



Crowded House: the New Zealand prisons dilemma (A)

November 2008: New Zealand's Department of Corrections presented its first briefing to new minister Judith Collins in the wake of the recent election which had brought the National Party led by John Key to power as part of a coalition with minor parties. The biggest challenges outlined by the Department were marked growth in the number of offenders serving community-based sentences and an increasingly stretched prison system. According to projections, current prison capacity was likely to be fully utilised by 2010. Unless adequately addressed, Corrections warned that there could be considerable ramifications for offenders, staff and the community at large.

During the campaign, the National Party promised "tough-on-crime" reforms such as stricter bail laws, no parole for violent repeat offenders, harsher sentences for child abuse and gang-related offences, plus a review of home detention in sex, drugs and violence cases (*Exhibit A*). The new government had also pledged a crackdown on state services spending, specifically public administration, stating that: "We will tell government departments we will not consider any 'budget bids' for new funding. Additional public services will need to be funded by back-office savings."¹ An economy in recession and lingering uncertainty after the 2008 global economic crisis led Treasury to recommend public sector restraint as well, but it did suggest moderate growth in areas such as health and justice.²

Inside the Department of Corrections

The Department of Corrections was established in 1995, in a restructuring which replaced the Department of Justice with the smaller, policy-focussed Ministry of Justice.³ In 2008, the core agencies comprising New Zealand's justice sector were the Ministry of Justice; New

This case was written by Marinella Padula, Australia and New Zealand School of Government for Professor John Alford as a basis for class discussion rather than to illustrate either effective or ineffective handling of a managerial situation.

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¹ 'Better spending, better services.' National Party State Services Policy, 16 October 2008, p.3.

² 'Briefing for the incoming Minister of Finance' Treasury Department, November 2008, p.3.

³ A Department of Courts was also established in 1995, but returned to the Ministry of Justice in October 2003.

Zealand Police; Department of Corrections; the Ministry of Social Development (responsible for youth justice); the Crown Law Office and the Serious Fraud Office.

Corrections' role was to administer the sentences and orders of the criminal courts which, on any given day in 2007-2008, involved the management of almost 35,000 offenders serving 40,000 community sentences and orders, and around 8000 prisoners. In addition, Corrections provided information and support to the courts and the parole board to assist with sentencing and parole decisions. The Department's aim was to contribute to the overall Justice Sector outcome of a "Safe and Just Society" through "upholding the integrity of sentences and orders", "reducing re-offending", and managing offenders "safely and humanely".⁴ Corrections' priorities and challenges were outlined in its 2008-2013 Strategic Business Plan released mid-2008 (*Exhibit B*). Estimated expenditure for 2008/09 was \$965 million⁵ with 70.7 percent allocated to prison-based services; 12.9 percent earmarked for the administration of community-based sentences and orders; and 10.4 percent directed towards rehabilitation and reintegrative services. The remainder (6 percent) was to be spent on court and parole support services as well as the provision of policy advice.⁶

Over the past decade, the prison population had grown by 50 percent. A citizen-initiated referendum, conducted with the election that brought a Labour-led government to power in 1999, had indicated widespread support for reform of the justice system and a tougher approach to crime. In response, the government made legislative amendments including a new Corrections Act 2004, and Sentencing Amendment Act 2007. From 2005, sworn police numbers were increased by 1000, or more than 10 percent.

Through the \$890 million Regional Prisons Development Project, four new prisons had been built, providing 1600 additional beds. The Department now managed 20 prisons across the country (17 men's; 3 women's). Annually, the New Zealand prison system processed some 21,000 people, approximately 20 percent of them remand prisoners. The majority of custodial sentences were under 12 months and the average period spent on remand was 60 days. It cost, on average, in excess of \$90,000 per year to keep an offender in prison. By comparison, home detention cost \$25,000, whilst an average community work order cost the Department \$2000.⁷

On 1 October 2007, a new range of community-based sentences, designed to ease the pressure on rapidly-filling prisons, came into force. The suite of sentences was a centrepiece of "Effective Interventions" approved by the then government to reduce the use of imprisonment by: "Tilting the balance earlier to prevent crime; using alternatives to prison where this is appropriate, and adopting smarter uses of prison resources."⁸

During 2007-2008, Corrections managed 85,000 non-custodial sentences and orders (more than half of them new). The hierarchy of *community sentences* now included home detention, as a sentence in its own right and ranking next to imprisonment, community detention (with electronically monitored curfew), community-based supervision and community work. *Community orders* included parole and residential orders. The Department also produced over 40,000 judicial and parole reports annually and more than 70,000 hours of staff support.⁹

⁴ 'Briefing for the incoming Minister' Department of Corrections, November 2008 (Briefing 2008).

⁵ All figures in New Zealand dollars.

⁶ *ibid*, p.9

⁷ *ibid*, p.9

⁸ Reference – several places

⁹ *ibid*, pp.7-8.

Corrections was amongst the country's larger government departments, employing in excess of 7,000 full-time equivalent (FTE) staff working from 180 different locations across New Zealand. More than half of Corrections staff worked in prison services (*Exhibit A*). It was also one of the most ethnically diverse departments – just over 30 percent of employees were Māori or Pacific people,¹⁰ compared to 24.5 percent in the state sector as a whole. However, more than 40 percent of prison guards and probation officers had less than two years of experience in Corrections¹¹ – a situation of growing concern.

Offender statistics

Although its prison system compared favourably with other jurisdictions on many fronts, New Zealand had one of highest incarceration rates in the western world at 190 prisoners per 100,000 people (exceeded only by the USA with 800).¹² It was substantially higher than in Australia (126) while the rate in many European states was below 100. Around 50 percent of the prison population were Māori and had been for the past two decades.¹³ Māori were proportionally overrepresented at all stages of the criminal justice process and were more likely to receive custodial sentences upon conviction than non-Māori offenders. They were also less likely to receive cautions, warnings or diversions from the courts. Pacific peoples were also over-represented in the justice system.

Despite a substantial expansion of rehabilitation facilities (to 500 beds per annum) addiction and substance abuse were still pernicious problems: up to 90 percent of prisoners had a history of drug and alcohol problems. Similarly, one-fifth of prisoners required some form of mental health care at any given time¹⁴ and as many as 90 percent of prisoners had numeracy or literacy issues.¹⁵ Meanwhile, 37 percent of prisoners were gang members or had gang affiliations.¹⁶ Although rates were comparable with similar countries, recidivism was a major concern. Approximately 68 percent of inmates committed further offences and returned to a correctional facility within four years of release (74 percent amongst Māori offenders).¹⁷ One of the Corrections' core goals was to reduce re-offending amongst this group, summed up in the statement: "to succeed, we must succeed for Māori".¹⁸ Prisoners with the best prospects for rehabilitation were those motivated to change who had strong family/social support and access to work upon release. Corrections had approached other government departments and justice sector agencies, as well as community organisations to look at ways of bolstering re-integration efforts (*Exhibit D*).

Recent developments

The new community-based sentences introduced in October 2007 were designed to give judges a wider range of sentencing options, chiefly as alternatives to incarceration. While these reforms reduced the number of prison sentences by an estimated 700 during the first year of implementation, the judiciary embraced the sentences much more enthusiastically

¹⁰ Compared to 24.5% in the public sector as a whole: State Services Commission, Human Resource Capability Survey of Public Service Departments, As at 30 June 2008, p.16, available at www.ssc.govt.nz/hrd-survey-2008.

¹¹ *ibid*, p. 21

¹² Briefing 2008, p x

¹³ *ibid*, p.27

¹⁴ *ibid*, p.25.

¹⁵ *ibid*, p.18.

¹⁶ *ibid*, p.14.

¹⁷ *ibid*, p.16.

¹⁸ *ibid*, p.11.

than predicted.¹⁹ The consequence of this was additional pressure on Community Probation and Psychological Services which was struggling to cope with more offenders than it could comfortably manage, and more complex administrative requirements. The Corrections briefing expressed concern that service standards were slipping and likely to deteriorate further with implications both for prisoners and public safety. Relatedly, offenders who would otherwise be in jail but were now serving community sentences presented probation staff with a more difficult management challenge. Corrections called for an additional 267 staff in this area to deal with the increased workload, as well as extra funds to meet the costs of electronic monitoring services.

Despite the reduction in custodial sentences and the fact that four new prisons had already been opened within the past five years, the Corrections briefing still warned of an imminent shortage of prison beds (*Exhibit E*). Total capacity stood at 8,500 (not including emergency facilities) but forecasts based on existing policy settings suggested that 10,700 would be required by 2016.²⁰ Increasing capacity would also necessitate substantial numbers of new staff. Another issue was that as more offenders received community sentences, the general prison population would, over time, become increasingly skewed towards high-risk, high-need inmates. This would have consequences for staff, programs and infrastructure. But more troubling was the prediction that capacity would be exceeded as early as mid-2010.

One driving factor was an increase in serious drug offences and more vigorous pursuit of family violence cases. However, much of the growth in offender numbers was attributed to higher police officer numbers, increased crime resolution rates, greater use of remand custody, longer sentences, and tightening of parole release decisions.²¹ But, noted the briefing, Corrections faced a major constraint in increasing capacity:

“Aggravating these pressures is the fact that a significant proportion of the prison estate is approaching, or has already reached, the point of obsolescence. Some facilities can no longer be regarded as fit for purpose, with some being at risk of non-compliance with relevant building standards. The refurbishment of some of those units is not economical. Deterioration of obsolete or near-obsolete capacity may be slow, but risks increase as replacement is delayed.”²²

The challenge ahead

Corrections Association (trade union) President Beven Hanlon did not mince words about the seriousness of the situation: “We’ve been saying our prisons are on teetering point for some time. It’s only on goodwill and the excellent staff that we haven’t fallen to bits.”²³ The Corrections briefing wasn’t quite so blunt but nonetheless stated that:

“Expansion of the prison estate on the scale suggested by the forecast is a daunting prospect for all stakeholders. The fiscal consequences are very significant, and recruitment and other issues raise major practical concerns in the short term, as well as longer term questions about the feasible upper limit on the size of our Corrections system. Avoiding such expansion will require bold policy or strategy changes. Initiatives are being developed across the justice and social sectors to address crime and the effects of crime. However, crime reduction strategies

¹⁹ *ibid*, p.21.

²⁰ *ibid*, p.22.

²¹ *ibid*, p.11.

²² *ibid*, p.22

²³ Watt, E. ‘Call for urgent action on jails’ *The Dominion Post*, 17 December 2008.

typically have impacts in the medium- to long-term. Other potential responses to the problem of muster growth carry significant risks, both social and political.”²⁴

In New Zealand, government departments were expected to follow the edicts of their ministers as closely as possible, yet at the same time maintain independence and political neutrality. Corrections was fast running out of time to address the prison capacity problem, in particular, and new National Government policies were likely to put the prison system under further pressure.

²⁴ *ibid*, p.24.

Exhibit A: National Party Policy - 2008 Justice: Sentencing, Parole and Bail

PUTTING PUBLIC SAFETY FIRST

National believes that policy on sentencing, parole and bail should be driven by one primary concern above all others: the need to put public safety first. Sadly, public safety has not been at the forefront of decision-making in recent years.

Labour has allowed dangerous offenders to be paroled without adequate monitoring, and has relaxed sentencing and bail laws in an effort to reduce the prison population.

National will put public safety first, and keep those who are a risk to the community out of the community.

Our Sentencing, Parole, and Bail policy will provide appropriate consequences for offenders and – ultimately – help New Zealanders feel safer in their homes, their streets, and their neighbourhoods.

OUR PRINCIPLES

- Tough on crime.
- Putting victims at the heart of our justice system.

NATIONAL'S PLAN

1. Longer Sentences for Violent Crimes Against Children

- Increase penalties handed down for causing the death of a child where there is a clear history of abuse or neglect.
- Direct the courts to take into account the fact that the victim is a child when sentencing.
- Increase sentences for failure to provide the necessities of life, child cruelty/wilful ill-treatment of a child, assault on a child, and wilful neglect.

2. Life Without Parole for the Worst Murderers

Give the courts the option of sentencing the worst murderers to life without the possibility of parole.

This supplements our policy of No Parole for the Worst Repeat Violent Offenders.

3. Re-Assessing Eligibility for Home Detention

Re-assess the appropriateness of home detention as a sentence for violent, sex, and drug offenders.

4. Improving Checks and Balances for Parole

- Deny parole to the worst repeat violent offenders.
- Require prison managers to participate in parole hearings to ensure that the board hears all relevant information about the prisoner's behaviour during their time in custody.
- Require police and Probation Service staff to meet on a regular basis to share information about parolees.

- Maintain and, if necessary, enhance the rights of victims to be heard before the Parole Board.

5. Making Bail More Effective

- Reverse recent law changes that make it easier to get bail.
- Ensure that bail is not granted in return for information.
- Review the Bail Act to improve compliance with bail conditions.

6. Unclogging District Courts

Increase the jurisdiction of the Disputes Tribunal to reduce pressure on district courts.

Source: National Party Website, <http://national.org.nz> Accessed January, 2009.

Exhibit B: Department objectives

Department of Corrections and Justice Sector Outcomes

A SAFE AND JUST SOCIETY									
JUSTICE SECTOR END OUTCOMES									
Safer communities					Civil and democratic rights and obligations enjoyed				
JUSTICE SECTOR INTERMEDIATE OUTCOMES									
Impact of crime reduced	Crime reduced			Offenders' held to account			Trusted justice system		
CORRECTIONS END OUTCOMES									
Victims of crime are supported	Re-offending is reduced			Sentence options are used effectively	Compliance with sentences and orders is ensured			Offenders' are managed safely and humanely	
CORRECTIONS INTERMEDIATE OUTCOMES									
Eligible victims are notified	Offenders' acquire employment-relevant skills and qualifications	Offenders' rehabilitation needs are addressed	Offenders' re-integrative needs are addressed	Judiciary and NZPB make informed decisions	Offenders complete the correct imposed sentence and order	Offenders comply with specific restrictions and requirements of the custody regime, sentence and order	Offenders are not harmed	Offenders are treated fairly	Offenders' legitimate health, physical, cultural, spiritual and social needs are met

The Department is developing an initial set of indicators for each end outcome to measure the impact its work has for New Zealand. These indicators will help the Department determine whether its efforts are successful, and to change what it does to better achieve its outcomes. These initial indicators are listed under each outcome in the following Operating Intentions section. The development of a more comprehensive set of indicators will continue over the next financial year.

Source: 'Statement of Intent: 1 July 2008 - 30 June 2009' Department of Corrections, p.10.

Exhibit C: Department of Corrections Overview

<p>Barry Matthews, Chief Executive</p>	
<p>Prison Services (PS)</p> <p>Harry Hawthorn: General Manager</p> <p>Total FTE staff (approx): 4070</p> <p>Responsibility for the safe and humane containment, rehabilitation, re-integration, and health of prisoners. Prison Services is also responsible for escorts and Court services.</p>	<p>Community Probation & Psychological Services (CPPS)</p> <p>Katrina Casey: General Manager</p> <p>Total FTE staff (approx): 1645</p> <p>Responsible for the management of community sentences and orders, the provision of psychological services, the design and delivery of rehabilitative programmes, and reports for Judges and the New Zealand Parole Board.</p>
<p>Rehabilitation Group (RG)</p> <p>Phil McCarthy: General Manager</p> <p>Total staff (approx): 370</p> <p>Overall responsibility for ensuring rehabilitation and reintegration is co-ordinated and integrated. Also has direct responsibility for managing Corrections Inmate Employment and the Māori Services team. Also has responsibility for Memoranda of Understanding with partner agencies.</p>	<p>Organisational Development (OD)</p> <p>Vince Arbuckle: General Manager</p> <p>Total staff (approx): 235</p> <p>Responsible for providing organisational development and human resource advice and services to the Department including human resources strategy/policy/support and information systems, industrial relations, employment law, capability building, and payroll.</p>
<p>Office of the Chief Executive (OCE)</p> <p>Mike Martelli: General Manager</p> <p>Total staff (approx): 60</p> <p>Manages key functions on behalf of the Chief Executive including Internal Audit, the Inspectorate, the Professional Standards Unit, Communications, (external communications, publications), Ministerial Services, and Legal Services (except HR legal advice for which OD has responsibility).</p>	<p>Systems and Infrastructure (SI)</p> <p>Bob Calland: General Manager</p> <p>Total staff (approx): 320</p> <p>Manages Information Technology, facilities management, office services, business continuity planning, emergency planning, Parole Board administrative support and victim support services.</p>
<p>Business Information and Planning (BIP)</p> <p>John Bole: General Manager</p> <p>Total staff (approx): 255</p> <p>Responsible for providing business information and planning advice and service to the Department: this includes finance, procurement, related transaction processing, planning, management reporting and monitoring, and external reporting to Parliament.</p>	<p>Policy, Strategy and Research (PSR)</p> <p>Jane von Dadelszen: General Manager</p> <p>Total staff (approx): 30</p> <p>Responsible for strategies and policy initiatives, and legislation, from a "whole of justice sector" perspective, to guide the development of the Department's operational policies and practices, and its overall direction and priorities. Provides specialist advice and support on policy and initiatives for Māori and Pacific offenders, and research and evaluation projects to improve effectiveness of offender services.</p>

Source: Adapted from 'Briefing for the incoming Minister' Department of Corrections, November 2008.

Exhibit D: Department of Corrections Statement of Intent: Strengthening Partnerships

The Department of Corrections cannot achieve its outcomes on its own. Strong partnerships improve:

- outcomes for offenders – both reduced re-offending and enhanced sentence and order compliance
- innovation based on a range of perspectives
- access to expertise from outside the Department
- services that reduce re-offending across the community, not only within the Departmental environment
- implementation of services in specific cultural, geographical and social situations.

The Department works with many other organisations to deliver programmes, activities and services to offenders. These organisations include public sector agencies, non-government organisations, training and educational organisations, community groups and volunteers. It is also reliant on employers providing work opportunities for offenders to gain on-the-job skills and experience.

Every day the Department works with partners in the community. Significant relationships with iwi and specialist Māori service providers have been established in many regions, along with increasing recognition of the value of the Department's long standing relationships with volunteer based groups such as the NZ Prisoners' Aid and Rehabilitation, Prison Chaplains and Prison Fellowship NZ. Many groups benefit from the community work that offenders do. Over 3,000 volunteers work each year with offenders. Employers benefit from prisoners working in their business. Many rehabilitative services are delivered by partner organisations. The fact is that partnership is an integral element of how the Department achieves its outcomes.

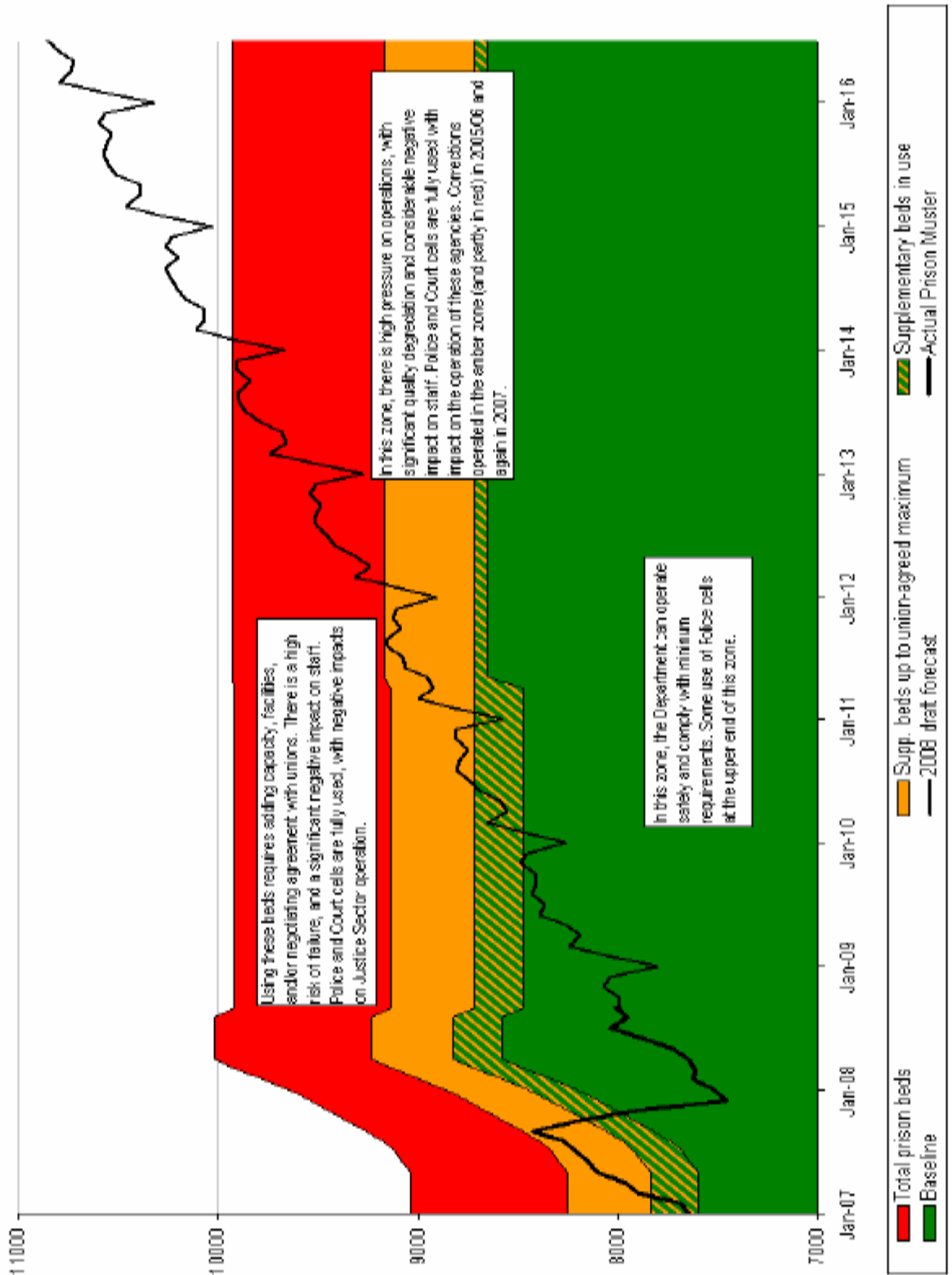
The Chief Executive has a Māori Advisory Group and a Pacific Advisory Group to guide policy and operational decisions on how the Department can be more effective for Māori and Pacific peoples. The Department works closely with local iwi to ensure that its services are delivered in ways that work best for Māori. The Department runs specialist programmes and units focusing on the unique needs of Māori and Pacific offenders.

Partnership and collaboration have been strengthening across the justice sector. Joint solutions are being implemented to tackle persistent justice sector issues. Effective Interventions is an example of a justice sector approach being tackled to reduce offending and, in turn, the growth in the prison population. Strong partnerships have been built with the health sector. These partnerships are particularly important given the special health needs of the offender population, and the links that issues such as mental health and drug and alcohol abuse have to offending behaviour.

The Department will seek to improve its responsiveness to the Government's community partnerships policy. Currently the Department is working to implement a revised approach to developing relationships and managing contracts with partner non-government organisations. It is working on improving national level partnerships which support the work of front-line staff. As part of this, a stock-take of partnerships and relationships across the Department will be undertaken to understand clearly who its partners are, and how its relationship with them can be enhanced.

Source: 'Statement of Intent: 1 July 2008 - 30 June 2009' Department of Corrections, p.34.

Exhibit E: Prison capacity and the 2008-2016 prisoner forecast



Source: 'Briefing for the incoming Minister' Department of Corrections, November 2008, p.23.