



# Sentencing (Reinstating Three Strikes) Amendment Bill

## SUBMISSION BY FAMILY FIRST NZ

Justice Committee  
Parliament Buildings  
Wellington

1. This submission is being made by Family First NZ, a charitable trust that researches, educates and advocates on family issues.
2. We **SUPPORT** the bill but call for **TWO** aspects to be changed.
  - \* We **OPPOSE** setting a minimum *sentence* of 24 months imprisonment to qualify as a strike offence
  - \* We **OPPOSE** the clean slate provision.

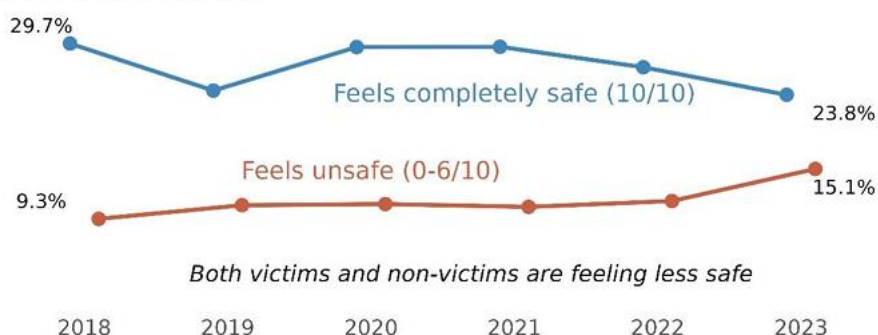
### THE PROBLEM

3. The latest [NZ National Survey of Victims and Crime](#) shows that approximately 1/3<sup>rd</sup> (32%) of adults had been a victim of crime at least once over the previous 12 months - around 1.88 million incidents.
4. Kiwis are also feeling more unsafe.

Figure 9. Proportion of adults who feel completely safe or unsafe by year

#### Fewer people feel safe and more people feel unsafe

In 2023, the gap between proportion of adults feeling completely safe and unsafe is the smallest to date



5. In 2023, there were
  - \* 11 incidents of violent offences per 100 adults
  - \* 6 incidents of physical offences per 100 adults
  - \* 5 incidents of sexual assaults per 100 adults
6. Even frontline services have [expressed concern](#) at the *level* of violence they are now seeing.
7. Police Commissioner Andrew Coster [said](#) a year ago that escalated violent crime is expected to be a problem for years to come, before the results of gun control measures will be seen.
8. Gang-related shootings and the use of firearms in general – including against our police – have become [disturbingly normal](#). Firearm related offences are nearly double that of just 10 years ago.
9. In New Zealand, police attend a family harm episode [every three minutes](#). In the year ending June 2022, 175,573 family harm investigations were recorded, but the majority of incidents go unreported. Māori women are more likely to be affected by family and sexual violence than any other ethnicity, [with nearly 50% experiencing partner abuse in their lifetime](#). Politicians have previously described the [issues of family and sexual violence in New Zealand as our “national shame”](#).
10. 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.
11. 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 RESULT OF THE PREVIOUS 3-STRIKES LAW

12. Since mid-2010 when the previous 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)
13. How many 1<sup>st</sup> strikers graduated to a 3<sup>rd</sup> strike? Just **0.16%**.
14. It’s also pleasing that **more than 95%** of first strikers have not gone on to do a second strike.
15. 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 3<sup>rd</sup> 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
16. This data indicates that the three strikes regime is accurately targeting the serious recidivist offenders.

## JUSTIFICATION FOR THE LAW

17. One of the arguments you will hear for not introducing 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 has previously [admitted](#) that *“Māori on average live in more deprived areas, which is linked to a higher risk of victimization”*
18. 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.
19. 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.
20. When announcing their decision to scrap the previous law, the Labour 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.”*
21. 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.
22. [Significantly, despite being eligible for parole in 2019, 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

23. **Two in three Kiwis (65%) support the reinstatement of the law** (up from 44% in 2021) and 19% are unsure (down from 31% unsure in 2021). **Only 16% oppose bringing back the law** (down from 25% in a similar poll of respondents in 2021).
24. The nationwide [poll](#) of 1,000 New Zealanders was commissioned by Family First NZ and carried out by Curia Market Research. Respondents were asked *“From 2010 to 2022, New Zealand had a 'Three Strikes' sentencing law for serious violent and sexual offenders who continue to commit offences. This law removed 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. The law was repealed last year. Do you support or oppose bringing back the Three Strikes Law?"*

25. National (72%), Labour (63%), NZ First (93%) and ACT (90%) voters were strongly supportive, and even Green voters were more in support (41%) than opposed (39%). Net support for the law to remain is: National voters +57 (up from +45% in 2022), ACT +85% (up from +40%), Labour +46 (up from +17%) and Greens +2 (down from +7%).
26. Ironically, the then-Minister of Justice Kris Faafoi when introducing the bill to scrap the law previously [said](#) "*the public don't like this law*". It appears he is wrong.

## MEET SOME 'STRIKERS'

### 27. A 3<sup>rd</sup> 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*".

### 28. Another 3<sup>rd</sup> 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 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.

### 29. Meet a 2<sup>nd</sup> 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 2<sup>nd</sup> 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.

### 30. And one more 2<sup>nd</sup> 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.

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

## AMENDMENTS

### Clean Slate

32. The proposal is a **clean slate** for the 14,687 first, second and third strikers convicted and warned between 2010 and 2022 for their serious violent or sexual offending.
33. All 14,687 former strikers would be back to "zero strikes". This means that even the worst strike offenders would have to subject at least two more victims to their serious violent or sexual offending before being given any tougher sentencing or parole consequences.
34. Only 30% of former Third Strikers would even qualify as Third Strikers under the Government's proposed law. This is a blunt evisceration of the Three Strikes regime, not an intelligent refinement. By setting a 24 months' imprisonment threshold at all three stages of the regime, it massively reduces the number of recidivist criminals who will make it to Second or Third Strike stage. This will not help the Government achieve its goal of fewer victims of crime. A much smaller number of criminals will be imprisoned for longer - and able to create new victims.
35. If the Government wanted to continue with this approach, then the clean slate should only apply to convictions relating to the period since Labour revoked the law (i.e. convicted without

three strikes being present.) Those convicted before the repeal knew full well of the Three Strikes aspect therefore no clean slate should be granted.

### **Minimum sentence of 24 months imprisonment**

36. There is a history of many New Zealand judges handing down what are seen as 'soft sentences', and almost all judges oppose Three Strikes sentencing. But by setting a minimum sentence of 24 months imprisonment to qualify as a strike offence (at all three stages of the regime), this will encourage judges to "game" the system and sentence even softer - to avoid having to make a serious violent or sexual criminal a "striker".
37. The former Three Strikes regime was effective because it only required a conviction for the offence to be considered a strike offence - with no minimum sentence threshold.
38. One of the purposes of Three Strikes is to require judges to impose tough sentences - because they generally refuse to do so. Allowing them to 'game' the system to avoid it where possible is like putting a wolf in charge of a hen house!
39. The 24 months imprisonment threshold is not necessary at Stage-1, Stage-2 and Stage-3. It simply serves to heavily reduce the number of recidivist offenders making it to third strike stage and therefore subject to a lengthy sentence.
40. The small number of difficult cases at Stage-3 for which the maximum sentence without parole should not apply (due largely to significant mental health factors) should be dealt with using the manifestly unjust clause.
41. That would be the intelligent and proportionate solution in those cases.

### **SUMMARY**

42. Criminals aren't stupid. They are well aware of the law and its consequences.
43. The bill will send a message that we're serious about the *It's Not OK* zero-tolerance message on family violence, zero tolerance on gun violence, and zero tolerance on sexual violence. The Three Strikes law reinforces that we take victimisations seriously.
- 44. We wish to appear before the committee.**



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