

JUSTICE SECTOR

Justice Sector Forecast

Prison Population Forecast 2014-2024

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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 October 2014 to June 2024.

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.

Forecasts for any particular agency are planned to appear at roughly 12-monthly intervals. Thus the next prison forecast will appear in or around October 2015. 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, as well as accommodating 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.

The roll-out of Policing Excellence formally concluded in June 2013, although its effects will continue to be felt for some time yet – for example, the fall in disposals between 2012-13 and 2013-14 was larger than the previous year. But the conclusion of the initiative means that prosecution numbers are likely eventually to stabilise at a new level, so our projection shows a continuing fall that eases off over a couple of years before a flat trend for the remainder of the forecast.

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 continue for a couple of years before levelling off in line with overall prosecution trends.

This did not happen. Instead, the levelling-off started around January 2014. This was both earlier and at a higher level than anticipated. Consequently, the remand population also remained at a higher level than anticipated, although neither musters nor number of starts has returned to the peak levels seen in 2006 to 2008.

It is unclear what caused the change in trend. The Bail Amendment Act that came into force in September 2013¹ 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). This was expected to have a minor impact, as either the numbers in a specific category were minimal, or the offenders involved were already unlikely to get bail.

What we have seen in 2014 is an increase in the use of remand across a wide 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 is possible that, despite its tight focus, the Act has been interpreted as a suggestion to be more rigorous in determining overall eligibility for bail. We have accommodated this change by maintaining the absolute numbers starting remand. This translates to a remand rate that is projected to increase for a couple of years until it stabilises at 8.7%. For comparison, the average remand rate between 2004 and 2010 was 7%.

The time spent on remand is strongly dependent on court processing time. The recent Criminal Procedure Act (CPA) has introduced changes into the court process designed to reduce both the numbers of court events and the times between them. At present, it is unclear whether the promised savings of the CPA will be delivered, and we do not propose to include them until further data are available. At the same time, work is underway both to expedite the delivery of Pre-Sentence Reports and to bring forward sentencing hearings. This is expected to cut some time from that spent on remand, so we have adopted an estimate of that impact for the forecast.

Conviction proportion

The next key assumption is how many people are convicted. This is represented as a proportion of prosecutions. In recent years this proportion has increased steadily, and we have assumed a

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

continuing slow steady increase. If offenders are convicted, we make assumptions about the sentences they receive. These assumptions are more complex because the proportions involved are interrelated, but from this we develop a view on the proportion and hence the number of offenders going on to prison sentences.

Length of prison sentence

To calculate the prison population, we make assumptions about trends in the length of imposed prison sentences. For this forecast we have assumed a level, but very slightly higher, value for the average imposed sentence of two years or less: 265 as opposed to 264 days. The difference may be only one day, but these sentences are the most common prison sentences, so even this single day implies an increase in demand for prison places. We have assumed a level, but lower, value for the average imposed sentence of greater than two years: 1,497 as opposed to 1,530 days. These assumptions reflect the slowly evolving trends in these quantities.

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.

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 offences². 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 August 2014, there had been 44 second strikes and no third strikes³. 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

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

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

impact will be felt. It is unlikely that any significant impact from third strikes will be noticed in the current forecast period, however second strikes may account for around 250 extra prison places by 2024.

The assumptions made are summarised in Appendix A: Assumptions.

4. The forecast

In the following sections we cover the remand, sentenced and total prison populations in turn. The 2014 forecast is compared with the 2013 forecast, and the differences between them are summarised briefly.

The general picture this forecast presents is a net small increase in the total prison muster over the next decade. The number of people being sentenced to a term of imprisonment is broadly level throughout the forecast period. Overlying this is an increase in the length of time being spent in prison by sentenced prisoners and an increase in the numbers of those starting remand. These increases are due to policy changes governing the bail decision and to Parole Board decisions that result in incarcerated offenders spending a greater proportion of their imposed sentence in prison before receiving parole. In addition, this is the first forecast to include the long-term impact of the 'three strikes' law. These policy changes are discussed in Section 3 of this report - Summary of Environment.

Remand population

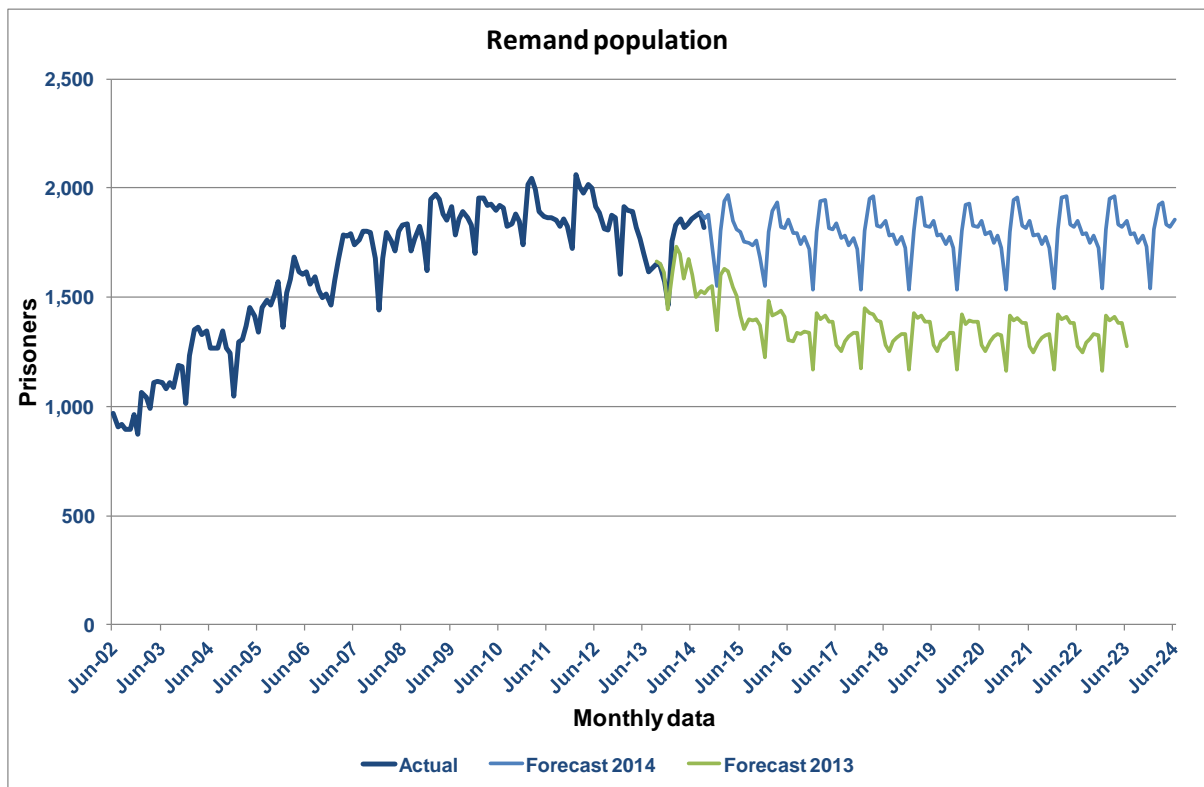
Table 1 and Figure 1 show the remand prison population and the forecasts for 2013 and 2014. All population figures are for the end of June in the relevant fiscal year.

Table 1: Remand prison population

Fiscal year	Remand population		
	Population	Annual change	Compared to 2013 forecast
2013-2014 (actual)	1,861	9.3%	16.3%
2014-2015	1,801	-3.2%	27.3%
2015-2016	1,855	3.0%	42.0%
2016-2017	1,838	-0.9%	43.6%
2017-2018	1,850	0.7%	44.1%
2018-2019	1,848	-0.1%	44.1%
2019-2020	1,851	0.2%	44.5%
2020-2021	1,848	-0.2%	44.8%
2021-2022	1,852	0.3%	44.9%
2022-2023	1,852	0.0%	45.2%
2023-2024	1,854	0.1%	n/a

What we have seen in 2014 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.

Figure 1: Remand prison population, with 2013 and 2014 forecasts



The differences between 2013 and 2014 are substantial, with the new forecast being more than 40% higher than its predecessor. The key difference is the discontinuance of the decline anticipated in the 2013 forecast in favour of the present level of remand starts being maintained. A small reduction has been included to allow for the impact of work to expedite the delivery of Pre-Sentence Reports and to bring forward sentencing hearings.

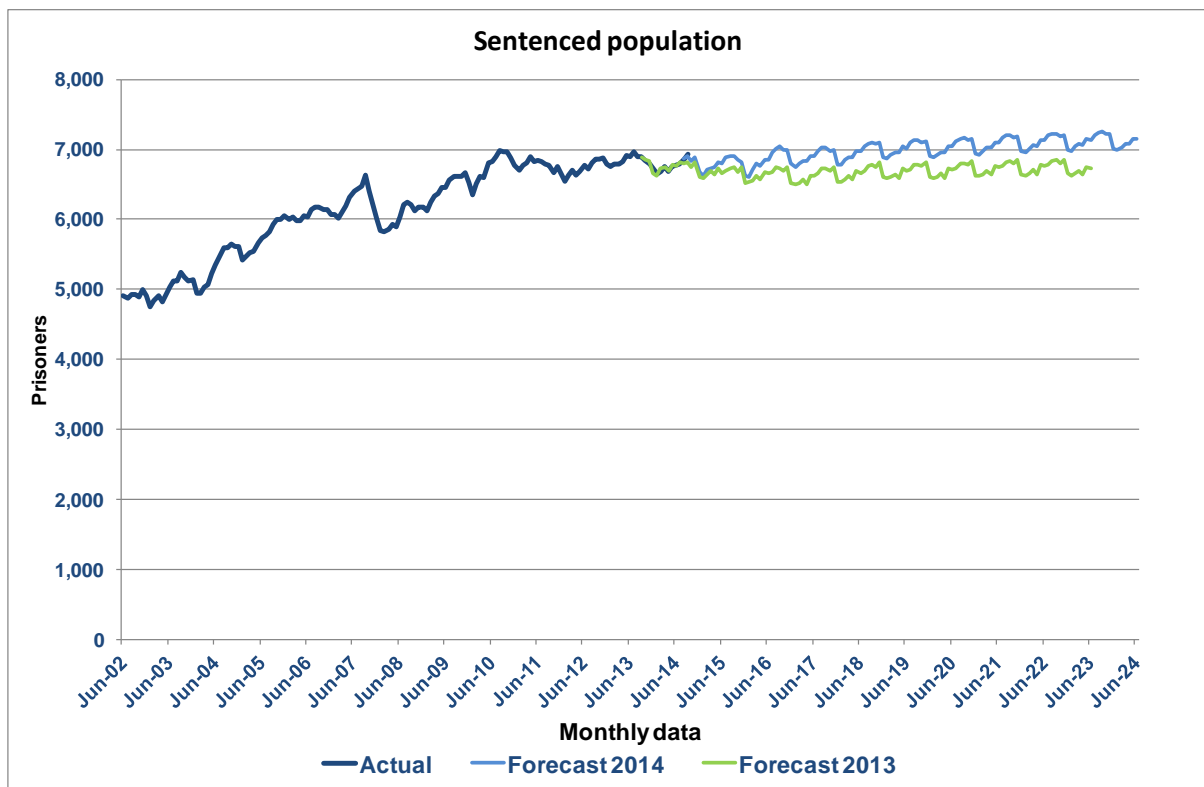
Sentenced population

Table 2 and Figure 2 show the sentenced prison population, and the forecasts for 2013 and 2014. All population figures are for the end of June in the relevant fiscal year.

Table 2: Sentenced prison population

Fiscal year	Sentenced population		
	Population	Annual change	Compared to 2013 forecast
2013-2014 (actual)	6,773	-1.9%	0.3%
2014-2015	6,795	0.3%	1.9%
2015-2016	6,849	0.8%	2.9%
2016-2017	6,896	0.7%	4.2%
2017-2018	6,981	1.2%	4.7%
2018-2019	7,016	0.5%	4.8%
2019-2020	7,041	0.4%	5.0%
2020-2021	7,092	0.7%	5.3%
2021-2022	7,127	0.5%	5.5%
2022-2023	7,134	0.1%	6.1%
2023-2024	7,144	0.1%	n/a

Figure 2: Sentenced prison population, with 2013 and 2014 forecasts



The 2014 forecast has two features that differ from the 2013 forecast. One is due to an unexpectedly low number of offenders starting sentences of greater than 2 years in 2013-14. We do not expect this to continue over the length of the forecast, but the consequences of that observed low number of starts work their way through the population numbers over the first couple of years of the forecast. These consequences keep the population level in the first couple of years.

Thereafter the other feature starts to have an effect. This is the impact of offenders serving their 'second strike' sentence under the Sentencing and Parole Reform Act 2010. Their numbers are expected to reach around 250 by 2024. As a result, the 2014 forecast slowly diverges from its predecessor.

In addition, both the 2013 and 2014 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 3 show the total prison population, and the forecasts for 2013 and 2014. All population figures are for the end of June in the relevant fiscal year.

Table 3: Total prison population

Fiscal year	Total population		
	Population	Annual change	Compared to 2013 forecast
2013-2014 (actual)	8,634	0.3%	3.3%
2014-2015	8,597	-0.4%	2.9%
2015-2016	8,703	1.2%	7.7%
2016-2017	8,733	0.3%	9.7%
2017-2018	8,831	1.1%	11.8%
2018-2019	8,864	0.4%	11.5%
2019-2020	8,893	0.3%	11.5%
2020-2021	8,940	0.5%	12.0%
2021-2022	8,979	0.4%	12.0%
2022-2023	8,987	0.1%	11.9%
2023-2024	8,998	0.1%	n/a

As noted previously, 2014 has seen 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.

Figure 3: Total prison population, with 2013 and 2014 forecasts



The underlying trend in the 2014 forecast of the total prison population is broadly flat. The slow increase over time is due to the increasing impact of offenders sentenced to serve time without parole under the ‘three strikes’ legislation, along with an increasing number of people serving Life and Preventive Detention sentences.

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 same two major trends as last year:

- There are fewer people passing through the system; 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 a downward influence on the prison population, while the second is an upward trend. The net result is a broadly flat prison forecast – the population in June 2024 is forecast to be about 3% above that in 2014. The key differences from last year’s forecast are a reassessment of the severity of treatment with particular reference to the use of custodial remand, and an improved estimate of the impact of the ‘three strikes’ legislation.

Appendix A: Assumptions

Table 4: Assumptions for 2014 forecast

Driver	Assumption	Comparison with previous forecast
Cases disposed	-3% in 2014-15	Higher
	-1% in 2015-16	
	0% per annum through to 2023-24	
Proportion remanded in custody	8.6% in 2014-15, then 8.7% per annum through to 2023-24	Higher
Average time spent on custodial remand	Fall by three days at start of 2015 and remain at that level for rest of forecast period	Smaller change
Proportion of people convicted	82.5% in 2014-15 rising steadily to 85.2% in 2023-24	Higher
Proportions of those convicted given a prison sentence	13.8% in 2014-15 rising to 14.3% by 2016-17 and remaining there for rest of forecast period	Higher than recent years
Length of sentence imposed	2 years or less: average rises 1 day to 265 days	Slightly higher
	Greater than two years: average falls 33 days to 1497 days	Slightly lower
Proportion of sentence served (including remand)	75.2% throughout forecast period	Higher

Note: A change to using cases as the counting unit for the forecast means that proportions in the above table are not directly comparable with previous years.

There are two broad thrusts to the assumptions:

- there are fewer offenders passing through the system;
- those who pass through the system are treated more severely in terms of the sentences they receive, and the likelihood of receiving custodial remand

The net effect of these contrary influences is a broadly flat forecast.