

**JUSTICE SECTOR**

# Justice Sector Forecast

Prison Population Forecast 2015-2025

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## Executive Summary

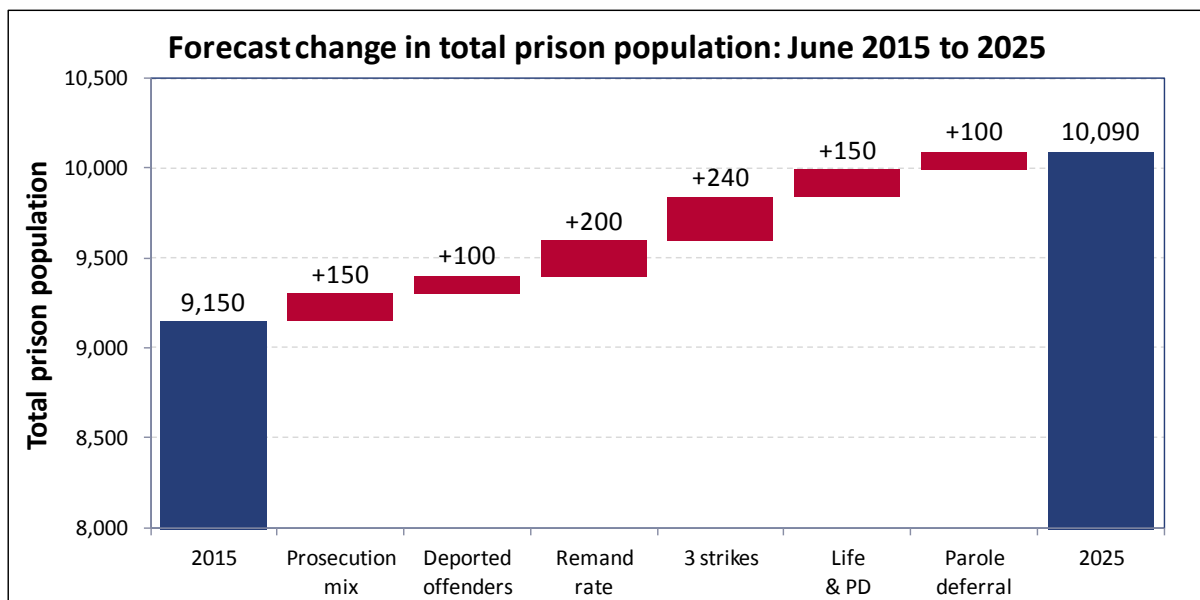
The general picture in this forecast is an ongoing increase in the total prison muster over the next decade, at a time when prosecutions are expected to remain flat. The overall increase between 2015 and 2025 is expected to be **940 places**.

The increase occurs in both the remand and sentenced populations, with the main increase in remand numbers occurring in the first two years, while the increase in the sentenced population has a greater effect later in the forecast period. The specific population pressures are:

- Prosecution mix: crime continues to fall, but the mix in court is currently more serious than in previous years. This change is expected to account for **150 places**;
- Deported offenders: prison sentences for offenders deported from Australia is expected to account for **100 places**;
- Increase in remand rate: we have assumed a slow increase in remand rate, picking up on the current trend, which reflects increased focus on the bail/remand decision; this is expected to account for **200 places**;
- 'Three strikes': this is expected to account for **240 places**, around 10 of them being for offenders on their third strike;
- Offenders serving life or preventive detention sentences: there are more of these, and they are spending longer incarcerated – this is expected to account for **150 places**;
- Parole deferral: deferring parole hearings until offenders are fully prepared is expected to account for **100 places**.

These changes are discussed in more detail in Section 3 of this report – Summary of Environment. Figure 1 below shows the cumulative impact over the ten year forecast period.

**Figure 1: Cumulative impact of pressures on the prison population**



## 1. Purpose

This component of the Justice Sector Forecast projects those quantities relating to the custodial operations of the Department of Corrections, specifically:

- The remand prison population
- The sentenced prison population

These forecasts cover the period December 2015 to June 2025.

## 2. Justice Sector Forecast

The Justice Sector Forecast covers the prison population (remand and sentenced), non-custodial sentences, legal aid expenditure, Crown Law case numbers, and court-imposed fines, amongst other things. Each major component is published in its own forecast at a different point in the year, and over the course of a year all components of the forecast are updated.

The next prison forecast will appear in or around December 2016. This timetable may be adjusted if there is a need to accommodate new legislative or operational initiatives.

## 3. Summary of environment

The forecast has been prepared following the usual approach, looking at trends in prosecutions, in how those prosecutions are resolved, and in how the resulting sentences are applied. Assumptions about the future behaviour of these are made on the basis of what we know of future legislative and operational change. We include estimates of legislative impact where available, but will also anticipate some impact from forthcoming changes that are strongly indicated, but where timescale and impact are less defined. These quantities are necessarily more speculative. We also accommodate knowledge of longer-term historical behaviour of relevant quantities.

There are several key assumptions, as outlined below.

### Prosecution volume

The first is the number of cases prosecuted. This is not the same as the level of crime. Many quantities in the forecast are dependent on how the system chooses to deal with crime, rather than the amount of crime dealt with. This is particularly clear when we consider the Policing Excellence initiative that was started in 2009. This initiative included a decision to use formal warnings wherever appropriate, reversing a policy of using prosecution more extensively to deal with offending. As a result the numbers of cases in the system has dropped in the course of the initiative.

There has also been a fall in recorded crime. This fall began before the Policing Excellence initiative, and has continued throughout its operation. The reasons behind the fall are not well understood, but falls in recorded crime have also been observed across a wide range of countries, including the USA, Australia and the United Kingdom. The total impact on prosecution volumes of both the fall in recorded crime and Policing Excellence is around one-third, taking prosecution numbers back to levels not seen since the 1990s.

Crime continues to fall, but recently the number of prosecutions has risen slightly. The increase is not large and is around the scale of inter-year variability that was seen in the early years of the century. The mix of crimes prosecuted has changed, however; a greater proportion of prosecutions are for more serious offences. Again, the change is not large but it has an effect on the flow of cases through the system.

A further source of additional prosecutions is expected to be the behaviour of New Zealand citizens with criminal records being deported from Australia. Deportation of serious offenders has always occurred, but the threshold has recently been lowered and increased numbers of deportees are expected from 2015. We have included an additional number of prison beds as a consequence.

## **Remand**

The next key assumptions are specific to the remand population. They are the numbers starting a period of remand in custody, and the length of time spent on remand in custody. In recent years, the numbers starting remand have shown a consistent decline, and last year's forecast projected that to level off in line with overall prosecution trends.

This did not happen. Instead, there has been an increase in the number of starts on remand. Consequently, the remand population has reached record levels, although the number of starts is still no higher than the peak level seen in 2008.

There are a number of pressures behind the change in trend, each individually small, but all acting in the same direction. The Bail Amendment Act that came into force in September 2013<sup>1</sup> reversed the presumption of bail for offenders charged with one of a number of the most serious offences and who already had a conviction for a similar offence, and also for some other categories of offenders (such as 17-19-year-olds who already had served a prison sentence).

What we have seen is an increase in the use of remand across a range of offending, including some of the offending specified in the Act, but also for less serious offending such as offences against justice and fraud. It seems likely that, despite its tight focus, the Act has been interpreted as a suggestion to be more rigorous in determining overall eligibility for bail. It is unclear whether this change has been fully worked through. We have chosen to increase the remand rate over the first two years of the forecast, adopting a remand rate that increases for a couple of years until it stabilises at 9.3%. For comparison, the average remand rate between 2004 and 2010 was 7%.

There has been an increase in time on custodial remand over the past year, as a result of a number of changes to procedures involving the bail decision. In particular a change at the end of 2014 has increased the number of people in custodial remand awaiting restorative justice processes. We have adjusted our remand times upward to reflect this.

## **Length of prison sentence**

Imposed prison sentence lengths change relatively slowly. For this forecast we have assumed level trends at current levels for both average imposed sentences of two years or less, and

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<sup>1</sup> See <http://www.legislation.govt.nz/act/public/2013/0066/latest/whole.html>

average imposed sentences of greater than two years. A more significant impact comes because, for prison sentences of greater than two years, we have to accommodate the decisions of the New Zealand Parole Board. Offenders given sentences of this length must be considered for parole after serving one third of their sentence unless a longer minimum non-parole period has been imposed by the court. Their release is governed by the decision of the Parole Board, which frequently decides to hold them in for a longer period. The proportion of imposed sentence served by these offenders has continued to rise and we have adopted an assumption that assumes a further limited increase. In particular this year new legislation covering the deferral of parole hearings for prisoners deemed not ready at the appointed time seems likely to increase prison time for longer-term offenders.

### **Three strikes**

A final consideration is the impact of the Sentencing and Parole Reform Act 2010, commonly known as the 'three strikes' law. This came into effect in June 2010, and is concerned with a specific list of serious offences<sup>2</sup>. A conviction for one of these earns a first warning. A later conviction for an offence on the list earns a final warning, and any imposed prison sentence is served without parole. A third offence leads to a prison sentence at the maximum tariff for the charge, again served without parole.

Analysis has been undertaken to estimate the impact of this policy now that a number of final warnings have been issued. Clearly it will take some time after June 2010 for there to be a discernible impact: offenders must commit an offence, be prosecuted and serve the sentence given with the first warning; then they must commit a further offence, be prosecuted, and serve a proportion of their second sentence before they contribute any addition to the sentenced prison population by serving that part of their second sentence they would otherwise have served on parole. The impact of third strikes is even further removed. Last year's forecast included an allowance for this factor, but we have waited for a sufficiency of second strikes to occur under the new regime before attempting to calculate a more precise estimate of the impact.

Between June 2010 and October 2015, there have been 104 second strikes and no third strikes<sup>3</sup>. We have looked at historic offending to estimate the time between 'strikeable' offences, and applied this to the current incidence of such offending to estimate how quickly the additional impact will be felt. The current number of second strikes is below our original expectations (although first strikes are at the expected level). As a result we have rolled over our assumption from last year at the same level. Third strikes will not have a large impact in the current forecast period (perhaps 10 places at most), but second strikes may account for around 230 extra prison places by 2025.

## **4. The forecast**

In the following sections we cover the remand, sentenced and total prison populations in turn. The 2015 forecast is compared with the 2014 forecast, and the differences between them are summarised briefly. A key change compared to previous reports is that the graphs now show only the maximum population in a given fiscal year. A level of seasonal detail is useful in a short-

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<sup>2</sup> See <http://www.legislation.govt.nz/act/public/2002/0009/latest/DLM3023002.html#DLM3023002>

<sup>3</sup> See <http://www.justice.govt.nz/courts/district-court/sentencing-and-parole-reform-act-2010>

term forecast, which we now produce quarterly, but in a 10-year forecast such as this the trend is more simply captured in the maximum value.

## Remand population

Table 1 and Figure 2 show the remand prison population and the forecasts for 2014 and 2015. All population figures are for the maximum number of remand prisoners in the relevant fiscal year.

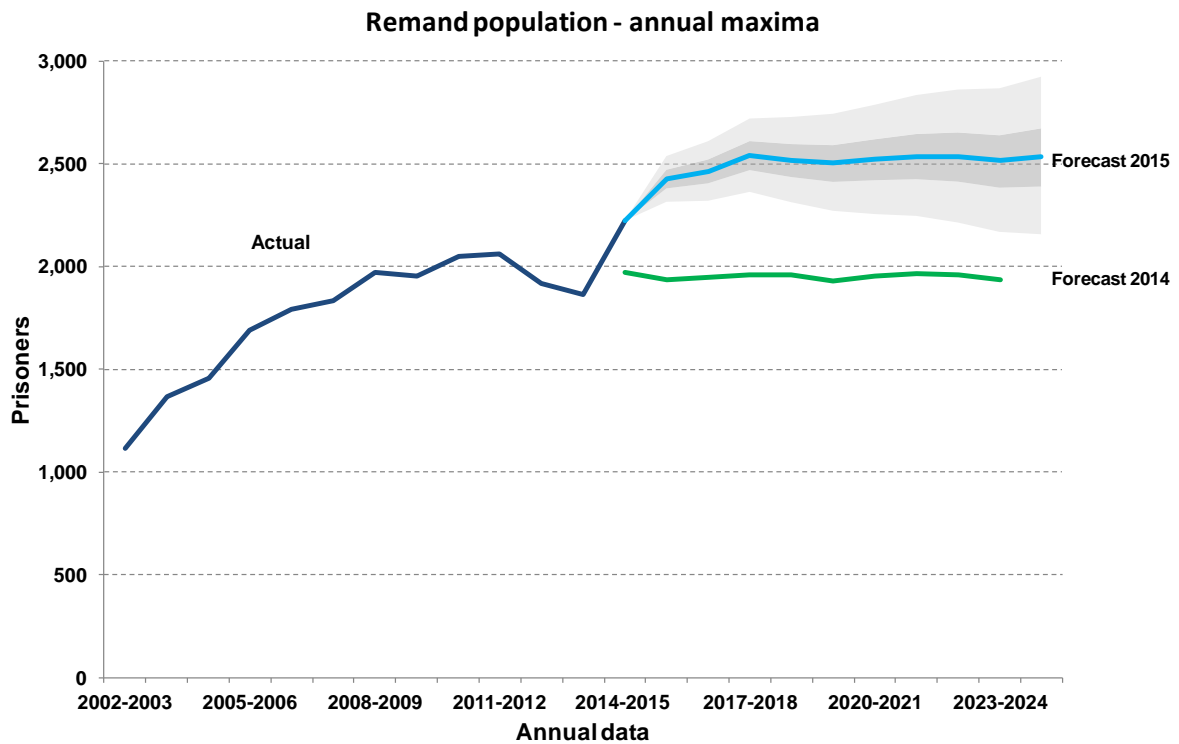
**Table 1: Remand prison population**

Fiscal year	Remand population		
	Population maximum	Annual change	Compared to 2014 forecast
2014-2015 (actual)	2,223	19.3%	12.9%
2015-2016	2,425	9.1%	25.3%
2016-2017	2,463	1.6%	26.4%
2017-2018	2,539	3.1%	29.5%
2018-2019	2,517	-0.9%	28.6%
2019-2020	2,503	-0.5%	29.6%
2020-2021	2,521	0.7%	28.9%
2021-2022	2,535	0.6%	29.2%
2022-2023	2,535	0.0%	29.2%
2023-2024	2,513	-0.9%	29.9%
2024-2025	2,534	0.8%	n/a

What we have seen in 2015 is an increase in the use of remand across a wide range of offending, including some of the offending specified in the Bail Amendment Act, but also for less serious offending such as offences against justice and fraud. The result has been a rise in the proportion of prosecuted people being remanded in custody even though the number of prosecutions has remained essentially flat.



**Figure 2: Remand prison population, with 2014 and 2015 forecasts**



The differences between 2014 and 2015 are substantial, with the new remand forecast being nearly 30% higher than its predecessor.

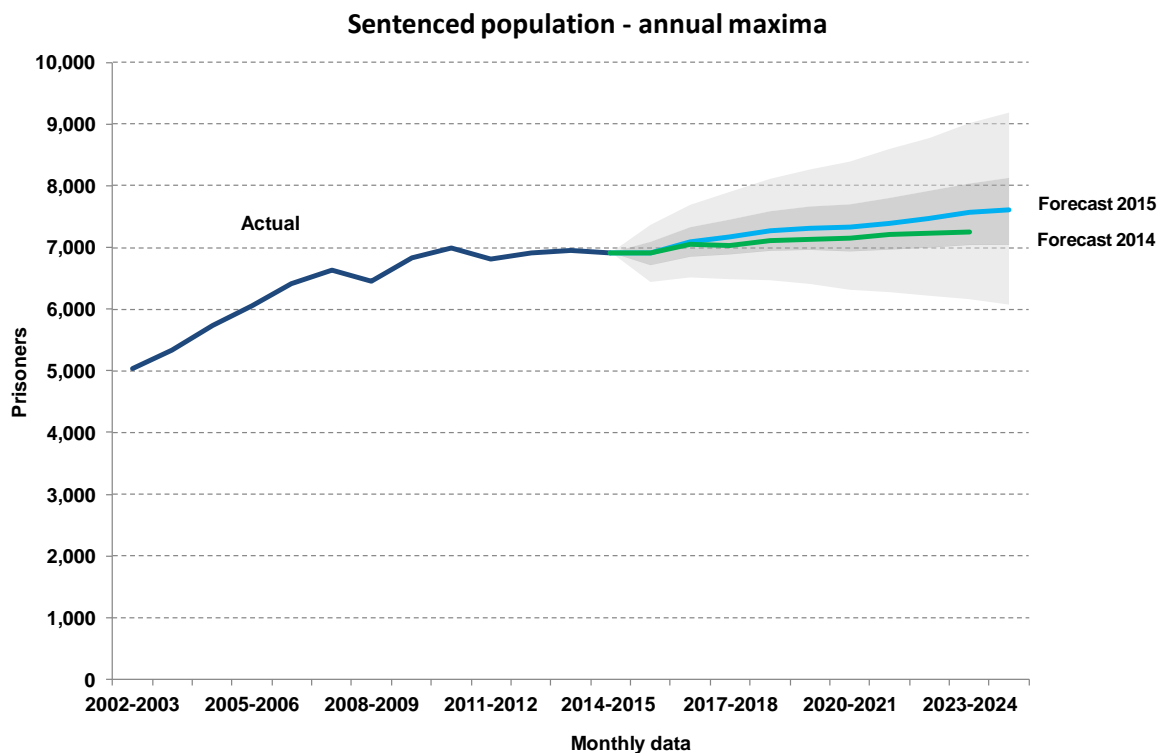
### Sentenced population

Table 2 and Figure 3 show the sentenced prison population, and the forecasts for 2014 and 2015. All population figures are for the maximum number of sentenced prisoners in the relevant fiscal year.

**Table 2: Sentenced prison population**

Fiscal year	Sentenced population		
	Population maximum	Annual change	Compared to 2014 forecast
2014-2015 (actual)	6,920	-0.6%	0.2%
2015-2016	6,903	-0.2%	0.0%
2016-2017	7,096	2.8%	0.7%
2017-2018	7,177	1.1%	2.0%
2018-2019	7,275	1.4%	2.4%
2019-2020	7,319	0.6%	2.6%
2020-2021	7,327	0.1%	2.3%
2021-2022	7,399	1.0%	2.7%
2022-2023	7,478	1.1%	3.6%
2023-2024	7,561	1.1%	4.3%
2024-2025	7,605	0.6%	n/a

**Figure 3: Sentenced prison population, with 2014 and 2015 forecasts**



The main features of this forecast occur later in the forecast period. This is when the impact of offenders serving their ‘second strike’ sentence under the Sentencing and Parole Reform Act 2010 begins to have a significant effect: their numbers are expected to reach around 230 by 2025, by which time there will also be perhaps 10 prisoners with a third strike. The 2015 forecast diverges further from its predecessor as a result of changes in parole arrangements, and there will also be a number of prisoners who are among deportees from Australia under the new regulations now in place there.

In addition, both the 2014 and 2015 forecasts include an upward trend in the number of prisoners serving a Life or Preventive Detention sentence in prison.

## Total population

Table 3 and Figure 4 show the total prison population, and the forecasts for 2014 and 2015. All population figures are for the maximum number of prisoners in the relevant fiscal year.

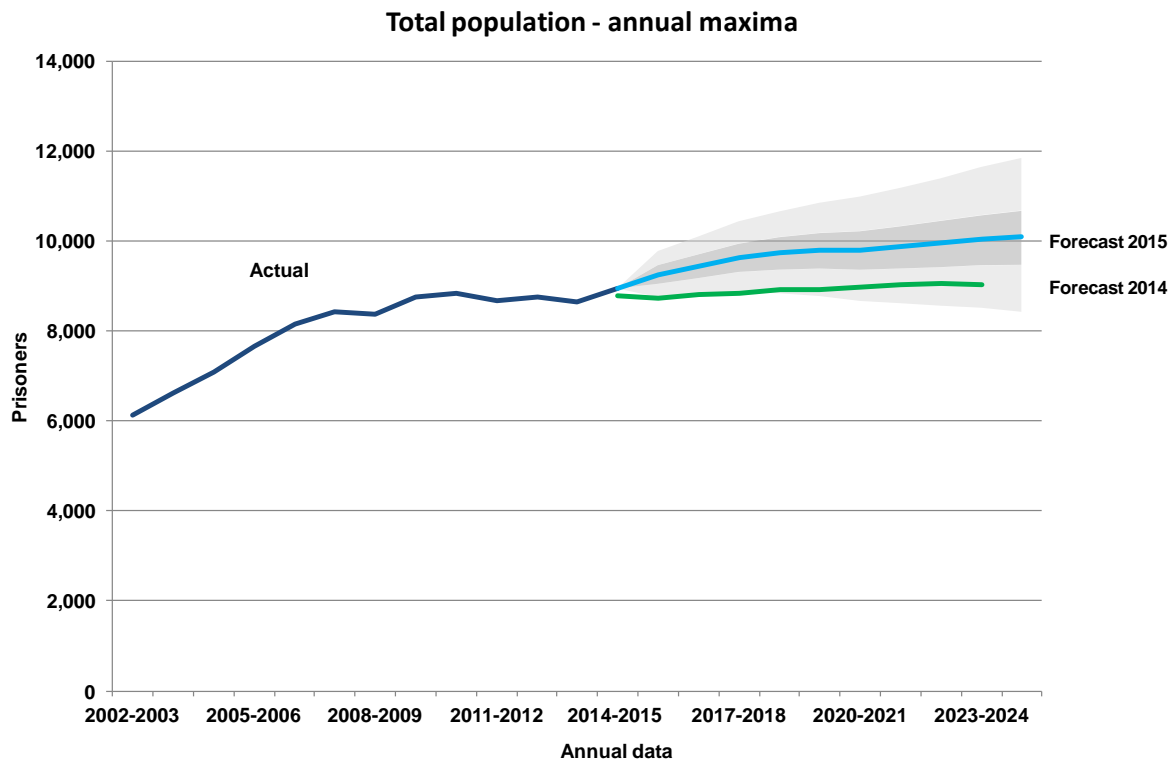
**Table 3: Total prison population**

Fiscal year	Total population		
	Population maximum	Annual change	Compared to 2014 forecast
2014-2015 (actual)	8,942	3.6%	2.0%
2015-2016	9,253	3.5%	6.0%
2016-2017	9,437	2.0%	7.2%
2017-2018	9,627	2.0%	8.8%
2018-2019	9,729	1.1%	9.1%
2019-2020	9,785	0.6%	9.7%
2020-2021	9,795	0.1%	9.1%
2021-2022	9,865	0.7%	9.4%
2022-2023	9,947	0.8%	10.0%
2023-2024	10,035	0.9%	11.0%
2024-2025	10,088	0.5%	n/a

The underlying trend in the 2015 forecast of the total prison population shows an ongoing increase. The increase in the earlier years is due to increases in the remand population arising from greater use of custodial remand on an effectively flat number of prosecutions.

The later steady increase from 2018 onwards is not due to any significant change in numbers of sentenced prisoners in the system. Rather it is due to the increasing impact of offenders sentenced to serve time without parole under the 'three strikes' legislation, changes in parole procedures, with a small contribution from anticipated numbers of prisoners among offenders deported by Australia.

**Figure 4: Total prison population, with 2014 and 2015 forecasts**



## 5. Summary

Forecasting the numbers in prison requires consideration of many trends across the agencies that make up the criminal justice sector. Assumptions have to be made about how those trends will develop based on current behaviour and what is known about future legislative and operational change. This report summarises these assumptions for the key trends, but there are many more assumptions that need to be made to deliver the forecast – upwards of 100, in fact.

Nevertheless the current forecast can be boiled down to the two key trends:

- The numbers of people passing through the system is broadly constant; and
- Those who are dealt with by the system are treated more severely in terms of likelihood of custodial remand, and in terms of the time they spend in prison.

The first trend has zero influence on the prison population, while the second is an upward trend. The net result is the steady upward trend we see – the population in June 2025 is forecast to be about 13% above that in 2015. The key differences from last year’s forecast are further reassessments of the severity of treatment with particular reference to the use of custodial remand, and the impact of the ‘three strikes’ legislation, along with assessments of the impact of new parole legislation, and of deportees.