



Three Strikes Legislation Repeal Bill Submission by Family First NZ

Justice Committee
Parliament Buildings
Wellington

1. This submission is being made by Family First NZ, a registered charitable organisation that researches, educates and advocates on family issues.

THE PROBLEM

2. The latest [NZ National Survey of Victims and Crime](#) shows that 29% of adults had been a victim of crime at least once over the previous 12 months.
3. Even frontline services are [expressing concern](#) at the *level* of violence they are now seeing.
4. Gang-related shootings and the use of firearms in general – including against our police – have become [disturbingly normal](#). In 2020, [gun crime hit a new peak](#). Firearm related offences are nearly double that of just 10 years ago.
5. An act of family violence is reported every four minutes, according to the New Zealand Police [annual report](#) published in November 2021. Politicians have described the [issues of family and sexual violence in New Zealand as our “national shame”](#).
6. A key reason for Three Strikes being introduced and receiving public support was widespread community outrage at serious violent or sexual offenders repeatedly getting parole and going on to commit more serious crimes. Remember [William Bell and the horrific RSA case](#). There was also concern about [light sentences](#) which were out of kilter with the community’s views.
7. Just examine many child abuse case coming before courts to see the [community outrage](#) at the weakness of some of the sentences being handed down.

THE SOLUTION

8. There are 40 qualifying three strike offences, comprising all major violent and sexual offences with a maximum penalty of seven years or greater imprisonment. [For example; sexual violation, sexual connection with a child or young person, indecent act on a child, murder, attempted murder, manslaughter, wounding with intent to cause grievous bodily harm, aggravated robbery, kidnapping, and more]
9. If an offender is convicted of a strike offence (with no previous strike warnings), they receive an official first 'strike' warning.
10. If the offender is convicted of a second qualifying offence, they are given a final warning (second strike), and if they are sentenced to imprisonment, they may serve the full sentence without parole.
11. If the offender is then convicted of a third qualifying offence the court must impose the maximum applicable penalty without parole, unless the court considers it would be manifestly unjust to do so.
12. Finally, if the offender is convicted of murder on their second or third strike the court may impose a life sentence without parole, unless the court considers the sentence manifestly unjust.

THE RESULT

13. Since mid-2010 when the new law commenced;
 - * There have been **13,349** first strikes
 - * There have been **640** second strikes (i.e. 4.8% of 1st strikers have progressed to a 2nd strike)
 - * There have been **21** third strikes (i.e. 3.2% of 2nd strikers have gone on to do a 3rd strike)
14. How many 1st strikers graduated to a 3rd strike? Just **0.16%**.
15. It's also pleasing that **more than 95%** of first strikers have not gone on to do a second strike.
16. An Official Information Act request at the end of 2018 said that those who have had a **second or third strike**:
 - * had an average of **42** convictions as an adult. For 3rd strikers, it's an average of **74** convictions
 - * **91%** were assessed as being at a high risk of reoffending
 - * **56%** committed their 2nd strike on bail or parole or while serving a sentence.
 - * **40%** have a "strike type" conviction from prior to the three strikes regime
17. This data indicates that the three strikes regime is accurately targeting the serious recidivist offenders.
18. One of the arguments you will hear for scrapping the law is that it disproportionately impacts Maori. But what you won't hear is this – Māori adults are significantly more likely to be victims –

victims of crime – than the average adult. The Justice Ministry [admits](#) that “*Māori on average live in more deprived areas, which is linked to a higher risk of victimization*”

19. Another argument is that we’re wasting money on prisons. But instead of viewing prison-related expenses as a taxpayer burden, these expenses are an investment in the wellbeing, welfare and safety of families – and if done correctly, rehabilitation of the offender. They save costs such as lost productivity, medical care, security services, property damage loss, victim support, and intangibles such as reduced quality of life, pain, suffering, and mental anguish.
20. We agree that addressing the ‘underlying causes’ is relevant – that’s definitely a discussion in itself – as is the rehabilitation services which should be available to prisoners wanting to change their ways. [Rehabilitation in prisons is simply not functioning as it should](#) - but it doesn’t solve the immediate problem – protecting the public from persistent offenders.
21. The Government has done no thorough consultation with victim’s groups. The [Regulatory Impact Assessment report](#) for this proposed scrapping of the law admits that no victims have been consulted at all on this bill.
22. When announcing their decision to scrap the law, the Government [said](#) that “*there is little evidence that the law has reduced serious offending*”. The only official report around is the one from 2018. Ironically, in that 2018 report, Ministry of Justice officials [admit](#): “*...in comparison with second strikeable offences committed before the law came into effect there has been a drop in the number of second strike offences since the laws implementation.*”
23. One of the other objections to the law is that it punishes offenders on their 3rd strike with the full force of the law – and they tend to quote the “[bottom pincher](#)” who under the law should receive the full punishment of seven years for indecent assault. It’s actually worth reading the full facts of that case. Read the victim impact statement. But as we said before, the law allows for the prescribed sentence to be different if the court considers the sentence manifestly unjust. But we’re not so sure that the MeToo movement think we should be [minimising these actions](#) – and rightly so.
24. [Significantly, despite being eligible for parole two years ago, the parole board did not release the “bottom pincher” and wanted more treatment to reduce the risk of violent and sexual offending. Perhaps the existing law just needs fine tuning with what constitutes a Strike Offence.]

PUBLIC VIEW

25. A recent poll has found that just 25% of New Zealanders want the ‘Three Strikes’ law repealed, including just 29% of Labour voters. Almost half of Labour voters want the law retained.
26. The nationwide [poll](#) of 1,000 New Zealanders was commissioned by Family First NZ and carried out by Curia Market Research. Respondents were asked “*Since 2010, New Zealand has had a 'Three Strikes' sentencing law for serious violent and sexual offenders who continue to commit offences. This law removes parole eligibility for repeat offenders and imposes the maximum prison term available for the offence committed, for those who offend a third or subsequent time. Do you want the three strikes law to remain, or to be repealed?*”

27. Net support for the law to remain by 2020 Party Vote is: National +45%, ACT +40%, Labour +17% and Greens +7%.
28. Ironically, the Minister of Justice Kris Faafoi when introducing the bill to scrap the law [said](#) "*the public don't like this law*". It appears he is wrong.

MEET SOME 'STRIKERS'

29. A 3rd Striker

In 2012, the [26-year-old](#) was sentenced to five months' home detention and was given his first-strike warning for a vicious assault using a piece of wood.

Strike 1 Vicious assault

In 2014, he was sentenced to three years' imprisonment and given his second-strike warning for stalking and sexually assaulting a 17-year-old girl.

Strike 2 Sexual assault 17 y/o

In 2018, he was sentenced to seven years' imprisonment for wounding with intent to injure after stabbing a man in the leg while on bail.

Strike 3 Stabbing

He was also sentenced to four months' imprisonment for domestic violence assaults in the same year.

He has 14 previous convictions, including six for violent offending.

Prior to the 3 strikes law, he would have only received jail time of two years and three months.

As a result of the three-strikes law, he was jailed for seven years.

Interestingly the judge admitted that "*I acknowledge that your sentence will be much harsher than I would otherwise have imposed*".

30. Another 3rd Striker

[This man](#) had 2 previous convictions for indecent assault on 2 females in the late 80s.

Strike 1 was December 2014. Indecent assault of a three-year-old girl in The Warehouse. Given three months' community detention and two years' intensive supervision

Strike 1 Indecent assault 3y/o

Strike 2 was in March 2016, while subject to the supervision conditions. Indecent assault of an eight-year-old girl in a playground. Got eight months' home detention and again ordered not to associate with anyone under 16. So note - no jail time – yet.

Strike 2 Indecent assault 8y/o

Strike 3 was in 2019. Indecent assault of a 10-year-old girl choosing a birthday present in a toy shop. The judge said that **without the 3 strikes he could have qualified for home detention**.

Strike 3 Indecent assault 10y/o

The judge had to jail him for the maximum term but allowed a non-parole period of just over 3 years as is allowed in the 3 Strikes law.

31. Meet a 2nd Striker

In 2008 – before three strikes - [he was sentenced](#) to 20 months' jail for the night-time burglary of a 24-year-old woman's home.

His first strike offence was another home invasion burglary. He invaded the home of a 68-year-old woman, attacked her, grabbed her by the throat and threatened her and then robbed her. He was imprisoned for just 3 years and 4 months. The Parole Board released him early, considering he did not present an "undue risk". Wishful thinking.

Strike 1 Attacked 68y/o woman

His 2nd strike was bashing and sexually violating an 87-year-old grandmother in her own home in 2013. Later the same day, he burgled a 73-year-old woman's home with the intention of sexually assaulting her.

Strike 2 Attacked 87y/o & 73y/o woman.

Remember - he was **on parole at the time of this offending**. He is now serving a "Second Strike" sentence of **12 years and 9 months' imprisonment without the possibility of parole**.

Without the Three Strikes law, he would have been eligible for release by the Parole Board, who got it so badly wrong the previous time, after **just 4 years and 3 months**. Instead we are kept safe for 8 more years.

32. And one more 2nd Striker

[His first strike offence](#) was for an attack woman using a knife in which he choked and threatened to kill her. This attack was committed in breach of a protection order. For that offending, he was sentenced to 2 years 8 months' imprisonment.

Strike 1 Attacked woman

He committed his second strike offence *while in prison* - he raped a woman while participating in a prison "work to release" programme, operating outside the prison.

Strike 2 Raped woman

He is now serving a 9-year sentence of imprisonment. He had dozens of criminal convictions, many for violence against women. Earlier offending includes beating his pregnant partner so badly she miscarried her twins. Some of his violence involved three other former partners.

Under Three Strikes, he will serve up to 6 years more than he could without Three Strikes, and women are safe from him because of this.

33. There are many other equally disturbing examples of Strikers on our website. Go to the link [ThreeStrikesLaw.nz](#)

SUMMARY

34. The Government has no public mandate for scrapping the Three Strikes law, and the evidence suggests it is having the desired effect. There has been a dramatic drop from the number of 1st strikes to 2nd strikes and then again to a third strike.

35. Criminals aren't stupid. They are well aware of the law and its consequences.

36. If the regime is scrapped, the government is in danger of sending a message that we're not serious about the *It's Not OK* zero-tolerance message on family violence, or zero tolerance on gun violence or sexual violence. The Three Strikes law reinforces that we take victimisations seriously.

37. We wish to appear before the committee.



Bob McCoskrie
CEO / Founder – Family First New Zealand