Protection and Detention of Children. Many

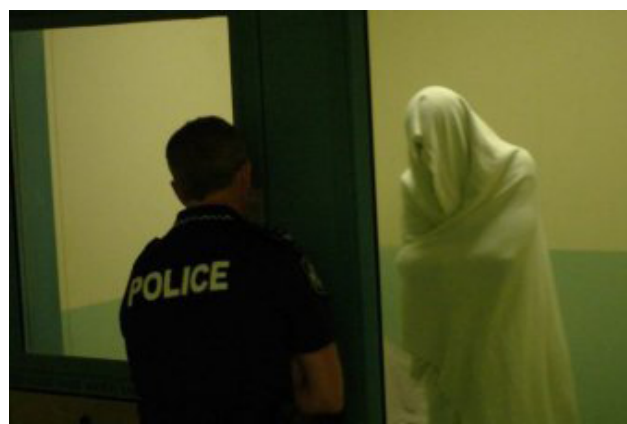
believe that change is not happening fast enough. Despite a Royal Commission, reports of abuse and mistreatment in Don Dale continue.<sup>7</sup> Reports of mistreatment, unrest, and poor conditions across the country continue to emerge.

As a community, we need to demand evidence-based policy and reform and implement positive changes to justice systems across Australia as a matter of urgency.

In Victoria, where Jesuit Social Services has been working with young people involved in the justice system for more than 40 years, we have sensed a recent shift in community sentiment towards people who offend, especially young people. We know from our own work there is a significant community of people who want better outcomes for these young people. In July 2018, Jesuit Social Services launched *Worth a Second Chance*, a campaign to fix youth justice in Victoria. Thus far, 49 organisations have endorsed the campaign, and upwards of 700 community members have engaged in kitchen table conversations with their families and friends, attended community events, and heard from young people with lived experience of the justice system.

There is a desire within the Victorian Government to find effective, evidence-based solutions to addressing the problems in the justice system.

**“We know that the earlier we intervene in an at-risk youth’s life, the better chance we have of keeping them out of the justice system.” – Minister for Youth Justice, Ben Carroll<sup>8</sup>**



ABC Four Corners investigation into Queensland Watch Houses<sup>1</sup>

<sup>1</sup> Source: <https://www.abc.net.au/news/2019-05-17/youth-justice-overhaul-in-wake-of-watch-house-revelations/11123238>

New Zealand has reminded us that this sort of change requires strong leadership and a political will that begins at the top of the political hierarchy and extends through Cabinet, Caucus, and the public and community sectors. This is how change will be achieved.

We also need bi-partisanship. If we are to stop this "race to the bottom" in being "tough on crime", we need the Government and the Opposition to look at the evidence, learn lessons from what's not working, and have the courage to back effective and humane policies and legislation.

Jesuit Social Services' vision is to build a just society. Through our discussions with educators, nurses, parents, victims, business owners, and media, we know that others share our view that every child deserves a second chance.

So it's now time for a reset in Australia. Through this report, we set out some of our key observations from New Zealand and look at ideas that might be helpful here.





## New Zealand and Australia – context and comparison

New Zealand's prison population increased dramatically over the past decade, particularly between 2015 and 2018. It has started to decline in the past 18 months, though there have been variations in the number of prisoners over the period.<sup>9</sup> In comparison, Australian prison populations have continued to increase; the number of prisoners in

Australia has grown 56 per cent over ten years, and Victoria's prison population has grown by over 80 per cent in the past ten years.<sup>10</sup> As evidenced in the table below, many of the outcomes in New Zealand are comparable to our own in Australia. Despite these similarities, New Zealand's trajectory is now set on a different path – acknowledging the failures of the justice system, they are now actively seeking to adjust policy and practice to reduce its growth. This report will explore these differences in detail.

	New Zealand	Australia
<b>Imprisonment rate per 100,000 people</b>	220 per 100,000 adults in the general population <sup>16</sup>	221 per 100,000 adults in the general population. <sup>17</sup>
<b>Proportion of unsentenced prisoners</b>	35 per cent <sup>18</sup>	32 per cent <sup>19</sup>
<b>Proportion of prisoners who are men</b>	93 per cent <sup>20</sup>	92 per cent <sup>21</sup>
<b>Percentage of prison population who are Indigenous (Aboriginal, Torres Strait Islander, or Māori)</b>	51.7 per cent <sup>22</sup> (16 per cent of the total population) <sup>23</sup>	28 per cent <sup>24</sup> (3.3 per cent of the total population) <sup>25</sup>
<b>Crime rates</b>	Crime rates have been falling steadily since 2009 <sup>26</sup>	The number of offenders has decreased over the past year in most states and territories. <sup>27</sup>
<b>Remand rates</b>	The remand population has more than doubled since 2000. <sup>28</sup> It now represents 35 per cent of the prison population. <sup>29</sup>	32 per cent of prisoners are unsentenced. Ten years ago, 23 per cent of prisoners were unsentenced. <sup>30</sup>
<b>Custodial sentencing trends</b>	Growth in the prison population of New Zealand attributed to parole laws, often developed in response to high-profile events <sup>31</sup>	At December 2018, the number of people in Australian prisons has increased for the seventh consecutive year <sup>32</sup>
<b>People under justice supervision in the community</b>	Approximately three quarters of offenders are supervised in the community <sup>33</sup>	64 per cent of people in corrective services in Australia are under community-based supervision. <sup>34</sup>
<b>Recidivism rate</b>	Around 60 per cent of people are reconvicted within 2 years following release from prison. Around 42 per cent are re-imprisoned after 2 years following release from prison. <sup>35</sup>	45.6 per cent of prisoners return in two years <sup>36</sup>
<b>Youth justice</b>	Young people aged 10 to 16 who offend are dealt with in the youth justice system  On July 1 2019, the Oranga Tamariki Act definition of youth in the justice system is changing to include 17-year-olds. Currently, young people aged 17 and over are heard in the District Court, not through Youth Courts	In every state and territory, young people aged 10 to 17 who offend are dealt with through youth justice

## Family Group Conferencing and restorative approaches

Over 75 per cent of young people in New Zealand who come in contact with the police are funnelled out of the system through warnings or diversion.<sup>11ii</sup> Since 1989, New Zealand has used Family Group Conferencing, involving the young person, their family, representatives from the community and the victim, as the primary justice response for young people aged 14 and over. Family Group Conferencing is used as the standard mechanism for processing serious cases where a young person admits to their offending. As part of the Family Group Conferencing, a plan is developed that is monitored by the court. If a young person fails to comply with the plan, they are referred back to the court for formal sanctioning.

Restorative justice has also been a feature of the justice landscape in Australia for a number of years. In Victoria, Jesuit Social Services delivers Youth Justice Group Conferencing across metropolitan Melbourne. Conferences are available to young people age 10 to 17 who have pleaded guilty, whose offending is serious enough to warrant youth justice supervision, and take place before a young person is sentenced in the court.

However, there are key distinctions between the models used in New Zealand and in Australian jurisdictions. In contrast to Victoria, Group Conferencing in New Zealand is the default response for youth offending. Group Conferencing is 'opt-out' rather than 'opt-in'. Unlike in Victoria, restorative conferencing is available for adults in New Zealand, predominantly at the pre-sentence stage.<sup>12</sup>

We met restorative justice experts, Professor Chris Marshall and Dr Tom Noakes-Duncan from Victoria University, who highlighted the central tenets of restorative approaches: the importance of "human interaction and human need" at the core of restorative work; and the alignment of restorative principles with Māori concepts of "land, ancestors, community, morality and justice".<sup>13</sup>

Commentators have consistently noted the links between Māori conflict resolution practices and restorative justice processes.<sup>14</sup> Family Group Conferencing processes used in New Zealand share similarities with Māori justice approaches, particularly in relation to ideas of restoration and consensus. Ideas underpinning tikanga<sup>iii</sup> interrelate with restorative approaches. Rangatahi and Pasifika Courts monitor a young person's completion of their Family Group Conference Plan in a culturally appropriate way.<sup>15</sup> By contrast, in Victoria, courts (including Koori Courts) sentence young people, but do not oversee the outcome plans created through Youth Justice Group Conferencing.

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<sup>ii</sup> The equivalent figure in Victoria is 56 per cent. Source: Sentencing Advisory Council. (2016). Reoffending by Children and Young People in Victoria. Retrieved from [https://www.sentencingcouncil.vic.gov.au/sites/default/files/publication-documents/Reoffending\\_by\\_Children\\_and\\_Young\\_People\\_in\\_Victoria.pdf](https://www.sentencingcouncil.vic.gov.au/sites/default/files/publication-documents/Reoffending_by_Children_and_Young_People_in_Victoria.pdf)

<sup>iii</sup> General behaviour guidelines for daily life and interaction in Māori culture, handed down through generations.



TE WHARE WĀNANGA O TE ŪPOKO O TE IKA A MĀUI  
 **VICTORIA**  
UNIVERSITY OF WELLINGTON

[victoria.ac.nz](http://victoria.ac.nz)

# Victoria University Restorative Justice

Catherine Neville, Executive Director - Advocacy and Strategic Communications and Daniel Clements, General Manager - Justice Programs, pictured at Victoria University, Wellington.

THE DIANA UNWIN CHAIR  
IN RESTORATIVE JUSTICE

# Introduction

We all desire safe communities, homes and streets. We also desire fair and just societies. If the treatment of prisoners is the marker of the humanity of a society, we are consistently failing this litmus test in Australia. Across the country, there have been mounting allegations and findings of abuse, maltreatment, and brutality in our justice systems. To our collective shame, Aboriginal and Torres Strait Islander people continue to be overrepresented in our justice systems, and are imprisoned at 15.5 times the rate of non-Indigenous Australians.<sup>37iv</sup>

Excessively punitive and often ineffective procedures, laws and structures across Australian jurisdictions are often justified with the false rationale that "tough on crime" policies promote community safety. We are locking more people up than ever, but this approach is not making us safer in the long term. Almost 46 per cent of prisoners return to detention within two years of their release,<sup>38</sup> and over 99 per cent of prisoners will return to the community at the end of their sentence.<sup>39</sup>

What kind of society do we want to live in? One in which ineffective practices and prisons do little to promote community safety in the long term, or one which values the dignity of citizens and uses evidence-based responses to reduce and prevent harm? We have found that too often public discourse and political rhetoric fail to respond to the question of what kind of society we want to live in. To break the circuit, Jesuit Social Services has sought to find examples of places where justice systems are more humane, more decent, and importantly, more effective. Two years ago, leaders at Jesuit Social Services undertook study tours to parts of Europe, the US and the UK seeking such examples.<sup>v</sup> This year, senior staff have again looked outside our borders for justice solutions, this time in New Zealand.

Our third #JusticeSolutions tour took place following the release of a number of significant reviews and reports on justice systems across Australian jurisdictions. These included the Royal Commission into the Detention and Protection of Children in the Northern Territory, the Victorian Youth Justice Review and Strategy, and the Atkinson Report on Youth Justice in Queensland. As governments turn their attention to options for implementing reform, Jesuit Social Services was keen to provide solutions that have worked elsewhere to Australian jurisdictions.

In April 2019, Julie Edwards (CEO), Catherine Neville (Executive Director, Advocacy and Strategic Communications) and Daniel Clements (General Manager, Justice Programs) travelled to New Zealand to gain insights into effective approaches to the justice system. Justice Solutions New Zealand involved meetings with key decision-makers including Ministers, senior departmental staff and members of the judiciary. We also met with academics and community service organisations delivering programs and advocating for change. We saw youth justice facilities, an adult prison, and a variety of courts. A full itinerary is attached to this report at Appendix A, while further detail about specific facilities and meetings is included in Appendix B. An overview of the justice context in New Zealand forms Appendix C.

New Zealand is in the process of undertaking large-scale reform to improve its justice system. This is a concerted system-wide effort, led by strong political will and leadership. Over the past 10 years, the number of children and young people in court has dropped by 64 per cent,<sup>40</sup> and recent targets have been set to reduce the adult prison population by 30 per cent over the next 15 years.<sup>41</sup> This approach to justice reform is bolstered by a 'culture of values', and a strong commitment within the justice system and the community more broadly to principles of humanity and dignity for people who offend.

While New Zealand's justice system in many respects mirrors Australia's, both in its shortcomings and in some of its more positive practice, the orientation of the system and the values underpinning it are different from ours.

New Zealand faces many of the same challenges we do here in Australia: a high incarceration rate; overrepresentation of Indigenous populations; and ageing prison infrastructure. Māori represent half the national prison population but only 16 per cent of the population more broadly.<sup>42</sup> Around 60 per cent of people are reconvicted within two years of release from prison, and 42 per cent are reimprisoned within that time.<sup>43</sup> The rate of imprisonment is one of the highest in the OECD, despite falling crime rates.<sup>44</sup> The remand population has more than doubled since 2000, and Māori are over-represented in the cohort of unsentenced prisoners.<sup>45</sup> Legislation regarding parole,

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<sup>iv</sup> In the adult justice system

<sup>v</sup> Jesuit Social Services. (2017, August 29). #JusticeSolutions: Expanding the conversation. Retrieved from <https://jss.org.au/justicesolutions-expanding-the-conversation/>.



driven by a politically populist agenda, has also hiked up prison growth.<sup>46</sup> Prison populations have high rates of undiagnosed mental health issues and drug and alcohol misuse issues.<sup>47</sup>

At October 2017, over a third of prisoners had been gang-affiliated at some time, and Māori make up 90 per cent of the two largest adult gangs in New Zealand.<sup>48</sup> The Chief Science Advisor report into imprisonment trends highlighted that "gang members are both victims and perpetrators of violence and trauma, having high rates of undiagnosed and untreated mental and substance use disorders."<sup>49</sup> Given the high rates of Māori involvement, addressing gang culture requires a culturally-informed strategy. As the Chief Science Advisor's report notes, "histories of colonisation and racism are linked to criminal-justice involvement, including within gangs."<sup>50</sup>

These factors informed our understanding during the tour, and the lessons we have learnt from it. Because Australia and New Zealand face similar challenges, the recent improvements in the justice system in New Zealand present viable options for us here, too. While New Zealand is far from perfect, the key difference seems to be a will to improve, to change the narrative and create better outcomes for people within the justice system and for New Zealand communities.

## Caveats and limitations

Local contextual factors (such as legislative environment, established practice, public perception and expectations, geography and demographic variations) influence any justice system and its interventions. As such, a proven approach in one country may not be suited to another. We remained mindful of this throughout the study tour.

Nevertheless, there were opportunities to learn and reflect, to consider *elements* of the New Zealand system that may translate productively or be adapted effectively into the Australian context. The #JusticeSolutions tour also provided an opportunity to reflect on those parts of our system that are performing well by international standards.

It is important to acknowledge from the outset that the #JusticeSolutions tour did not seek to achieve comprehensive knowledge of the intricacies of New Zealand's justice landscape - an outcome that would not have been possible within the short time frame. Instead we had the opportunity to gain 'glimpses' of the justice system, to have informed discussions with international peers, and to garner insights that we wish to share with Australian colleagues, decision-makers and the broader community. This report is observational in nature, noting those aspects and lessons which stood out for us and how they could fit within or be adapted for Australian jurisdictions.

Our observations are supported where possible by evidence and anecdotes, but a further limitation we faced related to being able to make fair statistical comparisons (see Appendix C for more information about this). Direct comparisons were not always possible for a number of reasons, including differing system structures and different ways of presenting statistics. Instead, we have painted a general picture of outcomes, sometimes supported by commentary from academic experts and justice staff, from which some conclusions may be drawn.

Despite the limitations, however, we believe that compelling evidence and persuasive first-hand commentary from our international colleagues outlined in this report deserve serious consideration.





# #JusticeSolutions tour: Observations

## Political will

In New Zealand, there is bipartisan commitment to justice reform. In 2011, the then Nationals Deputy Prime Minister and Minister for Finance Bill English called prisons a 'moral and fiscal failure'.<sup>51</sup> His conservative government laid the groundwork for change and the Ardern Government has continued in this direction and demonstrated a real appetite for reform.

As outlined in the comparison table, Australia's and New Zealand's imprisonment rates and justice outcomes are not dissimilar. However, recognising that a costly, and often ineffective, justice system is unsustainable, New Zealand's Government has committed to reducing the prison population by 30 per cent over the next 15 years. The Government has also opted out of plans to expand Waikeria prison to create a 2000 bed facility, scaling back to create more mental health beds and high security beds at the site instead.<sup>52</sup> In conversation with the Minister for Justice, Andrew Little, he referred to 'going back to square one' in justice reform and that 'we don't want a U.S style super-max prison'.

On our #JusticeSolutions New Zealand tour, we witnessed common agreement over the need for justice reform to prevent creating more victims of crime. Political discourse focuses on the impact of an ineffective justice system on the community, particularly highlighting the need to reduce victims. Senior political and departmental figures highlighted the importance of nuanced media coverage and the damaging impacts of a 'fear of crime' industry that does not stand to benefit the community in the long term.

Overall, there appears to be widespread support for reforming New Zealand's justice system, and this common, shared understanding seems critical to supporting the process of change.

## Layers of leadership

In New Zealand, there is a shared vision for the justice system across many levels of leadership. Amongst senior bureaucrats, politicians, and judges, there appears to be consensus on the goals of the justice system. This enables decisions around justice policy not to be driven by politics, but by evidence and best-practice. This shared vision binds levels of leadership together and gives confidence in direction. In our interactions with the Department of Justice, Oranga Tamariki, with Ministers and politicians, with judges, and with the Children's Commissioner, we heard a shared commitment to underpinning principles. A

strong public service in New Zealand ensures that justice policy and reform are planned with rigour. There was a 'culture of authorisation' in the public sector and trust from Government in its expertise.

In Victoria, successive governments have drastically altered bail, parole and sentencing legislation in relation to both youth and adult justice following a number of high profile incidents – a similar trend has also played out in New Zealand. This has had ongoing impacts on the justice system, with ballooning prison populations and a growing proportion of people on remand. As media reporting cultivated genuine public fear, governments resorted to reactive decision-making, with lasting effects. In New Zealand, politicians and bureaucrats highlighted its use of a Sentinel Events Workbook, a system of responding to major events that prevents reactionary policy and decision-making, and instead dictates a system of thorough investigation to determine the root cause and address underlying issues and strategies to respond. This strategy focuses on how to improve outcomes in the future, rather than laying blame.<sup>53</sup>

Another notable component of New Zealand's leadership is the strong representation of Māori. Roughly 10 per cent of New Zealand's judges are Māori, and in 2019, the first Māori judge was elected to the Supreme Court.<sup>54</sup> At the same time, it must be acknowledged that Māori face considerable ongoing social and economic disadvantage across multiple domains<sup>55</sup>, and experience more contact with the justice system than their non-Māori counterparts, evidenced by both imprisonment and victims of crime rates.<sup>56</sup>

New Zealand has one federal government, with carriage over a national justice system, in contrast to Australia where eight state and territory governments operate their own justice systems. Layers of leadership are simplified, and the Government can take a uniform and strategic approach to justice reform.

## Innovative approaches to reform

New Zealand's prison population increased dramatically over the past decade, followed by a substantial decline of almost 900 prisoners between March and December 2018.<sup>57</sup>

It must be emphasised that crime rates were not the driving factor behind this increase in imprisonment – during the period of increase, recorded crime levels were at their lowest since the late 1970s. Experts note that crime rates are determined by a confluence

of factors unrelated to imprisonment rates.<sup>58</sup> New Zealand's crime rate was indeed falling – but this was not because prison was acting as a deterrent. The Chief Science Advisor has maintained that there was "no evidence" of harsher sentencing creating a deterrent effect on serious offending. Rather, it has been suggested that security and policing strategies that focused on location rather than repeat offenders were the factors that drove crime down during the period.<sup>59</sup>

Experts have also noted that the reasons for the increase in imprisonment rates were shifts in remand and sentencing policy over the past 20 years.<sup>60</sup> New Zealand's Chief Science Advisor found that the increase in New Zealand's prison population and imprisonment rate "can only be explained by the systemic and cumulative impact of successive policy decisions over time, often in response to public demand and political positioning."<sup>61</sup> The prison population growth was driven by an increase in the number of people on remand due to the introduction of compliance-driven bail conditions, and sentencing and parole conditions which kept prisoners detained for longer periods.<sup>62</sup>

In response to this rapid growth, a mindset of commitment to serious reform developed. Courts have been better utilising non-custodial community-based orders rather than terms of imprisonment. This is highlighted in the box below.

- Over the past year, prison sentences have decreased by 15 per cent, bringing it back to levels seen before the increase in imprisonment in 2015-2017.
- Non-custodial community-based sentences have increased, such as intensive supervision (14 per cent increase, 2,186 to 2,498), supervision (6 per cent increase, 3,895 to 4,111) and community detention (4 per cent increase, 4,504 to 4,666).<sup>vi</sup>

There was also a culture and appetite for innovation, which is articulated in the High Impact Innovation Programme (HIIP). In order to achieve the target of reducing the prison population by 30 per cent over the next 15 years and reducing the over-representation of Māori people in the justice system,

the Department of Corrections established HIIP. HIIP is focused on developing ways to streamline bail and remand processes, creating better access to bail and ensuring that it remains successful, safe and sustainable. Reducing the number of people on remand is critical to reducing the overall prison population – roughly a third of prisoners across New Zealand are currently unsentenced.<sup>63</sup> HIIP is resourced by Government innovation funds and overseen by an academic panel with justice sector expertise who provide advice and guidance.

Current HIIP initiatives facilitate access to bail and encourage compliance with conditions. For instance:

- Electronically Monitored (EM) Bail advisors assist in applications and support services for people released on bail through needs assessment and planning.
- The EM Bail smartphone application supports people on bail to access services and reminds them of events and information relating to their case (such as court dates).
- Remand Triage aims to reduce time on remand in custody awaiting a case outcome.
- HIIP has devised programs like Home Detention Resentencing which assists people who would be eligible for home detention to access accommodation.
- Parole Ready advisors work with long serving prisoners to help them become eligible for parole.<sup>64</sup>

***See a visual representation of HIIP initiatives over the page.***

HIIP's initiatives address many of the core issues surrounding bail and remand, and are given a licence to innovate and find practical solutions to congestion and churn in the justice system. One thing that particularly stood out was the openness of the HIIP team, who provided desk space for external agencies at their offices, fostering a culture of collaboration.

<sup>vi</sup> Source: New Zealand Ministry of Justice. (2019). Adults convicted and sentenced: data highlights for 2018. Retrieved from <https://www.justice.govt.nz/assets/Documents/Publications/adult-conviction-and-sentencing-statistics-data-highlights-v1.1.pdf>

# High Impact Innovation Programme



## Bail Support Services

Is a service providing timely information to inform bail decisions and supporting defendants to be successful on bail.



### Location

Wellington  
Christchurch  
Manukau.



### App

A mobile app to support defendants on EM Bail.

## Remand Triage



Resources additional police prosecutors to follow a dedicated operating model for defendants remanded in custody. Up to 21 police prosecutors provide immediate triaging and file analysis after a defendant is received into prison in order to identify options for charge resolution, through early engagement with defence counsel and Court staff.



### Bail House

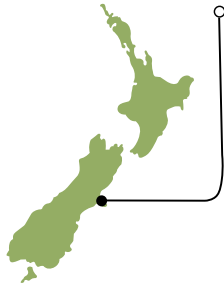
Providing accommodation and support to defendants in Wellington. Bail Support Services and The Salvation Army partnership.

## EM Bail Ready

Supporting eligible defendants who are remanded in custody to apply for EM Bail.







## He Kete Oranga o te Mana Wahine

A 16 week alcohol and drug therapeutic programme to be provided in a 10 bed residential facility in Christchurch. Available for women on bail and parole from May 2019. The service also provides additional support for women when back in the community.

## Prisoners with Accounts



This project aims to improve outcomes for people being released from prison. Some people leave prison without a bank account or any form of ID, making community reintegration more challenging.

People being released from prison will be equipped with bank accounts with their Steps to Freedom grants deposited. They will also be issued with an ID card and an eftpos card that is loaded with a PIN and ready to use, without the need to go to a bank.

## Project 7+

Currently designing a high security prison unit environment and operating model that overcomes the current barriers to effective rehabilitation, parole achievement, while increasing connection with whanau.

The pilot will take place at the Te Ara Māori Unit at Hawke's Bay Regional Prison.



## Home Detention Resentencing

Provides support for eligible prisoners who have been granted leave to apply for home detention to achieve resentencing as early as possible. By providing sites with greater visibility of who is eligible and by simplifying the process for applying for resentencing, prisoners who are suitable candidates for home detention are able to access this without delay.

## Parole Ready



Getting prisoners into the appropriate rehabilitation and reintegrative programmes so they are better prepared for a safe and well-managed release to best support the achievement of parole.

## Speech, Language and Communication Needs (SLCN)

Pilot in the Manukau District Court, in conjunction with the Bail Support Service to support defendants with speech, language and communication needs.



## Victim Application

Web based app that will allow victims to receive real time notifications and access information such as Parole Board reports and offender progress reports. Will improve the victim experience when engaging with Corrections.



## Value of spirituality and culture

Throughout the trip, we saw that culture and spirituality was deeply valued in New Zealand's justice system. Recognition and importance of Māori and Pasifika culture was evident in the courts, youth justice centres, and the adult prison we visited.

Perhaps the most visible expression of the value of culture was in the alternative youth courts for Māori and Pasifika young people.

These courts are open to young offenders in New Zealand of all backgrounds, and are centred on the person – the offender, their family and the victim – and on building ties of community and identity. We believe the power of culture and identity in creating links to community can benefit all offenders from all backgrounds and in all parts of the justice and court system.

### Māori and Pasifika Courts

Māori and Pasifika Youth Courts offer young people who have admitted to their offending (or have had charges they face proved) the choice of having their Family Group Conference plans monitored in a culturally-adapted setting.<sup>65</sup> Rangatahi Courts (Ngā Kōti Rangatahi) are held on marae<sup>vii</sup>. Similarly, Pasifika Courts are held in Pasifika churches or community centres. These courts seek to help young people, their families and communities engage in the youth justice process.<sup>66</sup> Rangatahi and Pasifika Courts, often led by Māori or Pasifika judges, both follow cultural processes and have considerable input from community and community elders. A Ministry of Justice review of 575 young people who passed through Rangatahi and Pasifika courts from 2010 to 2012 found that the reoffending rate within 12 months (41 per cent) was lower than for the Youth Court (46 per cent).<sup>67</sup>



Rangatahi Court at Tauranga

### Rangatahi Courts

In our visit to a Rangatahi Court sitting in Tauranga we witnessed a process where Māori culture is at the forefront. First established over a decade ago,<sup>68</sup> the Rangatahi Courts are held at a marae and are centred on restorative justice principles.

Māori judges preside in these courts, and emphasise the young person's connection to their heritage, ancestors, natural surroundings, their whānau<sup>viii</sup> and wider community. Rangatahi Courts place an emphasis on Māori tikanga and pride in culture and self. Courtroom hearings normally involve the young person, their family, victims, and community Elders. Young people learn and deliver their pepeha<sup>ix</sup> at the beginning of the proceeding. The proceedings start with sharing food between all participants – officials and young people alike.



Rangatahi Court at Tauranga

### Pasifika Courts

The Pasifika Youth Court was an initiative driven by the Pacific Islander communities in New Zealand following the introduction of Rangatahi Courts. As with a Rangatahi Court, the role of the Pasifika Youth Court is to monitor a young person's performance of their Family Group Conference plan in a culturally strengthening environment. The Pasifika Youth Court caters for young people from various Pacific Island nations, including Fiji, Tonga, Samoa, Vanuatu, Kiribati, and Tuvalu. Processes within the court must be flexible enough to cater to the often significant cultural differences between Pasifika nations.

<sup>vii</sup> Māori meeting grounds

<sup>viii</sup> Extended family and family group

<sup>ix</sup> Traditional greeting of tribal identity



Pasifika Court in Auckland

Jesuit Social Services staff sat in on a case being heard in a Pasifika Court in Auckland. In addition to the police prosecutors, the young person's lawyer and a lay advocate, Elders from diverse Pacific Island communities are active participants in the Court. There were ten staff present on the day Jesuit Social Services attended. The presiding judge was seated with others in a semi-circle. Colourful cloths cover the tables – a special cloth for the table where the victims sit and a large traditional woven mat acts as a centrepiece on the floor around which all other stakeholders sit. Though the Judge emphasised the significance of the offending and the impact on the victim, the hearing was conversational. There was a noticeably lighter tone which, rather than detracting from the seriousness of the proceedings, helped the young person engage in the discussion.

Reflecting on what he witnessed at the hearing, Daniel Clements, General Manager of Justice Programs at Jesuit Social Services, wrote:

**As the case concluded in the Pasifika Court, the Judge spoke clearly to the young person about what she was taking into account in her considerations about him: the risk to community balanced with the positive steps he was taking to change his life, not least of which was working full time and providing additional financial support for the family. But central to Judge Malosi's summation were the key points of identity and family.**

**"Lift up your eyes and see what is possible," she urged him.**

## Comparison with Australia's Indigenous courts

It is critical that we reflect on parallel court structures in Australia. Australia's Indigenous courts have existed for nearly two decades. The landmark Royal Commission into Aboriginal Deaths in Custody in 1991 emphasised the lack of cultural sensitivity in court processes and the distrust felt by Aboriginal people and communities toward the justice system. It also brought to light the alienation and intimidation felt by Aboriginal people in the court process, and recommended greater involvement and inclusion of Aboriginal people, communities and organisations in courts and in sentencing.<sup>69</sup>

Indigenous courts have been established and now exist in various forms across Australian jurisdictions. These operate with distinct processes, with variation between and within jurisdictions. In Victoria, Koori Courts operate within the Magistrates', County and Children's Courts, and across the state, "ensuring greater participation of the Aboriginal Community in the sentencing process".<sup>70</sup> To be heard in the Koori Court, the accused must be Aboriginal or Torres Strait Islander and must plead guilty.<sup>71</sup>

The Koori Court is intended to be conducted with minimal formality and technicality to promote as much engagement, involvement and comprehension on the part of the accused as possible, and understanding, acceptance and trust in court and justice process within Aboriginal communities. Some aspects of traditional court processes are adapted; for example, the Magistrate, the accused, lawyers and support people sit around a circular table at the same level. Aboriginal cultural processes are maintained; for example, a smoking ceremony is conducted in advance of hearings in the court room. In its review of Sentencing in the Koori Court, the Sentencing Advisory Council noted that given the input from Elders and Respected Persons, some argue Koori Courts are considered to be more "personal, confronting, and intrusive for the accused than mainstream processes."<sup>72</sup>

Reflecting on her impression of the Koori Court and the Rangatahi Court, Catherine Neville commented:



“In Victoria, you’re walking into a traditional formal courtroom. That’s very austere and quite intimidating. In comparison to what we saw in New Zealand, where we were led in by procession, all of us led in by singing. In Victoria, it’s a courtroom.

[At the Rangatahi Courts] there’s more of a focus on traditional welcome. The Rangatahi is held in a community centre, at a marae, there’s a morning tea, food is shared. There’s a real sense of connectedness.”<sup>73</sup>

While there are some similarities between Koori and Rangatahi Courts, there are also some key differences. Rangatahi Courts are a means of monitoring a young person’s completion of their Family Group Conference Plan,<sup>74</sup> while in Victoria, for example, the equivalent Children’s Koori Court operates as a sentencing court for young people, though with more culturally appropriate and responsive measures than traditional Courts.<sup>75</sup>

Evaluations of indigenous courts in Australia have been criticised for taking a limited scope.<sup>76</sup> Some have argued that focusing on blunt measures of recidivism fails to take into account the multitude of other goals that sit at the heart of Indigenous sentencing courts, and that Indigenous voice and knowledge are often sidelined in evaluation methodology.<sup>77</sup> For this reason, it would be inappropriate to directly compare the effectiveness of the two models in terms of traditional measures such as reoffending.

What we learnt from both Australian indigenous courts and from Rangatahi and Pasifika Courts is that person-centred and culturally strengthening approaches benefit young people and communities. We saw in New Zealand the immense value of embedded cultural practice for the Māori and non-Māori community alike. Approaches that put young people at the centre, and look to create links to culture and community, can also be beneficial to young people in the wider court system, not just within the context of culturally responsive courts.

## Culture of values and spirituality

In many of the sites we visited, the values upheld in the organisation were on display, and were part of the everyday vocabulary of the staff. In courts, youth justice centres and prisons, staff spoke comfortably about compassion, humanity, love, and people’s purpose, spirit and character. This approach is integral to rehabilitation.

In New Zealand, we saw an appreciation of the whole person and attention to the interconnectedness and

web of relationships that bind people together. This was a common thread throughout the organisations we visited and facilities we saw.

This experience was clearly articulated in our experience at the Alcohol and Other Drug Treatment Court. It is also evident in the structuring of New Zealand’s systems and departments. For example, at Organga Tamariki, the Ministry for Children, clearly articulated values and principles inform the systems it oversees, including youth justice. These examples are explored further below.



The door to staffroom at a youth detention facility

## The Alcohol and Other Drug Treatment Court

There are three therapeutic courts within the Criminal District Court system in New Zealand: two Alcohol and Other Drug Treatment Courts in Auckland and in Waitakere, and one New Beginnings and Special Circumstances Court, which deals with offenders who are homeless in Auckland.<sup>78</sup>

Therapeutic courts hear cases of less serious offending, where an individual has pled guilty. Judges have discretion over what cases are heard in therapeutic courts. Participants are still sentenced for their offending after they have undergone a treatment plan devised through a therapeutic court.<sup>79</sup>

On our Justice Solutions tour, we visited the Alcohol and Other Drug Treatment (AODT) Court in Auckland.

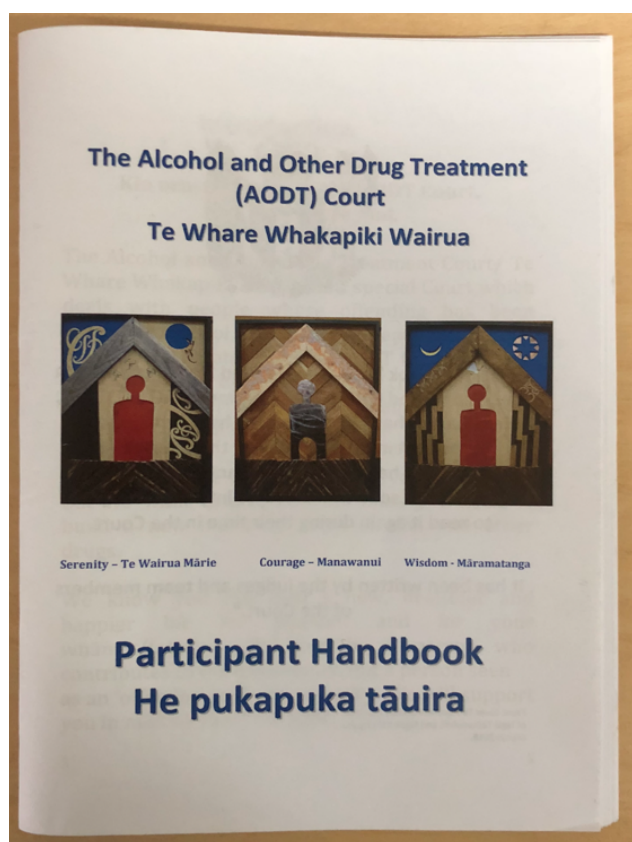
The AODT Court works with individuals when drug and alcohol dependency are the underlying cause of their offending. Initial evaluations of this pilot program suggest that AODT Courts are reducing participants’ likelihood of reoffending in the short-term by around 15 percent.<sup>80</sup>

The AODT Court devises and oversees a treatment plan comprised of three phases, each running for four to six months. Following graduation from treatment,

individuals are sentenced, typically to Intensive Supervision with Judicial Monitoring, which includes ongoing drug testing and reporting requirements. It should be noted that the AODT Court, though therapeutic, is no less serious in its treatment of offending.

The three pillars of the AODT Court are:

- *Serenity – Te Wairua Mārie*
- *Courage – Manawanui*
- *Wisdom – Māramatanga*



These pillars are represented in artworks on the walls of the courtroom, and can be seen on the cover of the AODT Court participant handbook, featured in the image above. During Jesuit Social Services staff's visit to the AODT Court in Auckland, we saw these values enacted. Connection to culture was at the forefront – from the moment of welcome prayer and song, to the use of language, the symbols and art around the court room, the active voice of Māori elders, through to the closing prayer and song. Court process paid considerable attention to the detail of

the individual's life. The Judge, Elder, Police, lawyers and caseworkers collaborate in preparing treatment plans, bringing insights, direct knowledge, experience, legal and moral considerations to bear. Each session of the Court begins and ends with its own waiata/karakia<sup>x</sup>. The Māori name for the Court, Te Whare Whakapiki Wairua, means 'the house where one's spirit is uplifted'.

Julie Edwards, Jesuit Social Services CEO, reflected on her experience at the Court:

*It was a privilege...and very humbling, to witness the participants' struggle to turn their lives around – lives overwhelmingly marked by early life abuse, neglect and violence, school exclusion, drugs, homelessness, offending. But here in this court room their struggles were on display – the lapses and relapses, the huge self-doubts, the despair. And these were met with calls for honesty, for trust in the process, for communication – always with the offer of support; never with superiority or condescension. Each achievement was noticed, acknowledged and praised. And the wavering flame of hope was nurtured; hope for a new life, a life free from addiction, free from offending.*

The Drug Court of Victoria has been in operation since 2002. Victorian Drug Courts can sentence participants to a Drug Treatment Order, which combines imprisonment with drug treatment, while suspending a term of imprisonment as the individual undergoes treatment and supervision.<sup>81</sup> Evaluations of the Drug Court have shown positive results in reducing reoffending rates and the seriousness of offending.<sup>82</sup> International analysis of drug court initiatives note that New Zealand's AODT Courts are particularly culturally responsive to Māori participants, and noted the limited referral of Aboriginal and Torres Strait Islander people to the Victorian Drug Court.<sup>83</sup>

### Oranga Tamariki

In 2017, the Child, Youth and Family agency was replaced by the Ministry for Children, Oranga Tamariki. Oranga Tamariki takes a preventative approach to child safety and family welfare. It encompasses both child protection and youth justice. Oranga Tamariki explicitly outlines that the 'Youth Justice service addresses the underlying factors that contribute to offending':

<sup>x</sup> Song or hymn

“We support children, family and whānau to restore their mana<sup>ix</sup> their sense of self, their important connections and relationships, their right to heal and recover, and reach their potential.”<sup>84</sup>

The inclusion of youth justice within a child welfare agency recognises that deeds are symptomatic of needs, that children and young people who offend need support rather than punishment, and that community safety is best achieved when these needs are met. In delivering youth justice and child welfare through the same agency, New Zealand recognises that youth offending is best understood in terms of its relationship to the welfare needs of children and families, rather than a lens of regulation, control and punishment.

The object of the *Oranga Tamariki Act 1989* is to promote the well-being of children, young persons and their families and family groups. Sections of the Act setting out the objectives for youth justice state that where children and young people offend they are to be ‘held accountable, and encouraged to accept responsibility, for their behaviour’, and ‘dealt with in a way that acknowledges their needs and that will give them the opportunity to develop in responsible, beneficial and socially acceptable ways’. The general principles of the Act provide that, wherever possible, family and whānau should be involved in decisions affecting the child or young person, and that those relationships should be maintained and strengthened.

Victoria has taken the opposite route. The Government recently moved youth justice to the Department of Justice and Community Safety. This is part of a trend that has been underway in Victoria for some years, which has seen the culture of youth justice adopt a more correctional approach in its treatment of young people. By contrast, following the recommendations of the *Royal Commission into the Detention and Protection of Children in the Northern Territory*, the Government has moved youth justice into Territory Families.

## Importance of language

Māori language (te reo Māori) has been recognised as a national language in New Zealand since 1987. Approximately 21.3 per cent of New Zealand’s population can hold everyday conversations in Māori.<sup>85</sup> Māori language is threaded through English, and Māori phrases are commonplace.

In our visit to Tongariro prison, for example, we heard workers describe what would be called ‘inmates’ as ‘paihere’, meaning ‘unchained’ or ‘bound in care’, rather than ‘mauhere’, the typical and literal Māori word for prisoners, which means chained or shackled. We saw that at Rangatahi Courts, young people introduced themselves with their pepeha, a structured personal introduction that declares the family and tribe to which an individual belongs.

Our reflection is that the everyday use of Māori indicates a deeply held respect for Māori culture. Māori understandings of person, place and planet are integrated into everyday dialogue. Political leaders speak te reo Māori in public forums. In every meeting we attended, with Ministers, judges and detention facility workers, Māori language – and by extension, Māori culture and values – was present.

While Māori culture and language is valued, Māori people themselves often face complex and entrenched disadvantage. Despite making up roughly 16 per cent of the population overall, in the year ending June 2017:

- Of the 73,000 people against whom the Police took court action, 43 per cent were Māori.
- Of the 12,000 people remanded in custody, 58 per cent were Māori.
- Fifty-eight per cent of people sentenced to imprisonment were Māori.<sup>86</sup>

The use of Māori language and the inclusion of Māori culture in justice processes is an important component of addressing this overrepresentation. Within a justice setting, we know that connection to culture and community are critical. Experts have called for a Māori-centred understanding of reintegration and rehabilitation, based in traditional tikanga principles focusing not only on reducing reoffending but on shaping an individual’s capacity to live fully in society.<sup>87</sup>

<sup>ix</sup> Prestige, authority, control, power, influence, status, spiritual power, charisma, a supernatural force in a person, place or object

## Relationship, respect and a restorative approach

Over the past 30 years, New Zealand's justice system has undergone a fundamental shift in its approach to working with people who offend, and has emerged as a renowned world leader in restorative justice. Before 1989, diversion was rare. Approximately 12,000 young people were seen by the Juvenile Court each year, and detention rates were considerably higher - there were 900 beds in 26 institutions. Currently, there are fewer than 150 beds in four residences, and custody accounts for only 20 per cent of sentences.<sup>88</sup>

There have been some considerable improvements in the youth justice system in New Zealand over the past ten years, including:

- Reductions in the number of children and young people aged 10 to 16 offending,
- A 59 per cent decline in the rate of offending of children aged 10 to 13, and a decline of 63 per cent for young people aged 14 to 16,
- A decrease in the rate of Youth Court appearances by 38 per cent.<sup>89</sup>

As noted earlier, Family Group Conferencing is used in New Zealand as the primary justice response for young people aged 14 and over. However, a restorative, relational approach is not limited to formal group conferencing processes – as noted, we saw a strong focus on culture and person-centred practices across justice processes. At the courts we visited, judges made comments to those appearing that emphasised rebuilding relationships with family, community, and their sense of self. The judge presiding over the AODT Court commented “this is not a court for perfection, it’s a court for progression... There’s no one here who hasn’t made very serious mistakes”. In the AODT Court, multi-disciplinary teams create a holistic plan for participants.<sup>90</sup>

<sup>xii</sup> As at 2016

<sup>xiii</sup> See for instance: Australian Government. (2017). Report of the Royal Commission into the Detention and Protection of Children in the Northern Territory. Retrieved from <https://www.royalcommission.gov.au/royal-commission-detention-and-protection-children-northern-territory>; Toohey, K., et al. (2019). Commission Initiated Review of Allegations Regarding Bimberri Youth Justice Centre: Report of the ACT Disability and Community Services Commissioner and ACT Human Rights Commissioner. Retrieved from [https://hrc.act.gov.au/wp-content/uploads/2019/04/190329-Bimberri-Review\\_Access.pdf](https://hrc.act.gov.au/wp-content/uploads/2019/04/190329-Bimberri-Review_Access.pdf); NSW Inspector of Custodial Services. (2018). Use of force, separation, segregation and confinement in NSW juvenile justice centres. Retrieved from <http://www.custodialinspector.justice.nsw.gov.au/Documents/use-of-force-seperation-segregation-confinement-nsw-juvenile-justice-centre.pdf>; Commission for Children and Young People. (2017). The same four walls: Inquiry into the use of isolation, separation and lockdowns in the Victorian youth justice system. Retrieved from <https://ccyp.vic.gov.au/assets/Publications-inquiries/The-Same-Four-Walls1.pdf>.

## Prisons and youth detention facilities

### Youth justice residences

Jesuit Social Services staff visited two youth justice centres - Korowai Manaaki and Te Maioha o Parekarangi. Each of these facilities was small, with capacity for 46 and 30 young people, respectively.

Korowai Manaaki was first opened in 2003 as a purpose-built youth justice facility. At Korowai Manaaki, there was a maximum of eight to 12 children and young people per unit. Overall, approximately 126 FTE staff are employed at the facility.<sup>91xi</sup>

We witnessed a strong focus on education, with one classroom and two teachers per unit. Separate skills centres provided training in cooking, carving, music and art. Young people at the centre tended to animals and grew fruit and vegetables. Step-down facilities on site allow young people to learn independent living skills, and day leave is permitted for work. Across youth justice residences, 70 per cent of young people are Māori.<sup>92</sup> Staff at Korowai Manaaki estimated that 10 per cent of staff at the youth justice centre were Māori themselves.

Catherine Neville, Executive Director of Advocacy and Strategic Communications at Jesuit Social Services, reflected on the visit to Korowai Manaaki:

“There is a strong focus on relationship with the children and young people, with what they call “care staff” doing regular eight hour shifts, plus a clinical team of social workers and psychologists, each with a caseload of around six young people. The clinical team is responsible for the assessment of each young person, development and implementation of an Individual Support Plan, and the plan for exit from the centre.”

New Zealand's youth justice detention facilities appeared markedly more therapeutic and child-focused than our own justice centres in Australia, which have been the subject of numerous findings of abuse and overuse of force, restraint and isolation in recent years.<sup>xiii</sup>



The independent Children's Commissioner of New Zealand undertook an investigation into youth justice residences and secure welfare units between July 2016 and March 2017, and found that standards required by the *Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT)* were met, though with variable quality of practice across residences.<sup>93</sup>

Young people are confined from 8pm to 6am in sparsely furnished, plain concrete rooms that can be opened from the inside but not the outside other than by key (for safety reasons). During the day, young people attend school classes and participate in a range of structured activities and programmes. Most young people in youth justice residences are aged 14-16 years. There are also some 17 year olds.<sup>94</sup>

The independent review also noted positive aspects of the treatment of children and young people in the centres, particularly around the quality of staff:

We have found that young people in residences are usually treated well by residence staff. There are warm, positive relationships between residence staff and young people. Children and young people eat well, participate in a range of sporting, cultural and leisure activities, have reasonable access to their families and whānau, have good access to medical services, and know how to make a complaint if they are not happy with something.<sup>95</sup>

The Commissioner for Children noted that youth justice staff across the board minimise the use of restraint, which was clear in our visit to Korowai Manaaki. Ms Neville reflected:

We asked about restraint. Staff were surprised to hear that handcuffs, batons, spray and dogs are used in Australia. These are not used in NZ. Through relationship with the young person – including using de-escalation techniques and dynamic security – potential risk events are managed. Occasionally physical restraint is used.

Our visit to youth justice centres in New Zealand reaffirmed our findings from our 2017 Justice Solutions tour: small, home-like facilities that are close to communities best support young people. Well-trained, qualified staff who build relationships

with young people in their care create secure environments promoting safety inside facilities and in the community in the long term.



Te Maioha o Parekarangi Youth Justice Residence in Rotorua

## Adult prisons

Jesuit Social Services staff visited Tongariro prison, which currently houses 298 sentenced prisoners, accounting for three per cent of the country's total prison population.<sup>96</sup> The land is also owned by Central North Island iwi, Ngati Tuwharetoa, and is leased back to Corrections to run the prison. The prison is located on a large site of over 8,000 hectares amongst forests, wetlands, and river reserves.<sup>97</sup> Connection to the land and natural surroundings was evident in our discussions with prisoners and staff at the site. Surrounding nature is visible through the high perimeter wall. Prisoners ride bikes around the compound and have access to training workshops and courses, such as animal husbandry, agriculture, carving, painting, and horticulture.<sup>98</sup> Prisoners are permitted to exit for day leave for employment. This prison appeared different in many ways from others in New Zealand, perhaps reflecting a best practice model, rather than being representative of New Zealand's adult correctional facilities.

On arrival at the Tongariro Prison, Jesuit Social Services staff met with the prison chaplain, who told us we would be formally welcomed. The chaplain helped us learn and rehearse a Māori song.

As Ms Neville reflected:

We were led into the prison unit meeting hall by the prison chaplain and around 40 prisoners were there waiting for us. Once seated, we were welcomed by a prisoner (in Māori) and all prisoners sang a song. The prison chaplain responded by introducing us in Māori (he had asked us what our mountain, river and home were beforehand) and then we sang our song. The prisoners joined in.

Following this formal welcome (which took around 20 minutes), we all greeted each other with a hongi<sup>xiv</sup>. The majority of prisoners left and we sat with around half a dozen of the inmates and four or so staff. We shared morning tea and had a really fulsome and interesting discussion. The prisoners told us about the importance of being seen as a person. They told us also of the importance of language. For example, one said that he felt pride that the staff referred to the prisoners as paihere (meaning bound with love) rather than mauhere (meaning shackled, or bound by chains).

Morning tea was followed by a tour of the prison. We were led by the chaplain through the grounds of one of the units. I asked a guard what weapons he had on him. He told me his brain and his words. And capsicum spray “just in case”.

We observed the vast grounds of the prison and many of the prisoners working the land, planting trees and digging drains. Prisoners rode around on bikes in high vis vests (“so we can see them”). There was lots of personal interaction between prisoners and staff. The prison is on the Tūwharetoa iwi grounds and is surrounded by beautiful mountains.



Tongariro prison

<sup>xiv</sup> Traditional Māori greeting, like a handshake, that involves the touching of noses.

# Conclusion

This report has highlighted some strong and promising features of New Zealand's justice system - the use of restorative justice, a relational and values-based approach, the foregrounding of Māori culture and cultural responsiveness. This is underpinned by a foundation of spirituality and values, championed by leaders who share a vision for a better justice system. New Zealand faces challenges similar to our own, but is adopting evidence-based strategies for reform.

Our observations were very much aligned with key findings as outlined in our 2017 report *#JusticeSolutions: Expanding the conversation*, which summarised our international study trip exploring innovative and effective youth justice practices in Germany, Norway, Spain, the United States and the United Kingdom. The full report is available at [www.jss.org.au](http://www.jss.org.au).

Fundamentally, our goal must be crime prevention - addressing the underlying causes of crime by intervening in the web of disadvantage that impacts on individuals, families and communities. For those people who do come into contact with the criminal justice system we need to commit to rehabilitation as the primary purpose of the justice system. This means holding people to account, while addressing underlying causes of offending and the offending behaviour itself, all with a focus on education and re-socialisation.

Jesuit Social Services' **vision** for the justice system is to enable people who offend (or are at risk of offending) to lead healthy, productive and crime-free lives.

## Principles of an effective and humane criminal justice system

With more than four decades of experience seeking solutions and working with people intersecting with the justice system, as well as their families and communities, Jesuit Social Services calls on Governments and key stakeholders across Australia to adopt and put into action the following **key principles** for effective and humane justice systems:

- Incarceration as a last resort
- Focus on early intervention and diversion
- Listening to the voices of people and their families
- Developmentally appropriate approaches to children and young people
- Recognising the importance of culture and country for Aboriginal and Torres Strait Islander peoples

- Connection to families, communities and culture
- Thorough assessment and planning
- Addressing offending behaviour
- Addressing mental health, substance abuse and other health and wellbeing needs
- Strong framework of support and accountability
- Restorative justice approaches
- Education focus that builds practical and social skills for re-socialisation.
- When people are incarcerated, we must:
  - Adopt a relationship-based model across every aspect of operations
  - Offer small community-based settings (prioritising normality, and ongoing engagement with family and community)
  - Facilitate connection with family, community and culture
  - Prioritise education and skills for life
  - Address offending behaviour
  - Address mental health, substance abuse and other health and wellbeing needs
  - Focus on re-socialisation, transition and re-integration to the community
  - Keep remandees separate from sentenced offenders
  - Engage and support staff who have appropriate personal attributes, qualifications and experience to build relationships of trust and deliver on the re-socialisation goal.

And to achieve all this we need:

- Strong leadership
- Shared commitment across sectors
- Agreed, embedded values and respect for culture and community
- Evidence-based and best practice interventions
- Investment in alternatives to detention
- Qualified and experienced staff
- Targets to reduce youth offending, incarceration and recidivism, with specific targets for Aboriginal and Torres Strait Islander young people.



# Recommendations

We make a number of recommendations for improvements to Australia's justice systems:

- All Australian governments to develop a clear vision and framework of values to underpin adult and youth justice systems, recognising people's spirituality and culture.
- All Australian governments to set ambitious goals for justice system reform, including reducing the number of people in prison, with separate targets for Aboriginal and Torres Strait Islander peoples.
- Criminal justice systems must be underpinned by improved data reporting mechanisms to promote transparency and accountability, and to ensure that policy decisions for justice systems are informed by a strong evidence base.
- Governments to undertake meaningful engagement and consultation with people, families and communities in seeking to reform justice policies and practices, particularly those who are directly impacted by justice system involvement.
- Dedicated resources to support innovation and to trial, test and scale up programs to reduce churn in the criminal justice system (based on the HIIP model).
- Increase and promote access to restorative justice at all points of the system, including legislating for Youth Justice Group Conferencing to be 'opt-out' rather than 'opt-in'.
- Creation of small, home-like facilities for children and young people, close to community, with adequate transitional facilities to prepare young people for release and reintegration.
- The Federal Government to develop and commit to a National Youth Justice Strategy.
- Ban the use of solitary confinement (the physical isolation of individuals for 22 or more hours a day without meaningful human contact) across youth and adult justice facilities, as recommended by the Victorian Ombudsman.



# Appendices

## Appendix A: #JusticeSolutions itinerary

Date	City	Meeting with
1 April	Wellington	Victoria University of Wellington - Diana Unwin Chair in Restorative Justice
1 April	Wellington	Department of Corrections – High Impact Innovation Programme
1 April	Wellington	Ministry of Justice
1 April	Wellington	JustSpeak
2 April	Paraparaumu	Kapiti Youth Support
2 April	Wellington	Challenge 2000
2 April	Wellington	Department of Corrections
3 April	Wellington	Judge Andrew Becroft, NZ Children's Commissioner
3 April	Wellington	Oranga Tamariki
3 April	Wellington	The District Court of New Zealand – Youth Court
3 April	Wellington	Greg O'Connor MP, Member of Justice Select Committee
3 April	Wellington	Hon Andrew Little MP [Minister of Justice]
3 April	Auckland	Waitakere Pasifika Court
4 April	Auckland	The Alcohol and Other Drug Treatment Court
5 April	South Auckland	Youth Justice Residence, Korowai Manaaki
7 April	Rotorua	Te Maioha o Parekarangi in Rotorua (Youth Justice Residence)
8 April	Tauranga	Te Koti Rangatahi Court
9 April	Turangi	Tongariro Prison
10 April	Auckland	Housing First Auckland

## Appendix B: Who we met with

### Victoria University of Wellington – Diana Unwin Chair in Restorative Justice

The Diana Unwin Chair in Restorative Justice was established in January 2014 and serves as the focus for collaborative, interdisciplinary research and teaching on restorative justice theory and practice, both within the justice sector and beyond.

### High Impact Innovation Programme

A cross-agency operational response to the rising demand on prison capacity. It will directly contribute to the Government's goals of reducing the prison population by 30 percent over 15 years, and addressing the over representation of Māori in the criminal justice system.

### Ministry of Justice

The Ministry leads the justice sector, which is made up of the Ministry of Justice, New Zealand Police, the Department of Corrections, the Crown Law Office, the Serious Fraud Office, and Oranga Tamariki (Ministry for Children).

### JustSpeak

An advocacy organisation speaking out on criminal justice for a thriving New Zealand. They develop youth-led tools, resources, spaces and support to facilitate a public conversation on criminal justice informed by evidence and lived experience.

### Kapiti Youth Support

A place-based primary health provider and support service that integrates the provision of medical and nursing services with clinical psychology, counselling, alcohol and drug services, social work, mentoring, parenting, peer support and youth development programmes to young people aged 10-24 years.

### Challenge 2000

A youth development, community and family social work agency, working mainly throughout the Wellington region, providing a wide range of services and programmes to children, young people, families and community groups.

### NZ Department of Corrections

Corrections NZ manage people in prisons and offenders in the community, ensuring compliance with sentences imposed by the Courts and Parole Board and providing offenders with rehabilitation programmes, education and job training to break the cycle of re-offending.

### NZ Children's Commissioner

The Office of the Children's Commissioner advocates for the interests of children in New Zealand. Judge Andrew Becroft is the current Children's Commissioner. Before taking up the position on 1 July 2016 he was New Zealand's Principal Youth Court Judge.

### Oranga Tamariki (Ministry for Children)

Dedicated to supporting any child in New Zealand whose wellbeing is at significant risk of harm now, or in the future. This is achieved through work around prevention, early intervention and care. They also work with young people who may have offended, or are likely to offend.

### The District Court of New Zealand – Youth Court

Young people aged between 14 and 16 who commit offences (and sometimes 12 and 13 if their offending is particularly serious) will be directed to a Youth Court rather than the District or High Court. Youth Courts deal with all offending committed by young people other than murder, manslaughter and traffic offending. The Youth Court operates in a less formal manner than the adult courts.

### Justice Select Committee

The Committee looks at business related to constitutional and electoral matters, human rights, justice, courts, crime and criminal law, police, corrections, and Crown legal services.

### Waitakere Pasifika Court

Pasifika Courts involve young people who have admitted the charges they are facing and operate in the same way as the Youth Court, but are held in Pasifika churches or community centres, follow Pasifika cultural processes and better involve Pasifika families and communities.

### Te Koti Rangatahi Court

Rangatahi courts involve young people who have admitted the charges they are facing and operate in the same way as the Youth Court, but are held on marae, follow Māori cultural processes and better involve Māori families and communities.

### The Alcohol and Other Drug Treatment Court

The court is solutions focused and aims to "break the cycle" by treating the causes of offending. It targets offenders who would otherwise be imprisoned, but whose offending is being fuelled by their unresolved



"high-needs" issues of addiction or dependency. They are also assessed as being "high-risk" in terms of their non-compliance: in other words, past sentences and court orders made have not changed their situation.

### **Youth Justice Residences - Korowai Manaaki and Te Maioha o Parekarangi**

NZ's youth justice residences are designed to provide a safe, secure and supportive environment where young people can get their lives back on track and improve their prospects for the future. The residence provides their meals, clothing and education, as well as access to a gym and open areas for sports and outdoor activities. The residence also works with the young person, their family or whānau and social worker to make a plan for when they leave the residence. The Korowai Manaaki residence in South Auckland can have up to 40 young people, and Te Maioha o Parekarangi in Rotorua can have up to 30 young people.

### **Tongariro Prison**

Established in 1922, Tongariro is minimum to low-medium security facility housing approximately 298 male prisoners who have already been sentenced.

### **Housing First**

A collective of five organisations working together using the Housing First approach toward a goal to make homelessness in Auckland rare, brief and non-recurring. Housing First takes a multi-agency approach to providing ongoing and sustained wrap-around support services to help people stay in their homes and never return to homelessness. Housing First works with people who are chronically homeless in the Auckland City Centre, and Central, West and South Auckland to find them homes and support them to keep their tenancies.

## Appendix C: Justice overviews

### Data and statistics

Comparing justice related statistics across international jurisdictions is notoriously difficult due to differences in legal frameworks, as well as standards of reporting and monitoring. Below, we detail these differences to ensure a clear and transparent picture of justice system performance is presented in this report.

### Age ranges of youth justice

#### Australia

In Australia, children and young people can be charged with a criminal offence if they are aged 10 and over. The upper age limit for the youth system is 17 at the time of the offence in all states and territories except Queensland. In Queensland, the age limit was 16 until February 2018, at which point legislation to increase Queensland's age limit to 17 was enacted. Young people aged 18 and over are also involved in the youth justice system when:

- the young person committed the offence when aged 17 or under
- supervision is continued once the young person turns 18
- the young person is particularly vulnerable or immature.
- in Victoria, some people aged 18–20 may be sentenced to detention in a youth facility under the 'dual track' sentencing system, to prevent young people from entering the adult prison system.<sup>99</sup>

#### New Zealand

In New Zealand, children and young people are deemed to be criminally responsible from age 10. However, children under the age of 14 can only be prosecuted for murder and manslaughter.<sup>100</sup> Recent amendments to youth justice legislation mean that 17-year-olds will be tried in the youth jurisdiction from 1 July 2019. From this time, serious charges will remain in the adult jurisdiction.<sup>101</sup>

### Detention rates for adult justice

#### Australia

Adult detention rate: 221 per 100,000 of the total population

#### New Zealand

Adult detention rate: 220 per 100,000 of the total population

There are no comparable youth detention rates between Australia and New Zealand.

### Recidivism after adult imprisonment

#### Australia

45.6 per cent of adults released from prison returned to prison with a new sentence within two years in 2017–18.<sup>102</sup>

#### New Zealand

42 per cent are re-imprisoned after 2 years following release from prison.<sup>103</sup>

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