



# People Against Prisons Aotearoa

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## Submission to the Justice Committee on the Parole (Mandatory Completion of Rehabilitative Programmes) Amendment Bill.

People Against Prisons Aotearoa (PAPA) is a prison abolitionist organisation working for a fairer, safer, and more just Aotearoa. Established in 2015, PAPA advocates for people in prison to ensure their human rights are met. We also push for changes to the Aotearoa New Zealand criminal justice system to create more just outcomes.

PAPA is submitting against the Parole (Mandatory Completion of Rehabilitative Programmes) Amendment Bill in its entirety. This submission was prepared on behalf of People Against Prisons Aotearoa by Tom and Laura.

The reasons for our opposition to this Bill are:

- It will unilaterally and unjustly deny parole to the large number of people currently in prison who have not had access to skills and rehabilitation programmes;
- It will be ineffective at increasing the uptake of skills and rehabilitation programmes, while actively undermining the effectiveness of those programs for people currently participating;
- It removes decision making from the Parole Board, who already take into consideration completion of rehabilitation programmes and who are well placed to judge a person's risk to the community;
- It impacts disproportionately on Māori and is inconsistent with *Te Tiriti o Waitangi*.

Our submission will discuss these in greater detail below. We strongly urge that the committee not recommend this Bill any further, and that the government pursue the alternatives discussed in this submission.

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## ***Unilateral denial of parole***

Access to skills and rehabilitation programmes in prisons is significantly restricted. PAPA has been contacted by many people in prison who are not having their case management plans met, have had programmes delayed or cancelled, or who do not have access to programmes in the first place. In most cases these already result in delays to parole eligibility.

**In 2021, nearly 70% of the people in prison had not even started a skills or rehabilitation programme when they were first eligible for parole.**<sup>1</sup> In one recent study, participants reported waiting as long as eight years for their first skills and rehabilitation programme.<sup>2</sup> The reasons for people not being given access to programmes are varied.

Often, case managers do not enrol people in skills or rehabilitation programmes until after their first parole hearing. The stated reason is to allow the Parole Board to provide input and guidance on appropriate programmes.

Because of the severely limited spots in skills and rehabilitation programmes, Corrections prioritises the waitlist by release date. This means that people serving longer sentences are repeatedly pushed down the waitlist and therefore repeatedly can be denied parole for reasons completely beyond their control. **This is an extremely frustrating and demotivating experience that stands in direct opposition to the goals of rehabilitation.**

It also is clear that resourcing is an issue for Corrections in terms of its ability to deliver skills and rehabilitation services. With ongoing serious staff shortages, the government's plans to increase the prison population, and proposed cuts across the public sector, these resourcing issues will continue or worsen.<sup>3</sup>

Other reasons that Corrections is unable to provide programmes include practical difficulties created by security and segregation requirements, a lack of volunteers to run programmes, the lack of specialist units in some facilities (e.g. drug treatment units and tikanga Māori programmes), and a lack of specialist healthcare providers needed for some rehabilitation programmes, especially psychologists.<sup>4</sup> We have also received reports of volunteers walking away from programmes out of frustration at blocks put up by Corrections.

**The Bill will therefore unilaterally deny parole to many people who have never been offered the programmes it requires them to complete.**

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<sup>1</sup> Charlotte Cook, "Parole Board says prisoners waiting for rehab, psych help", RNZ, 21 August, 2021, <https://www.rnz.co.nz/news/national/448927/parole-board-says-prisoners-waiting-for-rehab-psych-help>.

<sup>2</sup> Laura Johnstone and Jarrod Gilbert, "The Experiences of the Managed: Case management in the Aotearoa New Zealand prison system", *Policy Quarterly* 19, 4 (2023): 34-45, <https://ojs.victoria.ac.nz/pq/article/view/8653/7703>.

<sup>3</sup> Laura Johnstone, "Changes to NZ's parole laws to improve rehabilitation could lead to even longer prison times", *The Conversation*, 7 March, 2024, <https://theconversation.com/changes-to-nzs-parole-laws-to-improve-rehabilitation-could-lead-to-even-longer-prison-times-224846>.

<sup>4</sup> Cook, "Parole Board says prisoners waiting for rehab";  
Conor Whitten, "Prison watchdog blasts Corrections over lack of access to rehabilitation", *Newshub*, 27 November, 2021, <https://www.newshub.co.nz/home/shows/2021/11/prison-watchdog-blasts-corrections-over-lack-of-access-to-rehabilitation.html>.

By denying more people parole, this Bill will increase the prison population. This exacerbates the problems discussed thus far, putting greater strain on Corrections' resources and thereby further limiting its ability to provide programmes.

Pressure to increase access to skills and rehabilitation programmes in an environment of severely limited resources also creates a perverse incentive for Corrections to provide more low quality, ineffective programmes for the sake of meeting quotas. This would deny incarcerated people access to the tools they need to improve and lead to higher rates of recidivism.

Ultimately the issues discussed above can be reduced to a matter of resourcing; sufficient resourcing can and would overcome them. Corrections' ongoing failure to make skills and rehabilitation programmes more widely available, and successive governments' unwillingness to fund the same, is a moral failure.

However the primary barrier to rehabilitation is the prison system itself, a point we return to in greater detail below. Rather than proceeding with this Bill, or increasing Corrections' budget and resourcing to address the issues discussed above, we recommend that this Bill be thrown out and more resources be spent on decarceration and community-based service provision.

### ***Ineffective and detrimental***

In addition to the problems discussed so far, this Bill is redundant. The New Zealand Parole Board already considers completion of skills and rehabilitation programmes in its decision to grant parole. **The Bill therefore does not create any additional incentives for people in prison** to begin a programme, and will be ineffective at increasing the uptake of programmes.

Instead, this Bill would limit the Parole Board's ability to make effective and fair decisions. The Bill puts the Parole Board in conflict with its governing legislation that specifies it make decisions on the basis that prisoners are not held for longer than is necessary for community safety.

There are a variety of reasons why people are unwilling or unable to take skills and rehabilitation programmes, often unrelated to the risk they pose to the community. For example, many people in prison have low levels of literacy, which is a barrier to their participation in programmes. Others have health or disability issues that create barriers. These can be points of shame for people, who may feel too embarrassed to ask for help or to risk being put in a programme they are unable to complete. **The Parole Board needs to be able to consider factors like this in their decisions.**

Other people in prison are simply not ready to begin the process of rehabilitation. By attempting to coerce people into rehabilitation, this Bill fundamentally misunderstands the rehabilitation process. **People cannot be forced to rehabilitate or learn.**

Rehabilitation begins with personal motivation, a desire to change, and a belief that change is possible. Given the already-limited access to rehabilitation programmes, it does more harm than good to have spaces taken up by people who are not ready.

And despite some very dedicated volunteers doing their best to help people in prison, prison rehabilitation programmes are largely ineffective.

Many programmes are simply checkbox exercises. In many, participants are simply given a workbook that they have to complete, and are coached into answering the questions correctly so that they can receive a completion certificate. This does nothing to equip participants to address, change or overcome the drivers of the harm that they caused.

This is a high volume, low cost, ineffective approach. It does not lead to reduced recidivism and improved community safety. It is a deeply frustrating and demotivating experience for people who have entered a programme looking for help. **We have serious concerns that this Bill will pressure Corrections to provide more ineffective, checkbox style programmes of this sort.**

There are high quality programmes available, but unfortunately even these programmes have severely limited efficacy. Corrections' research shows that the best programmes lead to only an 8% reduction in recidivism.<sup>5</sup> This is because **prisons are not effective environments for rehabilitation.**

Far from rehabilitative, prisons are sites of violence, trauma and harm where people often learn maladaptive strategies, like using violence to solve problems.<sup>6</sup> The isolation of prison harms peoples' wellbeing.<sup>7</sup> Institutionalisation diminishes peoples' ability to function effectively outside of prison and is becoming widely recognised as a form of chronic health condition.<sup>8</sup> Of greatest concern is that standard disciplinary strategies in prisons – like solitary confinement or the use of proper spray – are torture, and cause untold harm.<sup>9</sup>

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<sup>5</sup> Peter Johnston, "What works in correctional rehabilitation? Lessons from 15 years of programme outcomes analysis", *Practice: The New Zealand Corrections Journal* 5, 1 (2017): [https://www.corrections.govt.nz/resources/research/journal/volume\\_5\\_issue\\_1\\_july\\_2017/what\\_works\\_in\\_correctional\\_rehabilitation\\_lessons\\_from\\_15\\_years\\_of\\_programme\\_outcomes\\_analysis](https://www.corrections.govt.nz/resources/research/journal/volume_5_issue_1_july_2017/what_works_in_correctional_rehabilitation_lessons_from_15_years_of_programme_outcomes_analysis).

<sup>6</sup> National Health Committee, "Health in Justice: Kia Piki Te Ora, Kia Tika! – Improving the Health of Prisoners and Their Families and Whānau: He Whakapiki i Te Ora o Ngā Mauhere Me ō Rātou Whānau" (Wellington: Ministry of Health, 2010): [https://ndhadeliver.natlib.govt.nz/delivery/DeliveryManagerServlet?dps\\_pid=IE1948823](https://ndhadeliver.natlib.govt.nz/delivery/DeliveryManagerServlet?dps_pid=IE1948823).

<sup>7</sup> A. Goomany and T. Dickinson, "The Influence of Prison Climate on the Mental Health of Adult Prisoners: A Literature Review: Prison Mental Health", *Journal of Psychiatric and Mental Health Nursing* 22, no. 6 (August 2015): 413–22, <https://doi.org/10.1111/jpm.12231>;

National Health Committee, "Health in Justice: Kia Piki Te Ora, Kia Tika!".

<sup>8</sup> Johanna T. Crane & Kelsey Pascoe, "Becoming Institutionalized: Incarceration as a Chronic Health Condition", *Medical Anthropology Quarterly* 35, 3 (2020): 307-326, <https://doi.org/10.1111/maq.12621>.

<sup>9</sup> Henrik Steen Andersen et al., "A Longitudinal Study of Prisoners on Remand: Psychiatric Prevalence, Incidence and Psychopathology in Solitary vs. Non-Solitary Confinement", *Acta Psychiatrica Scandinavica* 102, no. 1 (2000): 19–25;

Bruce A. Arrigo and Jennifer Leslie Bullock, "The Psychological Effects of Solitary Confinement on Prisoners in Supermax Units: Reviewing What We Know and Recommending What Should Change", *International Journal of Offender Therapy and Comparative Criminology* 52, no. 6 (December 2008): 622–40;

Thomas B. Benjamin and Kenneth Lux, "Solitary Confinement as Psychological Punishment", *Cal. WL Rev.* 13 (1977): 265;

Stanley Brodsky and Forrest Scogin, "Inmates in Protective Custody: First Data on Emotional Effects", *Forensic Reports* 1 (1988): 267–80;

Stuart Grassian, "Psychopathological Effects of Solitary Confinement", *American Journal of Psychiatry* 140 (1983): 1450–54;

Stuart Grassian and Nancy Friedman, "Effects of Sensory Deprivation in Psychiatric Seclusion and Solitary Confinement", *International Journal of Law and Psychiatry* 8, no. 1 (1986): 49–65;

Craig Haney, "Infamous Punishment": The Psychological Consequences of Isolation", *The National Prison Project Journal* 8, no. 2 (1993): 3–7;

Craig Haney and Mona Lynch, "Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement", *NYU Rev. L. & Soc. Change* 23 (1997): 477;

A record of incarceration makes things like employment, insurance and travel much more difficult on release. People in prison are often unable to pay rent and lose their accommodation. Many face strained or broken relationships with family, friends and community.<sup>10</sup>

**Even with high quality skills and rehabilitation programmes, prison leaves most people worse off on release than when they went in.** And even when someone has made progress through a programme offered to them in prison, they are usually released back into the same context that prompted their offending in the first place.

If the government is serious about improving skills and rehabilitation, it needs to provide this in community settings. Rehabilitation is most effective within a broader programme of restorative justice that aims to (re)build relationships and address the harms caused by offending without creating further harm through incarceration.<sup>11</sup>

### ***Impact on Māori and inconsistency with Te Tiriti o Waitangi***

The Bill is inconsistent with *Te Tiriti o Waitangi*. Māori make up more than 50% of the prison population, and are also less likely to have completed skills or rehabilitation programmes.<sup>12</sup> **The overwhelming majority of people denied parole by this Bill will be Māori, and the harm caused by this Bill will be felt almost entirely by Māori communities.**

This Bill actively conflicts with the Crown's duty to protect Māori under *Te Tiriti*. The Bill is also inconsistent with the Crown's guarantee of tino rangatiratanga through *Te Tiriti*, which is denied to people in prison. More broadly the Bill is inconsistent with the principle of partnership established by *Te Tiriti*, because it makes a unilateral decision that disproportionately affects Māori.

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Richard Korn, "The Effects of Confinement in the High Security Unit at Lexington", *Social Justice* 15, no. 1(31, 1988): 8–19;

Terry A. Kupers, "What To Do With the Survivors? Coping With the Long-Term Effects of Isolated Confinement", *Criminal Justice and Behavior* 35, no. 8 (2008): 1005–16;

Holly A. Miller and Glenn R. Young, "Prison Segregation: Administrative Detention Remedy or Mental Health Problem?", *Criminal Behaviour and Mental Health* 7, no. 1 (1997): 85–94;

Peter Scharff Smith, "The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature", *Crime and Justice* 34, no. 1 (2006): 441–528;

G. D. Scott and Paul Gendreau, "Psychiatric Implications of Sensory Deprivation in a Maximum Security Prison", *Canadian Psychiatric Association Journal* 14, no. 1 (1969): 337–41;

Dorte Sestoft et al., "Impact of Solitary Confinement on Hospitalization Among Danish Prisoners in Custody", *International Journal of Law and Psychiatry* 21, no. 1 (1998): 99–108;

Peter Suedfield and Chunilal Roy, "Using Social Isolation to Change the Behaviour of Disruptive Inmates", *International Journal of Offender Therapy and Comparative Criminology* 19, no. 1 (1975): 90–99.

<sup>10</sup> Annaliese Johnston, "Beyond the Prison Gate: Reoffending and Reintegration in Aotearoa New Zealand", (Manukau: Salvation Army Social Policy and Parliamentary Unit, 2016):

<https://www.salvationarmy.org.nz/article/beyond-prison-gate>.

<sup>11</sup> Te Uepū Hāpai i te Ora, "Turuki! Turuki! Transforming Our Criminal Justice System", (Wellington: Te Uepū Hāpai i te Ora: The Safe and Effective Justice Advisory Group, 2019): <https://www.justice.govt.nz/assets/turuki-turuki.pdf>.

<sup>12</sup> Cook, "Parole Board says prisoners waiting for rehab";

Ara Poutama Aotearoa | Department of Corrections, "Prison facts and statistics - December 2023", Ara Poutama Aotearoa | Department of Corrections, 31 December, 2023:

<https://www.corrections.govt.nz/resources/statistics/quarterly-prison-statistics/prison-facts-and-statistics-december-2023>.

Once again, if the government is serious about improving skills and rehabilitation, significantly more support and funding is needed for kaupapa Māori approaches to justice that guarantee tino rangatiratanga and mana motuhake.

### ***Conclusion***

The effect of this Bill is obvious and simple: it will increase the number of people in prison, particularly Māori. This is a deeply harmful, expensive and inhumane outcome. It will not increase the uptake of skills and rehabilitation programmes, and threatens to undermine existing programmes.

We once again strongly urge that the committee not recommend this Bill any further, and that the government pursue the alternatives discussed here.