

DISTRICT COURT



Real Change

Law and Order



Authorised by David Seymour MP, Parliament Buildings, Wellington.





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Overview

All New Zealanders deserve to feel safe in their homes and communities. ACT believes protecting the safety and property of New Zealanders is our government's first and most important job. We should trust that authorities will enforce the laws that are meant to protect us. Maintaining law and order is essential for keeping the fabric of civil society together.

This Government has failed in its most basic duty to New Zealanders. And it hasn't just failed a little bit, it has failed on almost every measure. The New Zealand Crime and Victims Survey came out recently, and it paints a depressing picture on the unraveling of civil society.

- Twenty nine per cent of adults have been a victim of crime once or more in the past 12-months
- Some New Zealanders are getting let down time and time again. Thirty eight per cent of victims experienced two or more victimisations within a year. And two per cent of adults are experiencing 39 per cent of all crime in New Zealand
- Seventy three per cent of victims of interpersonal violent offences have been victimised twice or more
- Burglary is the most common household offence type, and repeat burglaries are rising significantly: 63 per cent of all burglaries are repeat burglaries, compared with 40 per cent for 2019-20
- Māori are significantly more likely to be victims of crime than the average New Zealander (37 per cent compared with 30 per cent)
- Adults living in the poorest neighbourhoods in New Zealand face a 21 per cent prevalence rate for household offences.

New Zealand is facing a wave of youth crime, and retailers are bearing the brunt of it. At a time when businesses are struggling to keep their head above water dealing with the impacts of the pandemic, inflation and a labour shortage crisis, dealing with theft and damage to property is the last thing these shop owners need. Dealing with youth crime is a delicate issue.

While condemning youths to the Corrections system too early is neither good for society nor the person, turning a blind eye to crime cannot be the answer. ACT would make punishment of crimes against retailers simple and efficient while avoiding formal prosecution.

Gang numbers have skyrocketed after four years of Labour's "kindness". Under this Government, criminals seem to be safe in the perception that the law doesn't apply to them. ACT will enable the Police and government departments to enforce current laws so that they actually mean something again. We will make sure that the threat of punishment for harming others is actually credible, and we will make sure that crime does not pay.

The problem with most law and order policies is that they fail to recognise the dignity of the victim. Victims should be at the centre of the justice system.

We shouldn't be cuddling the criminals who have offended against them. Nor should we be setting up a system that condemns criminals to a lifetime of further crime, with no hope of redemption. ACT's policies uphold the dignity of victims while making our Corrections system does not perpetuate crime further.



Credibly upholding law and order

Instant, practical punishments for youth crime

- ACT would introduce an infringement notice offence for shoplifting, resulting in instant, practical punishments such as fines and community service to ensure the shoplifter takes responsibility for their offending.

Nobody starts their criminal career by ram-raiding. It generally begins with smaller crimes like shoplifting.

Shoplifting is not a victimless crime. While some people might find it convenient to imagine shoplifting is simply a crime against faceless corporations, it is often small businesses, their families, and their workers who suffer most.

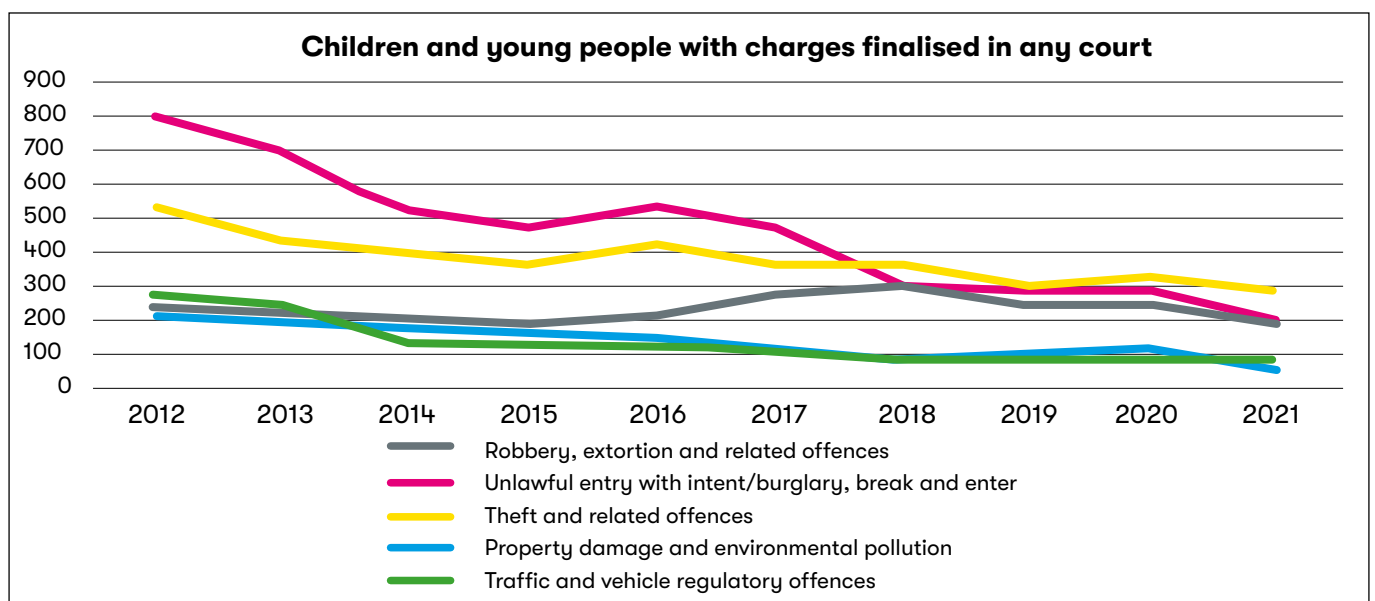
Theft is one of the most common offences for first-time youth offenders. ACT acknowledges that the drivers of youth crime are multi-faceted, that is why we've also made recommendations on addressing government failure in education and state care. However, we also acknowledge the victims of crime can sometimes be short-changed as authorities balance the different objectives of the youth justice system. Children under 14 cannot be charged with theft, while children aged 14-17 are usually given a warning or caution for their first offence, or will be dealt with by a family group conference or Youth Court if charged.

If you are a small business owner, the costs in terms of time of going through the courts or the

youth restorative justice systems can be prohibitive. The current system fails victims, and also fails to send the message that crime at any age has real consequences.

ACT would introduce an infringement notice offence for shoplifting, giving police the power to deal with offences on the spot. If the alleged offender disputes the crime, they may be charged with theft and go through normal justice processes. The infringement notice will include a combination of penalties to reflect compensation for losses. Punishments can include fines, as well as performing community services such as picking up litter, cleaning graffiti or volunteering at a community group. South Australia has a similar model, but we will be working with retailers to decide the appropriate thresholds for fines, the size of fines, and other steps to hold the offender accountable. We believe this is a non-partisan issue with the potential to get cross-party support.

Infringement notices are used as punishment for minor criminal matters that justify more than a simple warning, but less than a criminal conviction. They are favoured because they are simple and efficient to administer, are proportionate to the crime, and generally avoid the formal court system if adhered to. The policy will give offenders instant feedback that what they are doing is wrong, while not condemning young people down a path within the formal Corrections system. ACT believes infringement notices strike the right balance: between holding young people accountable for their actions and ensuring victims have access to simple and efficient justice.



Tax law applies to everyone, even gang members

- ACT would use Inland Revenue's powers to investigate gang members' income and tax paid.
- ACT would set performance expectations for the Gang Intelligence Centre to ensure government agencies can utilise this rich source of information when performing their duties.

According to Inland Revenue, illegal income is still income for tax purposes. But by its very nature, it is difficult for the government to tax illegal income. Act has been told by the Revenue Minister that Inland Revenue officials have no idea about the total incomes, unpaid tax or audit activity directly attributed to gangs, nor have they estimated it.

This does law abiding taxpayers a double injustice: not only are gangs avoiding tax, but taxpayers have to foot the bill or personally suffer the consequences of crime.

Gangs are not recognised by Inland Revenue as a legal entity and their tax obligations depend on their business structure. Gang members are also not considered to be employees or independent contractors (although who's to say until a gang member challenges their employment status in court). Understandably, figuring out the inner workings of how gang hierarchies and business structures work has proved to be an issue for Inland Revenue.

Some solutions to this problem already exist. There is a Gang Intelligence Centre which enables 12 government agencies (including Inland Revenue) to share information with the aim of addressing problems with gangs and the harm they cause the community. However, there have been problems with its implementation, and the Centre has been slow to get organised, despite being set up in 2016. This is frustrating, to say the least, given its potential to help government agencies overcome their silos. ACT would set performance expectations for the Gang Intelligence Centre, including agency contribution to the Centre as well as reporting on how different agencies are using the information in their mandated activities. For example, we would expect Inland Revenue to report on how they are using Police information to audit gang-related businesses. If Inland Revenue are serious about considering illegal income taxable, then that income should be subject to the same audit processes that businesses are all too familiar with.



ACT would also use the Inland Revenue Commissioner's recently expanded powers to investigate the income of gangs and the tax they pay. These powers were originally expanded so that the Government has the ability to demand wealthy New Zealanders answer probing questions on where their money comes from and where it goes. People who do not comply can be prosecuted and fined. It is likely that this investigation will be used to justify some form of wealth tax.

ACT would redirect those investigative powers to an obvious example of tax evasion in plain sight. Gangs survive based on their ability evade the law and authority. The information collected by Inland Revenue can't be used to lock up gang members directly (that'd probably violate our Bill of Rights), but the information can be used to improve future policies on taxing gangs. While both gangs and Inland Revenue would probably be happier just to continue pretending the other doesn't exist, with increased information and understanding ACT will ensure this is no longer an excuse.

ACT is sending a clear message that it expects existing laws to be enforced, and it will empower the Police and government agencies to enforce it.

Hit gangs where it hurts

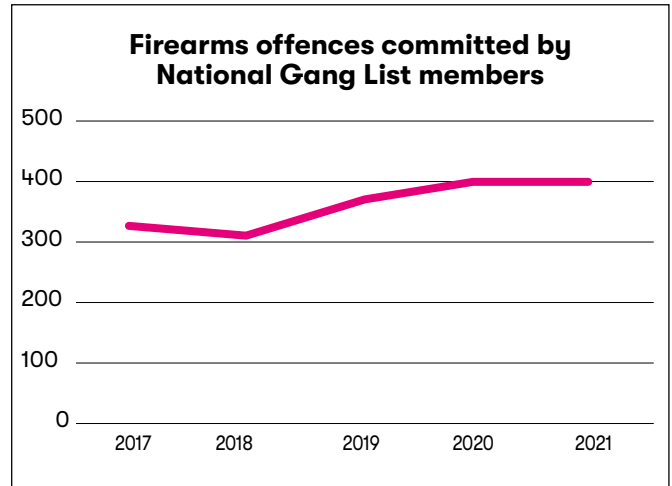
- ACT would increase the power of Police to seize the assets of gang members found with illegal firearms. Instead of changing s308 of the Crimes Act, which relates to 'intent', the Government should instead increase the penalties within the Arms Act so that any gang member who commits a drive-by shooting will be locked up immediately.
- ACT would repeal Labour's changes to firearms legislation.

Labour has overseen an explosion in firearms offences committed by gang members, which have increased by 26.3 per cent in two years. Nearly every week we're getting new headlines of gangs terrorising local communities, on a scale New Zealand has not seen before. Gun violence is no longer just between opposing gangs, now innocent members of the public have been caught in the fray.

It is time to get tougher on gang members who are discovered with illegal firearms. ACT would make it easier for Police to seize the assets of those gang members: that includes houses, cars, motorcycles, cash, and so on.

ACT's policy addresses a missing gap in current asset seizure law. Police can seize assets connected with criminal activity, but the definition of criminal activity does not include the discovery of illegal firearms used by gang members involved in criminal activity.

The Crown's power to seize private assets is a big step that should not be taken lightly. However, in this case the increase in powers is entirely justified. Gangs use unlawful firearms as part of the protection and enforcement of their operation, and the use is directly



linked to illicit financial gains. ACT's policy will hit gangs where it hurts – their pockets.

It is clear that neither the Government's new gun legislation, nor the confiscation of guns, has made a difference to the number of illegal firearms in circulation. Law abiding members of the firearms community have handed back their guns, but violent gang members were never going to.

ACT would repeal the six most onerous elements of the Arms Legislation Act 2020 that Labour ham-fistedly rushed through because they said it would protect the community. The changes haven't worked. When Labour announced it would attempt to register every firearm in the country, ACT warned that privacy breaches were inevitable. It won't change the number of illegal guns on the street, and it would be catastrophic if it fell into the wrong hands.

To credibly uphold law and order, ACT will make it easier to prosecute the bad guys, rather than making life scarier and far more burdensome for the good guys.



Review the sentencing for electronic monitoring

- ACT would review the use of electronic monitoring sentencing for violent offenders.
- Abolish the prison population reduction target.

Electronic monitoring allows offenders to serve their sentence in their communities. There are many circumstances where such sentencing is desirable: it appears to be effective in reducing re-offending and it comes with a significant saving for taxpayers too. However, New Zealand has high rates of electronic monitoring compared with other countries. At the start of this year, almost 6000 people were serving electronic monitoring sentences or orders.

Disturbingly, the number of gang members convicted of violence offences who have been allowed to carry out their sentence in the comfort of their own home has almost trebled under the soft on crime Labour government. Almost 900 gang members have managed to avoid jail under this Government. Anyone who claims this isn't risky is fooling themselves. In some cases, everyday kitchen foil is all that is needed to trick the system and slip detection. The number of people identified as potentially interfering with their electronic monitoring device is rising since 2017, showing the system is by no means foolproof.

We are concerned that Labour's target to reduce the prison population by 30 per cent over 15 years could lead to more dangerous criminals being let off on easier sentences. By introducing a target, there's a natural incentive for governments to utilise electronic monitoring even more, regardless of the risk to communities. The goal of corrections is not to reduce the number of people in prison, it is to keep the rest of us safe. ACT would abolish the target.

ACT would also review the use of electronic monitoring sentences for people who have committed violent offences. We would look at the circumstances under which these sentences are being granted, and whether these sentences adequately do justice for the victims of crime.

ACT stands on the side of victims. If someone has been at the receiving end of violence from a gang member, or attacked with a weapon, they deserve to feel safe knowing the offender is serving time, not just down the road in their house.

Gain consensus for police numbers, focus on skills, equipment, and activity

- ACT is calling for cross-party support of our police staffing policy.

Successive Governments have turned police numbers into a political football each election. This increases uncertainty for police, and it means public safety becomes jeopardised.

ACT has proposed implementing a standard annual increase in the Police staffing budget in line with population growth. ACT's policy would ensure that numbers keep up with population needs, instead of leaving it to hollow political promises.

ACT's proposal was so convincing, Labour has gone ahead and adopted it in the short-term. It just makes sense: as the population increases police numbers should too. ACT is now calling on National to make the same commitment.

Getting a cross party consensus is the only way to deliver an enduring solution to the public and New Zealand police force.

By taking the political contest away from the number of police staff, the emphasis can go onto much more important questions about the quality and nature of policing. In other words, we are shifting to an emphasis on policy effectiveness and productivity.

We would instead measure:

- What skills, experience and qualifications the police force have
- What equipment they are provided with
- How their time is spent, for example on what sorts of incidents

We would shift the emphasis from the raw number of police to the quality of police staff's time use.

Defending the dignity of victims

Ensure victims of crime receive their reparations

- ACT would reform the reparations system so that the Crown faces the burden of risk of slow reparation payments or non-payments, rather than the victims of crime.

New Zealand's reparation system fails victims of crime

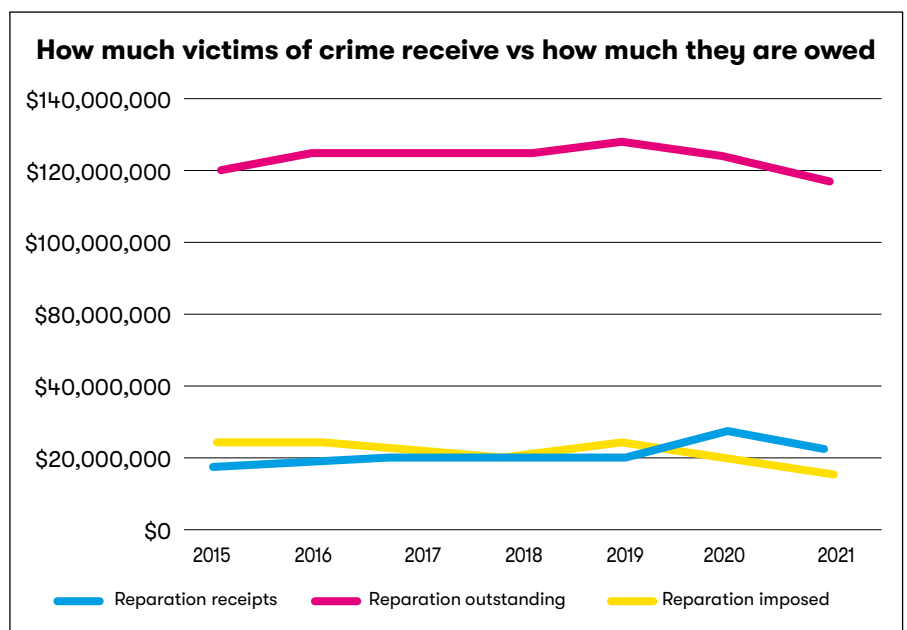
The system is supposed to compensate victims through the criminal justice system for property loss or damage and emotional harm caused by crime, when such harms are not covered by the accident compensation system. Reparation orders are made by the court, taking into account the nature and value of the harm caused, as well as the ability of the offender to pay.

A common complaint is that repayments are often small, and spread over a long time period which can prolong the healing process for victims of crime. Reparation payments are small or slow when the offender has low income, the offender is paying reparations to multiple people at once, the offender is in prison, or if the offender cannot be found.

Reparation payments are made through the court, and the court can only pay the victim after receiving payment from the offender — the law prevents the court from making advanced payments. The courts are also responsible for taking enforcement action against offenders for non-payments.

A Victim Assistance Scheme is also available to cover some of the costs related to serious crime, but it has been recently reported that the Ministry of Justice and Victim Support have managed the cost pressures of the scheme by deliberately under-promoting its availability to minimise access and uptake, meaning victims are being deliberately excluded from accessing support they are entitled to receive.

Victims of crime deserve certainty and prompt payment of reparations. Victims should not have to bear the costs and risks of late or non payments. And they certainly don't deserve to be duped by the State for grants they are rightly entitled to.



Source: www.justice.govt.nz/justice-sector-policy/research-data/justice-statistics/data-tables/; www.parliament.nz/resource/en-NZ/WQ_07126_2022/f441dc33e79f332d5bbf6513ad407c96859091f1

ACT would make it the responsibility of the Crown to pay reparations to victims immediately, and to recover those costs from the offender. In other words, the Crown would pay victims their entitled reparation payments as a loan, which offenders will be expected to pay back. The courts would still be involved with enforcement action, and judges will still be required to consider whether the reparation can be realistically enforced when they decide the reparation amount. This will ensure victims access what is justly theirs, while ensuring offenders are still held accountable for their actions.

To contribute towards the costs of the system, ACT would redirect revenue currently collected from the Proceeds of Crime Fund. At the moment, government agencies can bid to receive money from the Proceeds of Crime Fund to trial new initiatives consistent with the Government's priorities without having to undergo formal Budget processes.

While ACT supports innovation in public services, we consider this an expectation of government departments, rather than a 'nice to have'. ACT believes victims of crime are more deserving than governments who cannot manage a budget.

Any one of us could be a victim of crime at some point in our lives. ACT's policy is fairer on victims, while continuing to make sure offenders pay for the cost of their crime.

Take burglary crime seriously

- *ACT would reinstate Three Strikes, and introduce a separate Three Strikes regime for burglary offences.*

If anyone ever doubted that this Government cares more about cuddling criminals than it does about protecting victims and the community, the repeal of Three Strikes law is proof.

ACT's Three Strikes law has been hugely popular: 75% of New Zealanders support it. Eighty per cent of people who submitted on the repeal opposed it. These submitters urged the Government to take victimisation seriously and felt that repealing Three Strikes does not reflect an approach to criminal justice that prioritises victim's needs.

ACT would not only bring this policy back, we would create one for burglaries too. Burglaries are often premeditated, and can cause immense financial and psychological harm to victims. There were 289,000 burglaries over the previous 12 months. Weak sentencing for burglary means there's little motivation for people to report burglaries, and little reason for police to give them priority.

Introducing a Three Strikes regime for burglary offences is consistent with the spirit and objectives that ACT originally intended when we introduced it.

Criminals who commit three burglary offences would face a minimum three year prison sentence with no parole.

Everyone deserves to feel safe in their own home. ACT's policy will make sure criminals pay the price for violating that.



Offering pathways out of crime

Minimum literacy standards for parole

- *ACT would require individuals to complete skills or rehabilitation programmes prior to being considered for parole.*
- *Prisoners without the ability to read well enough to get a drivers licence would not be eligible for parole.*

Once criminals serve their time, they need the opportunity to start their life over. Unfortunately we know that this isn't the case. The reason is obvious: prison fails to equip prisoners with the skills and abilities they need to participate in civil society.

Prisoners face many barriers to gaining employment post-release, such as poor literacy, numeracy and educational underachievement. This results in many offenders falling back into criminal activity that sees them back within a corrections facility.

Although there are a growing number of programmes available for prisoners their availability is uneven across prisons. In 2021 the Parole Board wrote to the Corrections Minister detailing the lack of access to rehabilitation programmes, despite the fact it was a key consideration in parole decisions. At the time, Corrections admitted more than two out of every three inmates had not even started any rehabilitation programmes by the time they could apply for parole, let alone complete the programme.

ACT would take away the ambiguity over whether rehabilitation is a requirement or 'nice to have'. By making rehabilitation or skills programmes compulsory for parole, the onus is on prisons to provide that service at the scale required.

The current approach sees more New Zealanders becoming victims, more costs being incurred for taxpayers, and lost potential for those who end up in a corrections facility.

Policy that puts children first

- ACT would ensure Oranga Tamariki and its governing principles are open to whatever solution will ensure a child's wellbeing, regardless of ethnicity.
- ACT would reintroduce Partnership Schools to serve those struggling in traditional schooling, and would set contractual expectations on these schools to keep truancy levels low.

What do we know about the kids committing ram raids? Oranga Tamariki report that most of the kids are already within their system, and that most of these youth are not in schools.

As any crime expert would tell you, ACT recognises that addressing the real drivers of crime, especially youth crime, means thinking outside the law and order system. Most of us are aware of the dismal current state of the world: maltreatment in one generation is often passed onto the next generation. About 80% of child and youth offenders grew up with family violence at home. Children who face a combination of risk factors such as having a caregiver with a gang affiliation or a parent with prison or community sentence are also more likely to face poorer outcomes later in life.

Public services have the potential to improve the fates of those at risk of a lifetime of crime, Unfortunately, government policy failures only exacerbate the problem.

Worse, these failures are entirely avoidable: they are failures driven by blind ideology.

Oranga Tamariki is the government department responsible for some of the country's most vulnerable

children and it grapples with some of the country's most sensitive issues. When it is working well, it should act as a fence ensuring children do not fall off the cliff. However, the primary legislation for Oranga Tamariki places "Treaty-related" duties on the Chief Executive that are at odds with the agency's primary purpose to support the wellbeing, and act in the best interests, of a child or young person. These duties are not child-centric and inform policies and practices, such as so-called "reverse uplifts", which cause harm to children and young people.

ACT would repeal Oranga Tamariki's conflicting objectives, and would instead place more value on the best interests of the child rather than their ethnicity.

Another way children can be protected from falling off the cliff is through education. Yet truancy rates have soared under this Government. Only 54 per cent of secondary school students are regularly attending school, and the Government is showing no signs it is committed to turning this statistic around. At its most aspirational, it has set a strategy to see 70 per cent of school students at school regularly by 2024.

ACT's flagship Partnership Schools policy could have been a game-changer in turning around those statistics, but the Government has gutted the model. ACT's Partnership Schools model was successfully changing the lives of many children who were struggling to fit into our traditional schooling system.

The schools were also specifically contracted to not allow truancy rates above 2.8 per cent. If a Partnership School performed as badly as the average state school on attendance, it would be at risk of closure.





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