



Sentencing and Parole Reform Bill

Law and Order Select Committee

April 2009

Sentencing and Parole Reform Bill

Bob McCoskrie – National Director Family First NZ

1.1 Family First supports the intentions of the bill

- to “improve public safety through incapacitation”
- “truth in sentencing”
- ensuring that victims are not revictimised by “having to attend frequent parole hearings “
- “holding the offender accountable”
- “denouncing the conduct”
- “deterring the offender”
- “protecting the community”
- “offenders will have high incentives to take special measures to avoid conviction”

1.2 We disagree with the following statements in the Explanatory Note

- “there is a possibility that removing violent offenders from the community will reduce serious offending” – this is not a possibility, it’s a certainty
- the policy “may negatively affect public confidence” – quite the opposite
- it “will impact on Maori the most” – international research suggests that the presence of a 3 strikes policy makes no difference to the rate of criminalisation of ethnic minorities
- “long sentences without parole deprive offenders of the possibility of rehabilitation” – but they have had two chances. How many chances do families and victims have?

1.3 However, we recommend a number of amendments to the bill in order to achieve the original intent

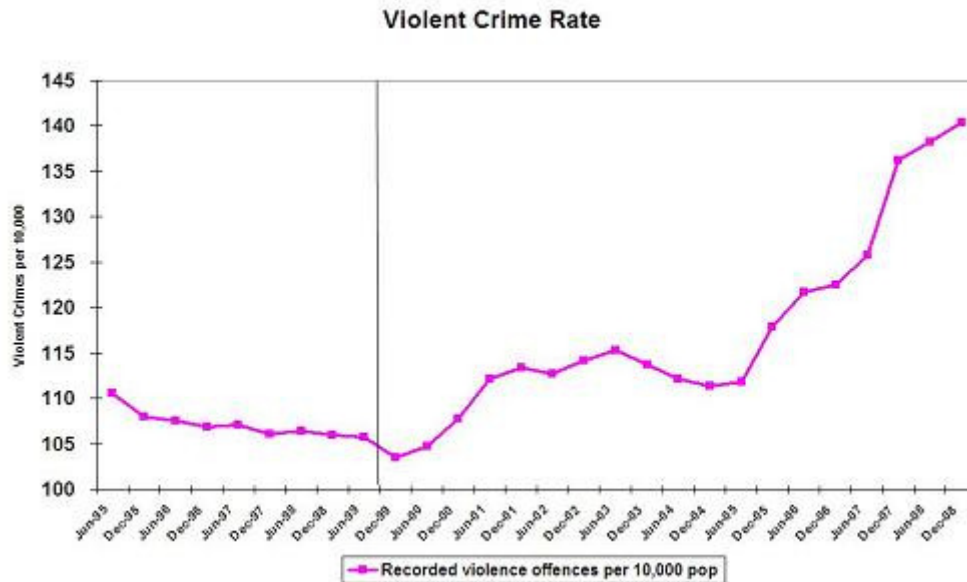
1.4 This Bill is a warning to “career criminals” to change their ways or become “career inmates”.

1.5 WE WISH TO APPEAR BEFORE THE SELECT COMMITTEE

BACKGROUND

- 1.6 We have a violent crime rate that continues to rise and to victimise more and more families

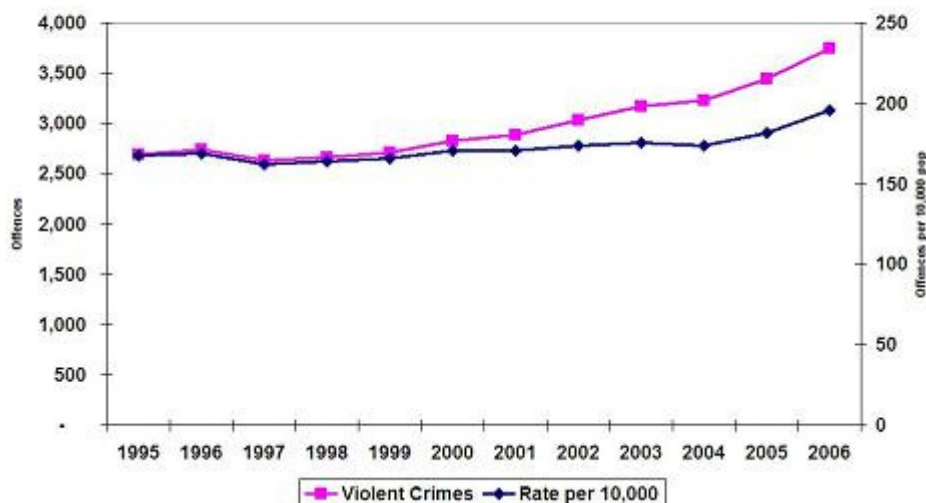
1.7



- 1.8 Vast numbers of families have been victimised by offenders who should have been in prison for previous offences. Instead, our crime prevention strategy relies on restricting the public's freedom of movement by advising them to lock themselves away behind ever more intrusive security measures, installing surveillance cameras, Neighbourhood Watch and community patrols – all while leaving potential offenders the right to roam and commit crime.
- 1.9 The increase in heavy locks and chains, metal roller blinds for windows, private security patrols, alarm systems and security lights has shown just how unsafe our community has become
- 1.10 Thousands of crimes now occur in broad daylight because offenders are unafraid of being caught, or if caught that the consequences will be minimal
- 1.11 As a child, we used to be able to play in the street, leave the front door unlocked, and walk to the nearby dairy without parental supervision.
- 1.12 It's time that we claimed back safety on our streets and in our communities. We need to take whatever action is necessary to achieve this
- 1.13 The public should be free to leave their property where they wish, free from attack and physical harm in their homes, free to walk in their community, free to open our front door to callers, and many other freedoms which have been denied to families

YOUTH OFFENDING – Potential “Career Criminals”

Violent Offence apprehensions for 14 to 16 year olds



1.14

1.15 Statistics from the Ministry of Social Development in 2007 show that apprehensions for violent offending rose by 36.4% over the previous 8 years and charges for violent offending increased by 57.6% between 2000 and 2005.

1.16 Statistics show that almost half of serious youth offenders are repeat offenders

PUBLIC HAVE LOST CONFIDENCE

1.17 Polling by Research NZ late last year showed that six out of 10 New Zealanders do not have full trust and confidence in the justice system. The poll of 500 people found 36 percent had full trust and confidence in the system while 62 percent did not.

1.18 Many also felt sentencing was not tough enough, with 75 percent believing they were too soft, 21 percent about right and just 1 percent too tough.

1.19 A social indicator report released by the Ministry of Social Development in early 2008 also shows that 40 percent of New Zealanders had a fear of crime affecting the quality of their life

1.20 The International Crime Victims Survey released in March 2008 compared rates of crime, perception of crime and attitudes towards the criminal justice system in 30 countries in 2004 and 2005. It revealed New Zealand was the third highest for conventional crime rates. It was the highest for thefts from cars, second highest for burglary, fifth highest for assaults, 10th highest for robbery and 11th highest for theft of personal property and for sexual assaults against women.

1.21 The NZ National Survey of Victims and Crime (June 2003) found

- There are 1.7 million victimisations per annum (about 30% of the population)
- 12% of those victimised experienced re-victimisations

- Only 30% of all crime is reported to Police

Note: Even with Three Strikes, some offenders will still be avoiding the consequences of 70% of their offending

PRINCIPLES TO APPLY

- 1.22** The purpose of this law would be to warn career criminals to find a new job or else they will become career inmates!
- 1.23** If a repeat offender is incapacitated, then the crime reduction will be great
- 1.24** Addressing the 'underlying causes' is relevant, but it doesn't solve the immediate problem – protecting the public from persistent offenders
- 1.25** This law should allow police, prosecutors and judges to intervene early enough to save lives instead of waiting for a violent offender to victimise another person.
- 1.26** Supporters of this bill do not want 'revenge' – they simply wish to be able to live unmolested and not in the fear of violent criminals. This is called 'justice.'
- 1.27** The consequences for persistent offending should be sufficiently severe to ensure that the benefits of the crime are outweighed by the punishment
- 1.28** Research studies conclude that chronic offenders often commit crimes at a high rate. Identifying these offenders and isolating them from the rest of society would substantially reduce crime.

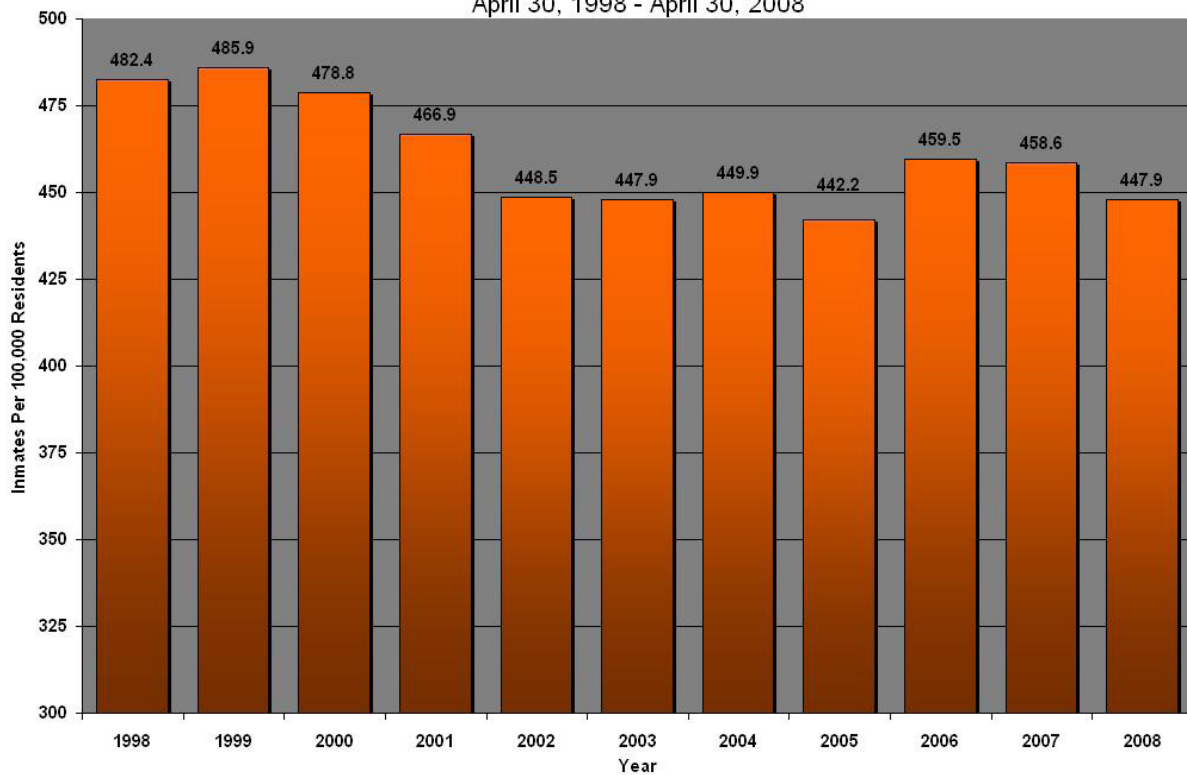
UNITED STATES THREE STRIKES

- 1.29** When the Washington Three Strikes initiative emerged in 1993 after a long period of increasing crime rates, William J Bennett, former Secretary of Education under President Reagan stated that the law was needed:
 - to help fight crime
 - to correct an overly lenient sentencing system
 - to combat the particular problem of recidivist crime
 - to help restore law and order to minority communities
 - to re-establish the moral authority of the criminal lawThe cost of each unchecked career criminal far exceeded the cost of incarceration
- 1.30** President Clinton, when encouraging Congress to vote for his crime bill in 1994 which included a Three Strikes measure said "Those who commit crimes should be punished. And those who commit repeated, violent crimes should be told, when you commit a third violent crime, you will be put away and put away for good."

- 1.31 As a result of Three Strikes being adopted in many states across the USA, FBI Crime statistics show that between 1993 and 2004, violent crime decreased by 38%, and that the 2004 national violent crime rate was at its lowest since 1973!
- 1.32 California's violent crime rate decreased by 49%. In New York, violent crime decreased by 59%.
- 1.33 A study by California's Attorney General in 1998 showed that four years after the Three Strikes was implemented, murder had decreased by 40%, rape by 17%, and assault by 19%. In the 10 years after adoption of the Three Strikes, California's crime rate fell by 45%
- 1.34 In 2008, the Pew Institute published *One in 100: Behind Bars in America 2008*, a critical evaluation of U.S. prison policy. California is on the bottom fifth of all states regarding recent growth in prison population. During the past 10 years (April 30, 1998 through April 30, 2008) California's total inmate population has grown an average of less than 1% per year, slower than the composite inmate population growth rate for the other 49 states and considerably slower than California's overall population growth. Accordingly, California has a lower prison incarceration rate in 2008 than it did in 1998.

Inmates in California Prisons per 100,000 Residents Since 1998

April 30, 1998 - April 30, 2008



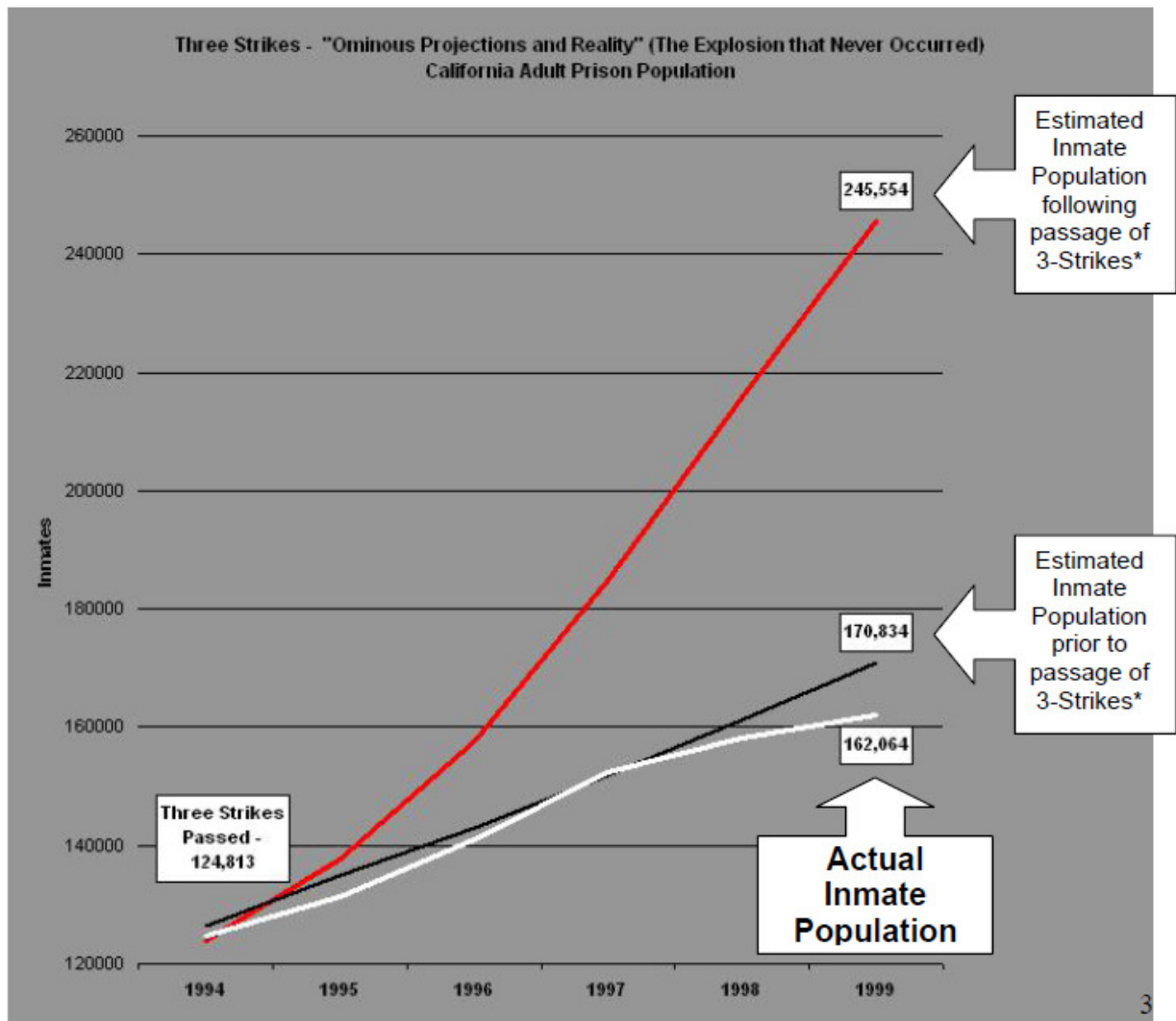
1.35

- 1.36 Although the nationwide drop in crime is not completely attributable to the Three Strikes policy (as it wasn't adopted nationwide) it still was a major contributor. We need to adopt any strategy which will help keep families safe in our community

OPPOSITION TO THE BILL

- 1.37 The anti-prison lobby says that prisons fail, but this is a myth. An offender cannot commit any more offences while incarcerated. This brings safety and assurance to families. Prisons fail when we fail to use them on offenders who simply will not change their ways
- 1.38 Opponents of tough criminal laws cannot accept that penalties deter crime, and imprisonment prevents crime.
- 1.39 Instead of viewing prison-related expenses as a taxpayer burden, these expenses are an investment in the wellbeing, welfare and safety of families. They save costs such as lost productivity, medical care, security services, property damage loss, victim support, and intangibles such as reduced quality of life, pain, suffering, and mental anguish
- 1.40 Opponents of this bill will argue that the prison population will explode, that minority groups will be overrepresented in being 'struck out', and that it will cost the taxpayer too much – but the evidence from California which has a far more restricting 3 Strikes policy shows the complete opposite

1.41



- 1.42** We have 180 prisoners for every 100,000 citizens, which puts us second among developed nations behind the US (700 per 100,000). BUT... We have 100 crimes each year for every 1000 citizens, compared to 90 in England, 24 in Spain and 20 in Ireland. As a percentage of crimes committed, we imprison very few people. We have 18 prisoners per 1000 crimes, compared to 13 in England, 33 in Ireland and 48 in Spain.
- 1.43** According to California State Senator George Runner – “Opponents of tough criminal laws ...presume that the same number of people will commit a crime whether the penalty is 5 years, 10 years, or 20 years. They are wrong. Since 1999, certain offenses with low penalties like vehicle theft have surged while the number of residential burglaries, which constitute ‘strikes’, have remained lower.”

QUALIFYING SENTENCE

- 1.44** Family First rejects the definition of a qualifying sentence as being a prison sentence of 5 years or more. This simply allows activist judges, plea bargaining and light sentences to undermine the intent of the law.
- 1.45** For example, Ministry of Justice figures show that for indecent assault on an adult – a crime that carries a maximum penalty of seven years – the median custodial sentence over the previous five years was only 12 months!
- 1.46** For a crime of indecencies with a child or young person – a crime which carries a maximum penalty of 14 years and 10 years respectively – the median custodial sentence was 18 months and 13 months respectively!
- 1.47** Under the current definition, these hideous crimes would not even qualify for a strike!! Bring on more victims.

AMENDMENTS

Family First NZ requests the following amendments to the bill.

- 1.48** A ‘**qualifying offence**’ should be any offence which has a violent component or intent, and carries any term of imprisonment
- 1.49** The **manufacture and/or sale of ‘P’** (methamphetamine) should be included as a qualifying offence
- 1.50** **Previous violent offences.** Three or less violent offences within the past 10 years would count as one strike. Four or more violent offences within the past 10 years would count as two strikes. Recidivist violent offenders should not be given a clean slate. Families must be protected.
- 1.51** The **age limitation** should be removed. If we allow a young person to become a career criminal at an early age, we simply victimise both the young person and families in our community. They have 3 chances to correct their behaviour.
- 1.52** **Discretion Clause for 3rd Strike** – we would recommend a discretion clause for the third strike to avoid manifestly unfair sentences and therefore undermining the furtherance of justice. When this occurs, a third striker would be sentenced as a second striker, but with a doubling of the standard sentence and without parole. (A 1998 survey of California District Attorneys revealed that prosecutions in urban jurisdictions used discretion in approximately 20-40% of eligible cases)
- 1.53** **This proposed bill with the amendments above will mean that we will begin the process of putting families first.**

Bob McCoskrie

National Director – Family First NZ

P.O.Box 276-133, Manukau City 2241

09 261 2426 (w) 09 261 2520 (f) 027 55 555 42 (m)

bob@familyfirst.org.nz