

**Hapori whānui me te tāngata mōrea nui:
he arotake o te mauhere ārai hē
me ngā ōta nō muri whakawhiu**



**Public safety and serious offenders:
a review of preventive detention
and post-sentence orders**

Published: June 2023

Before you start



Easy Read is a way of making information accessible for people with learning disability.



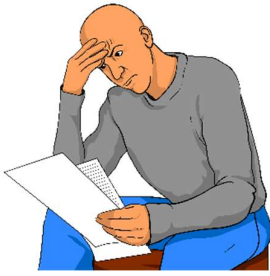
Easy Read explains information using:

- plain language
- images



This Easy Read translation:

- is not a legal document
- does not include everything that is in the full document.



Some of the information may upset people when they are reading it.



If you are upset after reading this document you can talk to your:

- whānau / family
- friends.



You can also contact Need to Talk? by:

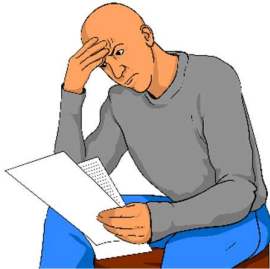
- **calling: 1737**
- **texting: 1737**



It does not cost any money to call / text 1737.



This is a long document.



It can be hard for some people to read a document this long.



Some things you can do to make it easier are:

- read it a few pages at a time
- set aside some quiet time to look at it
- have someone read it with you to support you to understand it.



What is in here?



Page number:

What is this review?7



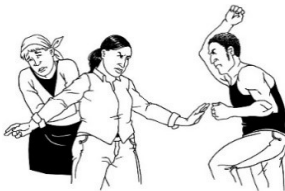
What is this review about? 11



How to tell us what you think 14



What laws are we looking at? 17



Keeping the community safe25



Should people get ESOs and PPOs
when they finish their prison
sentence?27

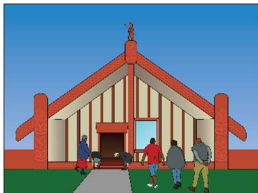
Page number:



Should people in preventive
detention have to live in
prison conditions?31



Should preventive detention
be given to younger adults?34



Tikanga Māori36



Conditions under an ESO39



Do you want to tell us
anything else?44

Page number:



What happens with the
information you send us?45



More information49

What is this review?



Te Aka Matua o te Ture / Law Commission is an organisation that:

- does **reviews** of the law
- uses what it finds out in the reviews to tell the Government how to make the law better.



A review is when we:

- look carefully at a part of the law
- talk to people who know a lot of things to do with that part of law
- ask people what they think
- write a report about what we have found out.

When we say **we** in this document we mean the Law Commission.



This document is about a review of laws about what happens to people who:

- have been sent to prison for serious **violent** or **sexual** crimes
- may be likely to do serious sexual or violent crimes again if they are let out of prison without anyone checking what they are doing.

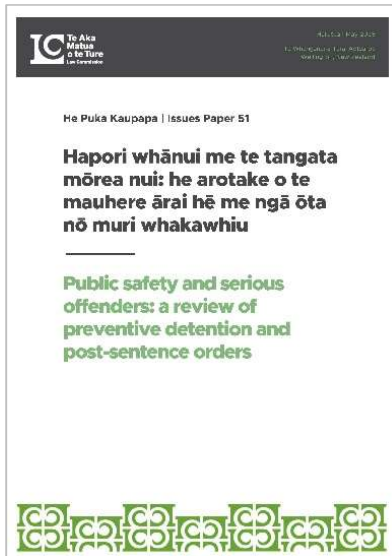


Violent crimes are when someone harms someone else in a way that damages their body.



Sexual crimes are when someone makes someone do sexual things they do not agree to.

This review is called:



Hapori whānui me te tangata

mōrea nui: he arotake o te

mauhere ārai hē me ngā ōta nō

muri whakawhiu

Public safety and serious

offenders: a review of preventive

detention and post-sentence

orders

You can find the full Issues Paper on
our **website** at:

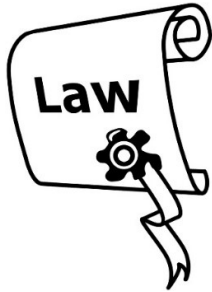


<https://www.lawcom.govt.nz/our-projects/a-review-of-preventive-detention-and-post-sentence-orders>



In this Easy Read document we have
chosen some of the important ideas
in the issues paper to ask questions
about here.

What is this review about?



Aotearoa New Zealand has laws to keep everyone safe by stopping people **reoffending**.



Offending means doing a crime.

Reoffending means doing crime again after your sentence.



A **sentence** is punishment for the crime you have done.



In this document we are talking about crimes where the sentence is going to prison.



We will explain more about which laws we are looking at in the next part of this document.



Lots of people think there should be a review of these rules.



Human rights law is very important to this review because the laws we are looking at can limit:

- rights
- freedoms.

Human rights are rights everyone has.



We have also been looking at tikanga Māori / the Māori way of doing things.



There needs to be a **balance** between making sure:

- everyone is safe from people who may reoffend
- people who have offended have their **human rights** respected.



A **balance** means both things happen the right amount.



Some people think:

- the balance at the moment is not right
- the law does not fit with tikanga Māori / the Māori way of doing things.



How to tell us what you think



We want to know what you think.

Telling us what you think is called making a submission.

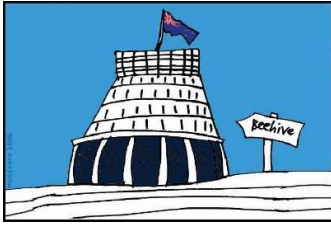


We will use the submissions we get to think of ideas for how the law can be changed.

In 2024 we will:



- tell people these ideas for changing the law
- ask people what they think about these ideas.



After that we will send a report to the Government.



The report will say how we think the law should change.



In this document there are:

- things that may be problems with the law as it is now
- 8 questions to go with these things

In your submission you can answer:

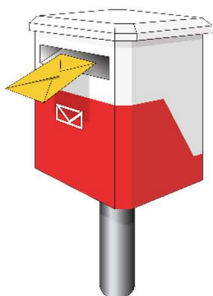
- just 1 question
- all the questions
- as many questions as you like.





You can send us your submission by
email to:

pdr@lawcom.govt.nz



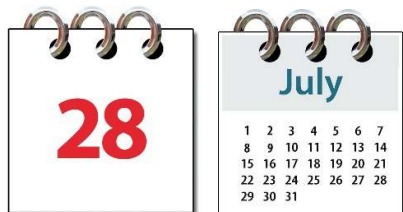
You can also send us your
submission by **post** to:

**Review of Preventive Detention
and Post-Sentence Orders**

Law Commission

PO Box 2590

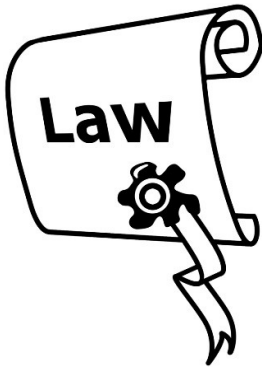
Wellington 6140



Your submission must get to us by:

Friday 28 July 2023.

What laws are we looking at?



We are looking at the laws about:

- preventive detention
- extended supervision orders
- public protection orders.

We will explain what all these things are in this part of the document.

In this document we will use **post-sentence orders** to mean both:

- extended supervision orders
- and**
- public protection orders.





Preventive detention

Preventive detention is a kind of prison sentence for serious violent / sexual offences.



A court can sentence a person to preventive detention if:

- they did a serious violent / sexual offence

and

- there is a high risk they will reoffend.



Most prison sentences are for a set amount of time.

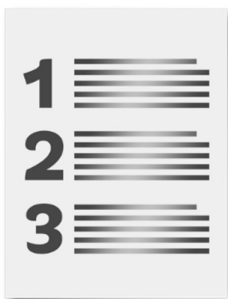


A sentence of preventive detention does not have an end date. People sentenced to preventive detention can only leave prison when the **Parole Board** says they can.



The **Parole Board** is a group of people who decides things about people who have been in prison a long time like:

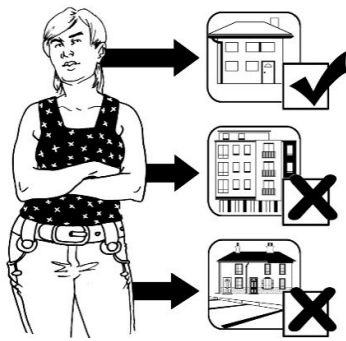
- when they can get out of prison
- what rules they have to follow.



Even if a person on preventive detention gets out of prison the Parole Board can:

- set **conditions** for the rest of their life
- send them back to prison if they do not follow the conditions.





Conditions are rules people have to follow like:

- having to live in a particular place
- not being allowed to drink alcohol.

People who are sentenced to preventive detention often spend a long time in prison.

Usually about 10 people are sentenced to preventive detention each year.



Extended supervision orders

Extended supervision orders are also called ESOs.



A court can put an ESO on a person when they have finished their prison sentence for serious violent / sexual offending.



The court needs to agree there is a high risk the person will do more serious sexual / violent crimes.



An ESO means the person can live in the community with conditions.

It is a crime not to follow the conditions.

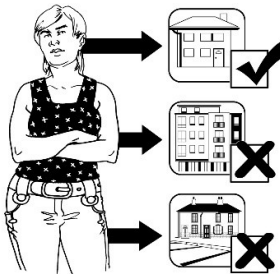


If someone does not follow the conditions they may be sent to prison for up to 2 years.



The conditions might mean:

- someone watching them all the time
- not being allowed to live in / go to some places
- not being allowed to see some people
- having to go to treatment programmes.



Usually about 30 ESOs are made each year.

Public protection orders

Public protection orders are also called PPOs.

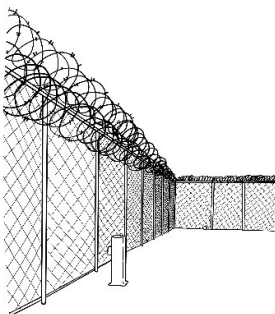


Only 4 PPOs have ever been made.

A court can put a PPO on a person when they have finished their prison sentence for serious violent / sexual offending.



The court needs to agree there is a high risk the person will do more serious sexual / violent crimes.



People with PPOs have to live in a place that is:

- on prison land
- not inside the prison.



People with PPOs are only allowed to leave for good reasons like to get medical treatment.

When they leave someone will go with them to keep an eye on them.



The person is not allowed to have:

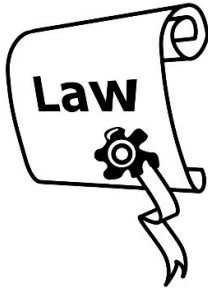
- alcohol like beer or wine
- tobacco like cigarettes
- pornography which is pictures or film of people doing sexual things.



The person who manages the place they live can set other rules like:

- who can visit them
- when they can use the internet.

Keeping the community safe



Aotearoa New Zealand has lots of laws to keep everyone safe from people who reoffend.



Some people who have finished prison sentences for serious sexual / violent crimes have done serious / sexual / violent crimes again after they got out of prison.



The reason for post-sentence orders and preventive detention is to keep people safe from this.



There is not much **research** about:

- if there need to be post-sentence orders and preventive detention to keep people safe
- if post-sentence orders and preventive detention work well.

Research is when people do work to find things out.



Question 1

Do you think we need laws like post-sentence orders and preventive detention to keep the community safe from people who reoffend?

Should people get ESOs and PPOs when they finish their prison sentence?

1



2



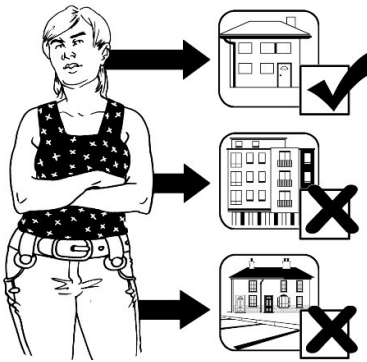
One problem some people have with ESOs and PPOs is they punish someone a second time for something they did in the past.



People have a right to only be punished 1 time for each crime.



People should not have to be scared they will be punished over and over again for the same thing.



New Zealand courts have said ESOs and PPOs can be called punishments because they limit things like:

- where people can live
- how they go about their lives.

A court can give someone an ESO or PPO after they are let out of prison.



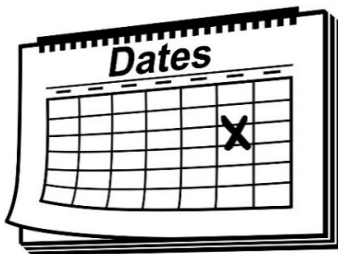
Courts have said that this means ESOs and PPOs are a second punishment.

This does not respect their right to be punished only once.



ESOs and PPOs could be given when people are sentenced.

This would mean the person knew about it at the same time they were sent to prison.



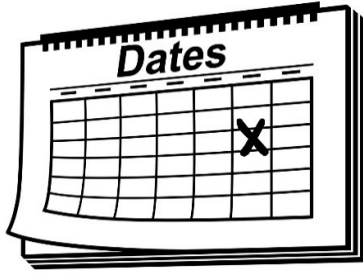
The ESO or PPO:

- would not start until the end of the prison sentence
- would not be a second punishment.



It might be harder to tell how likely someone is to reoffend before they are sent to prison.

Sometimes after time in prison people become less likely to reoffend.



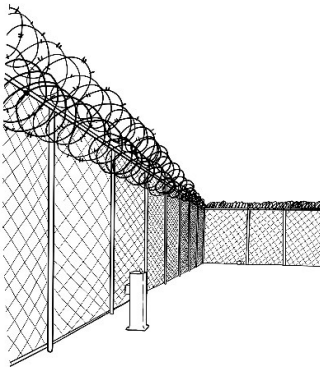
Question 2

Do you think it is better for people to get ESOs or PPOs:

- at the same time they are sent to prison
- or
- when they have finished their time in prison?

Should people in preventive detention have to live in prison conditions?

People sentenced to prison leave when their punishment ends.



People sentenced to preventive detention must stay in prison longer to keep people in the community safe.



Human rights law says that people who have finished their prison sentence should not stay in prison.



Some people say that there are ways to keep people at high risk of reoffending away from the community without keeping them in prison.



If someone must be kept away from the community to keep people safe they could be put in a place that:

- does not let them out
- is nicer to live in than prison
- is about **rehabilitation** rather than punishment.



Rehabilitation means:

- learning not to offend any more
- dealing with issues that lead to offending like problems with alcohol or drugs.



Question 3

This question is about people who have finished their prison sentence but are still at high risk of reoffending.

Should these people be:

- kept in prison
- or
- put in a different place that is focused on rehabilitation?

Should preventive detention be given to younger adults?



In this document **younger adults** means people from 18 to 25 years old.



At the moment people 18 and older can get preventive detention.

The law treats everyone over 18 the same.



The brains of younger adults are still changing so it might be harder to tell if they are likely to reoffend.



Preventive detention also affects younger adults in a bad way more than it does older adults.

Question 4

What do you think about younger adults getting preventive detention?

Tikanga Māori



Tikanga Māori is the Māori way of doing things.

There are different ways of keeping communities safe in tikanga Māori.



In tikanga Māori it is important to mend relationships between:

- the person at risk of reoffending
- their whānau / family
- people who have been hurt by what they have done
- the whānau / family of those people.





In tikanga Māori it is important to build:

- mana / pride
- tapu / sacredness
- mauri / life force.



Keeping people in prison without an end date does not fit with tikanga Māori.



It is important to think about how Māori might want the law to change.

Some Māori have said that Māori should be able to manage people at risk of serious reoffending in a way that fits with tikanga.



The law could put more focus on ways to manage people on preventive detention or post-sentence orders that are:

- planned by Māori
- run by Māori.

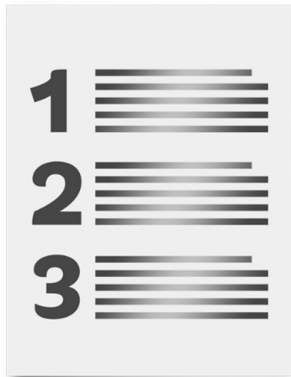


Question 5

What do you think of ways to manage people who are a risk to the community that are:

- planned by Māori
- run by Māori?

Conditions under an ESO



People under an ESO can have a lot of different conditions.

This part of the document looks at 2 kinds of conditions:

- **intensive monitoring**
- **residential rehabilitation programmes.**



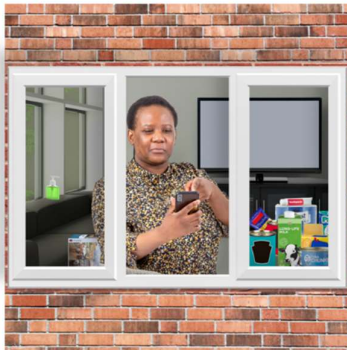
Intensive monitoring

Intensive monitoring means the person needs to have someone with them all the time.





The person who is going to be with them needs to have been agreed to by Ara Poutama - Department of Corrections.

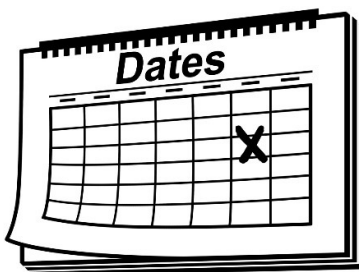


That person will:

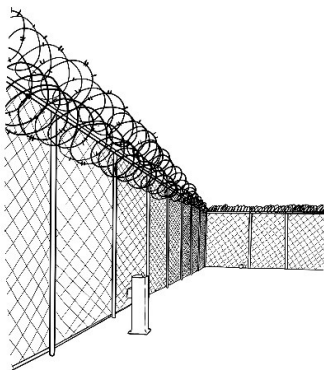
- watch what they do
- check they are staying home when they should be
- make sure they do not go anywhere they are not allowed to.



Intensive monitoring may make it easier for people to stay in the community without reoffending.



The law says people can only be on intensive monitoring for 1 year.



If a person needs intensive monitoring for more than 1 year they may have to stay in a **secure facility**.

A **secure facility** is somewhere they cannot leave like a house on prison grounds rather than in the community.

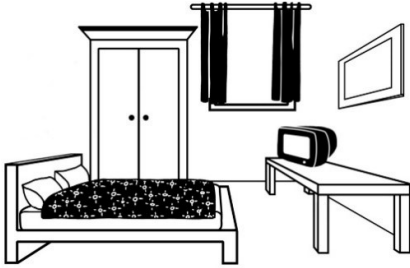


Question 6

What do you think about people being on intensive monitoring for a longer time if it means they:

- get to stay in the community
- do not have to be in a secure facility?

Residential rehabilitation programmes



A residential rehabilitation programme is where people live in the place that does the programme.

There are some good things about residential programmes like:



- they can do more rehabilitation because the person is there all the time
- there is a lot of **structure**
- they can support people to learn how to:
 - connect with other people
 - live in the community safely.



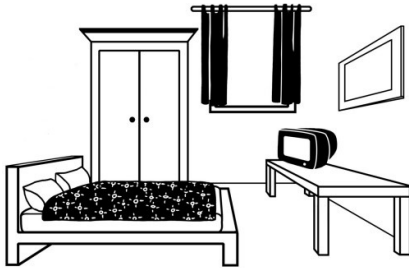
Weekly Planner		Week of: _____						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	
Morning								
Afternoon								
Evening								

Structure means:

- there is a plan for the day
- people are given things to do at different times.



People on ESOs cannot do residential rehabilitation programmes because they are not allowed to live at the place that does the programme.



Question 7

What do you think about making it so people on ESOs can do residential rehabilitation programmes?

Do you want to tell us anything else?



There may be important things we have not talked about in this document.

We want to hear anything else you think we should know for our review.



Question 8

Is there anything else you would like to tell us for our review?

What happens with the information you send us?



We will use the information you send us to write our report for the Government.



When we say **we** in this paper we mean the Law Commission.



We may also:

- put your submission on our website
- talk about the submission in things we write
- use the submission to help our work in other reviews.





Your submission may have personal information like your:

- name
- address.



You have a right to:



- ask us what personal information we have about you
- ask us to change your personal information if it is wrong.



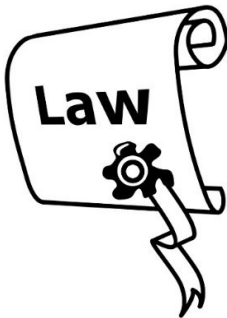
When we have finished our report we will put all the submissions on our website.



We will **not** include your personal information.



If someone asks us for information under the **Official Information Act** we have to follow the rules about giving them the information.



The **Official Information Act** is a law that lets people see information the Government has.



If the information someone is asking for includes personal information like your name then we will talk to you.

Another law we follow when using your information is the Privacy Act.



The **Privacy Act** is a law that sets out rules for how your personal information is looked after.



If you have questions about what we do with your submission / information you can **email**:

gm@lawcom.govt.nz

More information



You can find more information on our **website** at:

www.lawcom.govt.nz



You can also contact us:

- by **email** at:

com@lawcom.govt.nz

- by **phone** on:

0800 832 526





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