

## Sentencing reform in New Zealand: a proposal to establish a sentencing council

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### Introduction

In February 2006 the New Zealand Law Commission was asked by the government to consider whether improvements could be made to New Zealand's sentencing and parole structures. More specifically, we were asked to consider whether New Zealand should establish a Sentencing Council to give more guidance to judges as to the appropriate quantum of punishment, and whether there should be changes to parole to ensure a closer relationship between the length of the prison sentence imposed by the court and the time that a prisoner actually serves.

This work was conducted within the context of a broader government project to examine ways in which responses to crime by the criminal justice system might be made more effective. This broader project included an examination of the structure and implementation of community-based sentences; issues relating to bail and custodial remand; options for more effective crime prevention programs; and options for expanding the array of rehabilitative and reintegrative programs for offenders.

The Commission's Report *Sentencing Guidelines and Parole Reform* was published in August 2006 and recommended the establishment of a Sentencing Council to draft sentencing guidelines (New Zealand Law Commission, 2006). It also recommended that prisoners should serve at least two-thirds of their sentence before being eligible for parole.

The government announced at the time of the Commission's report that it accepted the recommendations in their entirety and would introduce legislation to give effect to them. That was an unusual experience for the Law Commission, whose reports have often languished for months or years before they receive government attention. The legislation, which includes a number of significant changes to the structure and hierarchy of community-based sentences, was introduced into Parliament in the form of the Criminal Justice Reform Bill in November 2006, and in July 2007 was enacted as the *Sentencing Council Act 2007* and the *Sentencing Amendment Act 2007*.

This chapter outlines the background to the Commission's recommendations and the context within which they were developed; the problems that the Commission perceives with the current sentencing regime; the nature of the Commission's reforms; and the reasons why the Commission believes that they will address those problems.

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years dogged public sentencing debates that are conducted in a vacuum, without a structure to allow all relevant considerations to be aired.

The referendum and its aftermath, however, did perform one invaluable function: nothing could have better illustrated the need for a different forum and method of conducting and giving effect to the debate about sentencing levels. The Sentencing Council will meet that need.

### **References**

- Ashworth, A (2005). *Sentencing and Criminal Justice*. 4th ed, Cambridge: Cambridge University Press.
- New Zealand Law Commission (2006). *Sentencing Guidelines and Parole Reform Report 94*. Wellington, New Zealand.
- Taylor Duignan Barry (2006). *Variations in District Court Sentencing: Regional Analysis*. Unpublished Report, <[www.lawcom.govt.nz](http://www.lawcom.govt.nz)>.