

LAW COMMISSION RECOMMENDS TRUTH IN SENTENCING

The Law Commission is recommending major changes to New Zealand's sentencing and parole arrangements, aimed at achieving greater consistency and transparency and giving the public a greater say on sentence types and lengths.

The recommendations are contained in the Commission report, *Sentencing Guidelines and Parole Reform* (NZLC R94), released today.

The report recommends that prisoners should serve at least two-thirds of their prison sentences before being eligible for parole. Under the current law, a prisoner is eligible for parole after one-third of his or her sentence.

"We're also recommending that prisoners sentenced to short terms should serve their whole sentence, and it may be appropriate for very dangerous prisoners to do so as well," said Law Commission President Sir Geoffrey Palmer.

The Commission also recommends the establishment of a Sentencing Council, which will draft sentencing guidelines to help judges to determine the appropriate sentence for particular types of crime.

The Council would have a mix of judicial and non-judicial membership, and would consult with members of the public and interested parties by receiving submissions.

Its guidelines would chiefly address the type and length of sentence (e.g. imprisonment for a specified number of years), but could be issued on a whole range of other sentencing and parole matters. The Council would be independent from the government, but Parliament would scrutinise the Council's guidelines.

"Currently, judges receive only limited guidance about sentence types and lengths," Sir Geoffrey said. While some guidance was provided by the Sentencing Act 2002, and by Court of Appeal 'guideline judgments', this was limited.

"Having a Sentencing Council will make the system more transparent and responsive, and lead to more consistent sentencing.

"It will give the wider community a greater say about the sentences judges are imposing. The public needs more voice about sentencing, and so does Parliament."

He said the recommendations followed a comprehensive review of New Zealand's sentencing and parole arrangements. The Commission had found some evidence of inconsistency in District Court sentences for similar crimes. Many judges had themselves indicated dissatisfaction with the present arrangements.

Sir Geoffrey said the Commission was recommending that parole be retained, but that prisoners not be eligible for release until they have served two-thirds of their sentences.

"Retaining parole is simply common sense," he said. "All prisoners will be released at some point. With parole, decisions can be made about when and how to release prisoners to minimise their risk of reoffending.

"However, parole eligibility at one-third makes little sense. It means that, for example, when someone is sentenced to 12 years, nobody knows whether they'll serve all 12 or be out in four or something in between. This has been a source of public frustration for many years.

"What we're recommending is a truth in sentencing approach. When a criminal is sentenced, he or she will spend most of the sentence term behind bars."

The Commission predicts that its proposed parole changes will increase the average time served by prisoners from 62 percent of their sentence at present to around 80 percent.

Sir Geoffrey said the Commission was recommending that the Sentencing Council consider a wide range of criteria in developing its sentencing guidelines, including cost-effectiveness. The Council will be expected to forecast the prison population impact of its sentencing guidelines.

He said that the parole and sentencing changes may lead judges to impose shorter up-front sentences, in the knowledge that prisoners would serve a bigger part of their term.

The Commission had estimated that, on average, sentences would have to be about 25 percent shorter after the parole changes if the length of time served was to be the same and the size of the prison population unaffected. "But that's a matter for the Council to determine, via its guidelines, and in light of public submissions," Sir Geoffrey said.

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