This article examines the potential role of 'habilitation centres' in the Labour government's attempts to reduce the prison population, starting with the recent recommendations of an expert panel who called for the 'gradual replacement of most prisons with community-based habilitation centres'. I trace this idea to the Roper report in the 1980s, showing how its emergence in Aotearoa New Zealand was shaped by problematic models of community corrections developed in the United States, with the habilitation centre articulated as a political compromise at a time of neoliberalisation and growing calls for Māori self-determination in criminal justice. Drawing on insights from Foucault and the broader field of carceral studies—though leaving the theory largely in the background—I spotlight the contradictions of the habilitation centre and other prison alternatives that rely on creating new sites of carceral confinement in the community. The analysis points to the dangers of a national network of habilitation centres being developed to extend, rather than replace, the existing system of hyper-incarceration.

The Habilitation Centre Ideal: Carceral Contradictions and Alternatives to Prison in Aotearoa New Zealand

LIAM MARTIN

In 2017, a Labour-led coalition government took office with a public commitment to cutting prison numbers by 30 percent. This marked an important turning point in penal policy after several decades of record prison growth and broad electoral consensus over the need for punitive punishment. An expert panel was established to guide the reforms, whose members led a process of public consultation and published their findings in a report calling for a 'fundamental reshaping of Aotearoa New Zealand's justice system'.[1] The report proposed not only decarceration from large closed institutions, but significant state spending on building a community infrastructure that could supersede traditional prisons—based on a network of new organisations to be called 'habilitation centres'. This shift in resources and priorities, the panel argued, would allow for the 'gradual replacement of most prisons with community-based habilitation centres'.[2]

The speed of decarceration in the period since has been dramatic: from the start of 2018 to the end of 2021, prison numbers fell from around 10,600 to 7,700—a drop of 27 percent that almost reached the government target in under

1 Te Uepū Hāpai i te Ora, *Turuki! Turuki! Move Together! Transforming Our Criminal Justice System* (Wellington: Safe and Effective Justice Advisory Group, 2019), 6, 9.

2 Te Uepū Hāpai i te Ora, *Turuki! Turuki!,* 9.

four years. This sudden fall in prison numbers is driving uncertain shifts in the system of hyper-incarceration, with the decline of imprisonment being coupled with growth in community-based carceral controls. For example, the department of corrections recently signed a long-term contract with British tech company Buddi Limited to supply ankle monitors and other technologies of 'e-carceration', and the number of people subject to electronic monitoring increasingly rivals the population incarcerated inside traditional prisons.[3] In this moment of decarceration, with the Covid-19 pandemic creating broad social upheaval, there is a need for careful scrutiny of the habilitation centre and other institutional forms that might take the place of the prison at the forefront of the criminal justice system.

The expert panel's report, released at the height of the prison boom, might be read as a radical roadmap for ending hyper-incarceration in Aotearoa New Zealand. In the years between 1985 and the 2017 election, the rate of imprisonment—the number of people in prison for every 100,000 in the general population—had more than tripled from 68 to 217. And this rapid growth in prison numbers was heavily concentrated among Māori experiencing chronic forms of social marginalisation, with around one-fifth of all Māori men born in 1981 imprisoned at some time before the age of 35.[4] Against this backdrop, the report outlined a wide range of social harms and financial costs of a prison system operating on a historically unprecedented scale, calling for a transformational approach in which 'people are habilitated in their communities'.[5]

But the proposals called for institutional expansion as well as decarceration; prisons would not only be closed but replaced. And hyper-

3 'New Contract Lays the Ground for the Future of Electronic Monitoring', *Department of Corrections*, 18 November 2021. At the end of 2021, there were around 5,800 people subject to electronic monitoring.

4 Kim Workman and Tracey McIntosh, 'Crime, Imprisonment and Poverty', in *Inequality: A New Zealand Crisis,* ed. Max Rashbrooke (Wellington: BWB, 2013); Ministry of Justice, 'Factsheet: Imprisonment in the General Population', Ministry of Justice, Wellington, 2019.

5 Te Uepū Hāpai i te Ora, *Turuki! Turuki!*, 17.

incarceration in New Zealand,[6] like other settler-colonial states, already involves a whole spectrum of interconnected institutions that, along with prisons, collectively impose a broad social confinement on Indigenous people, including disciplinary schooling, punitive policing, psychiatric interventions, and the detention of children in state care.[7] In this context, there is a danger that a national network of habilitation centres might be developed as an extension of hyper-incarceration that complements rather than replaces the existing sources of penal power. And there is a longer history of these kinds of social welfare–criminal justice hybrids, like state care institutions, operating as sites of racially targeted state violence against Māori and creating pipelines into the prison system.[8]

The expert panel called on the government to establish a Mana Ōrite (equal power) governance model in the justice sector, in which Māori and Crown agencies would share in decision-making, and to 'transfer power and resources to Māori communities so they can design and develop Māori-led responses to offending'.[9] In this model, the habilitation centre ideal provided a key mechanism for devolving state power to the community level, but the concept was used mostly as a placeholder for imagining

6 In this article, I generally refer to 'New Zealand' rather than 'Aotearoa' in order to locate the habilitation centre within a settler-colonial state that actively fosters Indigenous social confinement. The term Aotearoa has a genealogy that pre-dates colonisation and evokes not only notions of Māori authority as tangata whenua but contemporary aspirations to restore this authority and dismantle settler-colonial structures. Occasionally, then, I also use the phrase 'Aotearoa New Zealand' to highlight the tensions between these two meanings.

7 Moana Jackson, *Māori and the Criminal Justice System: A New Perspective – He Whaipaanga Hou Part 2* (Wellington: Department of Justice, 1988), 100-103; Tracey McIntosh, 'Marginalisation, a Case Study: Confinement', in *Māori and Social Issues*, eds. Tracey McIntosh and Malcolm Mulholland (Wellington: Huia Publishers, 2011); Juan Tauri, 'Criminal Justice as a Colonial Project in Contemporary Settler Colonialism', *African Journal of Criminology and Justice Studies* 8 (2004): 20-37; Thalia Anthony and Harry Blagg, 'Hyperincarceration and Indigeneity', in *Oxford Research Encyclopedia: Criminology and Criminal Justice* (2020).

8 Elizabeth Stanley, *The Road to Hell: State Violence Against Children in Postwar New Zealand* (Auckland: Auckland University Press, 2017).

9 Te Uepū Hāpai i te Ora, *Turuki! Turuki!*, 25.

alternatives that might replace prisons on a large scale. The description of the institution was a bullet-point list around 100-words long and there were no existing programmes named as models. Difficult questions about the role of habilitation centres within a larger system of state punishment were left open. For those interested in decarceration, the report was less a detailed blueprint than an invitation for further work.

This paper contributes to this work by developing a history of the habilitation centre in Aotearoa New Zealand. This will include a close reading and social and historical analysis of the 1989 Roper report, where the idea was most famously articulated after a ministerial inquiry into the prison system led by retired Crown prosecutor and judge Clinton Roper. I present the adoption of the habilitation centre concept as a political compromise designed to satisfy competing interests at a time when penal policy was under intense scrutiny and situate the formation of the idea within a larger social context of neoliberal restructuring and resurgent Māori political activism. And I trace the distinctive language of 'habilitation' as it travelled from the United States to New Zealand, locating the idea within the larger field of community alternatives to prison developed in the US and other liberal-capitalist societies in the decades before the inquiry—from halfway houses to home detention.

The paper follows the habilitation centre from idea to implementation, telling a story of carceral contradictions, as an institution promoted as a substitute for prison was introduced to criminal law as an extra form of community supervision imposed on people already leaving prison on parole. As will be shown, these contradictions were present in the Roper report itself, which imagined the habilitation centre as both an alternative to prison and a new form of penal confinement, or what was called 'community containment'. But the report was multi-faceted, also presenting the institution as a vehicle for Māori self-determination and bicultural partnership in criminal justice, and, in places, appears almost abolitionist in making sweeping calls for decarceration. And both during and after the ministerial inquiry, a range of groups were engaged in political struggle over rival versions of how the idea might be practiced. The habilitation centre

was ultimately introduced as a relatively orthodox extension of the existing prison system, but there were other possibilities.

I begin by examining the core vision of the habilitation centre concept articulated in the Roper report. The document provides a detailed map of a justice system with these community programmes replacing prisons as the primary site of incarceration, complete with organisational charts, mechanisms of oversight and accountability, descriptions of new staff roles, and diagrams showing how prisoners would progress through the system from court sentencing through to release. Analysing this vision opens a window onto the tensions of the habilitation centre and other alternatives that rely on shifting the site of state punishment from prison into the community.

Carceral contradictions from prison to community

The five-member Roper committee carried out public consultation for more than a year during the ministerial inquiry, holding community hearings and advertising widely for written submissions while visiting all 20 prisons to give staff and prisoners the chance to make confidential submissions. The final report developed a scathing critique of the failures of conventional imprisonment. This hinged on the argument that there is an 'irreconcilable conflict' between two essential goals of the institution—containment and (re)habilitation—with high-security prison settings fundamentally unsuitable for promoting positive change among prisoners:

> Treatment is rarely effective in the prison environment. The overriding culture of prisons is punishment through deprivation and many submissions made the point that this often leads to strong feelings of hopelessness and alienation in inmates and sometimes even staff members. . . . Wherever such a culture exists, the chance of therapeutic treatment being successful is minimal because one of the primary requirements of successful change is an atmosphere of hope, self-determination and an opportunity to learn new ways of behaving. This is rarely possible in prison, where the overwhelming emphasis on security necessitates bars on

> windows, a strict and rigid daily routine and the removal of any prospect of self-determination.[10]

The committee called for resolving the contradiction by separating conflicting goals 'so that each has a clearly defined and different place in the system'—containment in prison and (re)habilitation in community settings.[11] In its proposed system, penal confinement would continue to take place in a small number of traditional closed prisons, but the correctional mission of (re)habilitation would be moved into the more supportive environment of 'independent community-based therapeutic programmes'. It was a neat vision of change linking an analysis of prison failure with a concrete institutional alternative.

At the same time, the model seemed to reproduce in a new form the contradictions of correctional punishment. Consider that people would enter habilitation centres to serve sentences of imprisonment imposed in court—and would continue to be initially incarcerated inside a conventional prison. There, an initial assessment would be made and a 'habilitation plan' created, with a 'habilitation council' at each prison facilitating the movement of people into community programmes. The councils would have a minimum of four members, including the prison superintendent and a group of 'lay people with an informed or community background'.[12] The expectation was that these councils would divert the majority of people entering prison to habilitation centres following a format (i.e., violence prevention, drug treatment) based on the initial assessment.

This model located the habilitation centre as a site of incarceration, inheriting not only the correctional mission of (re)habilitation but also—and here lies the contradiction—the conflicting goal of containment that was previously assigned to the prison. The Roper committee described the new version of spatial restriction as 'community containment.' And,

10 Committee of Inquiry into the Prisons System, *Te Ara Hou: the New Way – Final Report of the Ministerial Committee of Inquiry into the Prisons System* (Wellington: Crown Publisher, 1989), 35.

11 Committee of Inquiry, *Te Ara Hou*, 35-36.

12 Committee of Inquiry, *Te Ara Hou*, 40.

in articulating the details of how this would operate under the proposed system, it was clear the programmes would have an important overarching focus on security:

> Habilitation centres will not by any means provide a soft option. Inmates must be contained in centres which provide structured, intensive and, at times, confrontational therapy. . . . As containment in a habilitation centre is part of the individual's sentence, there must be clear guidelines for programme organisers and inmates concerning expected behaviour within the centre. . . . Security is a primary concern which we see as being fulfilled by close supervision of inmates in habilitation centres at all times. We anticipate that there will be no leave of absence from the centre except where it may be necessary for the purposes of the programme. [13]

In this formulation, those subject to correctional punishment in a habilitation centre would be outside prison but would nonetheless be treated as 'inmates'. And the Roper committee imagined the inmates being supervised by what they called 'community containment officers'—a new category of staff it suggested could be drawn from the ranks of current prison guards—who would 'advise habilitation centres on security matters' and 'be responsible for the security of inmates outside prison'.[14] These officers would be managed from a specialist 'community containment branch' within the department of corrections, which would oversee inmates in habilitation centres alongside those subject to other community sanctions like home detention and electronic monitoring.[15]

It was a model that transferred important penal functions from prisons to the new community institutions, in particular, the confinement of inmates within a physical space where they could be closely supervised and

13 Committee of Inquiry, *Te Ara Hou*, 38.

14 Committee of Inquiry, *Te Ara Hou*, 41.

15 Committee of Inquiry, *Te Ara Hou*, 46, 64. Neither electronic monitoring nor home detention was being used in New Zealand at the time, but the Roper committee suggested both could be introduced as part of an expanded 'habilitation regime' managed by the community-containment branch.

reformed. But habilitation centres would also depend on the continued existence of prisons as a more severe back-up sanction to enforce compliance. With the centres allowing a degree of freedom in community settings, while also imposing an element of confinement and other rules that might provoke resistance, it was the ongoing threat of imprisonment that would prevent people from simply walking away. As the committee described: 'if there is any breach of the habilitation centre's rules or if the inmate does not perform satisfactorily, we envisage that he or she would be returned immediately to prison'.[16]

The Roper committee's proposed system, then, positioned the habilitation centre along a carceral continuum spanning prison and community—inextricably linked to the more punitive sources of penal power to which it was an imagined alternative. The pathway into a habilitation centre would start with a standard prison sentence imposed in court, and be followed by time inside a prison, with the subsequent residence at a community programme enforced with the threat of further imprisonment. Even more contradictorily, the community alternative would itself be assigned the dual goals of the correctional prison—expected to both habilitate *and* contain—creating in a new form the 'irreconcilable conflict' the Roper committee diagnosed as the root cause of the failure of the existing penal system. In this vision of justice transformation, the habilitation centre less resolved the contradictions of the prison than moved them outside into the community.

'Responsible experimentation' and the habilitation centre compromise

Clinton Roper was selected to lead the ministerial inquiry as a key figure in the criminal justice establishment. Roper had worked as a Crown prosecutor in criminal cases and later became a judge and long-time chair of the New Zealand Parole Board. He had a reputation as a progressive reformer but,

16 Committee of Inquiry, *Te Ara Hou*, 39.

in leading a ministerial inquiry into violence two years before the prison inquiry, produced recommendations around sentencing and imprisonment that included quite conservative calls for long prison terms without parole eligibility. Leading the prison inquiry, Roper confronted steep challenges mediating among a range of competing demands.

These were years of resurgent Māori political activism and calls for self-determination in criminal justice. Running parallel to the ministerial inquiry, Moana Jackson was leading hui with Māori around the country as part of research towards *Māori and the Criminal Justice System: A New Perspective – He Whaipaanga Hou*. Jackson spearheaded a broad critique of institutional racism in criminal justice, arguing that the basic structures and philosophical underpinnings of the British system remained fundamentally monocultural and exclusive of Māori interests and concerns, and proposed creating a parallel Māori justice system with the authority to hear all criminal cases in which the victim and offender were both Māori. He also echoed these calls in a written submission to the ministerial inquiry from Ngāti Kahungunu arguing for 'alternatives to, rather than changes in, the present system'.[17] Similar demands for self-determination were made by other Māori groups and organisations. A submission from Ngāti Porou, for example, advanced a 'blueprint' for creating a 'Runanga o Ngati Porou justice system'.[18] And in this climate, Roper was forced to respond publicly to criticism of a lack of Māori involvement in the ministerial inquiry itself, with only one Māori member on the committee: Reverend Robert Biddle, the general secretary of Ringatū Church.[19]

In *Te Ara Hou*, the Roper committee responded by articulating the habilitation centre concept as an institutional vehicle for devolving power and control from the state to Māori communities. The section of the

17 Ngati Kahungunu, 'Submission of Te Runanganui o Ngati Kahungunu to the Ministerial Committee of Inquiry into the Prisons System', 12 December 1988, personal archive of Kathy Dunstall, Victoria University of Wellington Library.

18 Ngati Porou, 'Submission of Te Runanga o Ngati Porou to the Ministerial Committee of Inquiry into the Prisons System', 24 November 1988, personal archive of Kathy Dunstall, Victoria University of Wellington Library.

19 Clarkson Neil, 'Roper Answers Critics', *The Press*, 13 September 1988.

report outlining the core vision of reform opened with a whole chapter on bicultural partnership—in which both *He Whaipaanga Hou* and a series of iwi submissions calling for self-determination were quoted directly—presenting habilitation centres as 'the area which provides the greatest potential for partnership'. In the words of the committee, 'one of the most powerful calls from all Māori groups was "give us the resources to deal with our own people". . . . That call must be heeded and we believe that the recommended system of habilitation centres provides a practical means of achieving it'.[20]

Whatever concessions may have been involved in the Roper report's emphasis on bicultural partnership, the habilitation centre concept translated often-sweeping demands for institutional transformation into a more pragmatic case for community alternatives to prison. The Ngati Porou submission, for example, argued their proposals for an iwi-led justice system would require 'substantial changes' to a range of legislation, including the Criminal Justice Act, the Penal Institutions Act, the Police Act, the Children and Young Persons Act, and the State Sector Act. And while these kinds of demands clearly influenced the Roper committee, their vision was ultimately more moderate: a devolution of penal power from prison to community, granting Māori a leading role in running the expanded network of habilitation centres.

The Roper committee's model of contracting for services previously provided by the state—in this case, the habilitation of prisoners—was also a compromise with the demands of the government's broader neoliberal reform programme in the public sector. With the country in the midst of a historic period of neoliberalisation, the Department of Justice was being externally reviewed by the company Strategos Consulting alongside the ministerial inquiry. One of the Roper committee members, Iain McCormick, was also a change-management consultant and director of human resources at Touche Ross, a multinational consulting firm that later

20 Committee of Inquiry, *Te Ara Hou*, 34.

merged with Deloitte.[21] And there were important parallels between the Roper report and the report from Strategos: both recommended creating a new agency separate from the Department of Justice to operate the prison network, for example, and called for the privatisation of some parts of the new system.[22]

The Roper committee argued that the newly created 'Department of Corrections' should be responsible for the funding and evaluation of habilitation centres, contracting out these services while retaining some measure of oversight. The model programmes named in their report were community organisations rather than profit-making companies; however, the issue of whether habilitation centres might be run on a for-profit basis was not discussed directly. And the Roper committee *did* recommend that some elements of the prison system be privatised,[23] like canteen services and building maintenance, while also suggesting the privatisation of a separate remand prison in Auckland.[24] More broadly, its basic model of reform, a devolution of power and resources away from state-run prisons considered costly and inefficient, drew on rationalities of neoliberal restructuring that were prevalent throughout the public sector.

At times, the Roper report appears almost abolitionist in critiquing the fundamental failures of the prison and advancing a range of proposals for decarceration. The committee recommended a moratorium be placed on building any additional prison capacity, for example, and supported emergency measures to release prisoners during periods of overcrowding, citing as a model the Michigan Overcrowding Emergency Powers Act promoted by the Correctional Association of New York.[25] These powers would come into force whenever the prison population exceeded capacity

21 McCormick had also worked as a clinical psychologist at the Department of Justice. See, for example, Iain McCormick, 'Social Skills Training and Natural Contingencies', *New Zealand Psychologist* 9 (1980): 70-72.

22 Strategos Consulting, *Department of Justice Resource Management Review* (Wellington: Strategos Consulting, 1989).

23 Committee of Inquiry, *Te Ara Hou*, 247.

24 Committee of Inquiry, *Te Ara Hou*, 185.

25 Committee of Inquiry, *Te Ara Hou*, 241-42.

for 30 consecutive days, making all prisoners within 90 days of parole eligibility immediately entitled to consideration for early release.

Most importantly, the Roper committee presented the habilitation centre as a decarceration measure that would move large numbers of prisoners into community settings and 'certainly result in a reduction in prison numbers in the long-term'.[26] It recommended the Department of Justice sell forest and farmland connected with the prison system and, while it expected that 'real savings will only occur when whole wings or whole prisons close down', anticipated more immediate savings as falling prison numbers lowered routine operating costs. [27] Over time, the resources previously dedicated to imprisonment could be used to build and develop the community alternative. In the words of the committee, 'as the habilitation centres would take inmates who would otherwise be in prison, it is envisaged that there would be a reduction in expenditures on prisons which would allow resources to be allocated to habilitation centres. In the long term, the majority of funding for the centres should come from the reduction in the prison population'.[28]

The Roper committee faced the difficult challenge of articulating these reforms in a way that might satisfy a broad audience at a time when public sentiment was increasingly punitive and law and order was a central political issue. Around a month before the inquiry began, an estimated 2,000 people marched to Aotea Square in Auckland on the day of the funeral of Teresa Cormack, a six-year-old girl who was sexually assaulted and murdered on a remote beach.[29] The marchers held banners reading 'show no mercy' and 'bring back capital punishment'. Workers on a building site suspended over the street a stuffed dummy with a noose around its neck and a sign reading 'hang 'em high'—and were greeted with cheers and clapping. At the election that year, the opposition National party campaigned on holding a

26 Committee of Inquiry, *Te Ara Hou*, 244.

27 Committee of Inquiry, *Te Ara Hou*, 103.

28 Committee of Inquiry, *Te Ara Hou*, 66.

29 Pat Rosier, 'Violence Rules, OK?' *Broadsheet: New Zealand's Feminist Magazine* (1987): 4-5.

referendum to reintroduce the death penalty for murder.[30]

Against this backdrop, the Roper committee presented its proposed system as a middle ground, with a continued emphasis on harsh punishment for serious offences—explicitly acknowledging the legitimacy of public calls for long prison sentences in some cases. As they wrote in the introduction:

> We reject extreme views and in this report have proposed what we see as a guide to the development of policy into the next century. In doing so we recognise that there will always be a hard core of recalcitrant offenders for whom little can be done; and that many inmates have committed horrendous crimes for which society will rightly demand long incarceration. While long-term containment is the only alternative for some inmates, there are many others who are not without hope, and more must be done for them.[31]

From this starting point, the habilitation centre was presented as a more effective correctional sanction designed for those 'not without hope'. The committee challenged any notion that the community alternative would be a 'soft option', emphasising security and supervision in how they would operate and articulating the concept of 'habilitation' as a disciplinary intervention aimed at crime control and public-safety goals. As the committee stated in the introduction to the report, habilitation centres would be 'designed to ensure that offenders can be confronted with both the reality of their crimes and the need to alter their behaviour' and it argued that this approach would 'prove to be a more effective means of reducing reoffending than the current system'.[32]

Roper committee member William Garrett, writing as head of the Tongariro Prison Farm, once argued it was impossible to satisfy all the different interests making claims on prison officials and policymakers. As he put it, 'we are either "too restrictive" or "too permissive"'. But Garrett

30 John Pratt and Phillip Treacher, 'Law and Order and the 1987 New Zealand Election', *Australian and New Zealand Journal of Criminology* 21 (1988): 253-268.

31 Committee of Inquiry, *Te Ara Hou*, 3.

32 Committee of Inquiry, *Te Ara Hou*, 5.

argued that this should not prevent efforts to change and adapt. Rather, the goal should be developing considered actions supported by qualified and independent professionals, which removes the force from some criticism and allows policy to be 'justified to the satisfaction of as many interests as practicable'.[33] It was an approach to reform he described as 'responsible experimentation'. And it was this kind of pragmatic ethos guiding the Roper committee in articulating the habilitation centre concept as a political compromise that might satisfy, as far as practicable, a range of competing interests.

A brief history of 'habilitation'

The Roper committee released its proposals under the name *Te Ara Hou: the New Way*, using bicultural language to emphasise the novelty of the reforms. In the words of the committee, 'our approach is simple, perhaps deceptively simple, but so far as we are aware it has not been tried in the form we propose anywhere else in the world'. The new approach was built on a reframing of the core correctional mission of *re*habilitation—now to be called habilitation—a decision it traced to the influence of public consultation undertaken during the inquiry:

> In a number of submissions, including one from the Christchurch Prison Chaplains, it was argued that the aim of therapeutic programmes was rarely 'rehabilitation,' meaning the restoration of former capacities, but was actually 'habilitation,' that is, to equip and make fit for life. In the opinion of the committee that is a more positive and realistic approach; hence our adoption of the term 'habilitation'.[34]

The concept of habilitation may have been new to discussions of prison

33 William Garrett, 'Penal Philosophies and Practices in the 1970s in New Zealand', in *Conference Proceedings: Penal Philosophies and Practice in the 1970s* (Canberra: Australian Institute of Criminology, 1976), 65.

34 Committee of Inquiry, *Te Ara Hou*, 35.

reform in New Zealand, but in the United States, clinical psychologist Stanton Samenow had been insisting the term habilitation be used over rehabilitation for a decade before the ministerial inquiry was launched. In 1977, for example, he published a paper titled 'The Challenge of Habilitation'.[35] Samenow's conservative analysis, arguing that crime was caused not by social factors but by individual defects in the criminal personality, attracted widespread political and public attention during the rise of mass incarceration in the US as he was appointed by then-president Ronald Reagan to the Law Enforcement Task Force (1980) and Task Force on Victims of Crime (1982).[36] In June of 1986, he wrote the following:

> If inmates in prison are to do anything more than serve time in a warehouse, it is essential that they equip themselves to live a way of life that they have in the past rejected. The issue is not 'rehabilitation,' for that only means to restore a person to a previous condition. . . . The criminal has nothing to which to be rehabilitated. To help the criminal live a responsible life requires a task of a far different dimension. It is one of 'habilitation,' to help him develop an entirely new way of thinking about himself and the world.[37]

Samenow was by no means the first to draw this distinction. More than two decades earlier, Lawrence Heinemann, then director of the John Howard Society in Canada, had argued a preference for the term 'habilitation' as part of similarly conservative theorising of the relationship between 'pathological dependency needs and delinquent behaviour'.[38] But Samenow's work locates the concept in the mainstream of American correctional discourse in the years before it was adopted during the ministerial inquiry in New

35 Stanton Samenow, 'The Challenge of Habilitation', in *Assessing the Criminal*, eds. Randy Barnett and John Hagel (Massachusetts: Ballinger Publishing, 1977), 121-132.

36 See Craig Haney, 'Demonizing the "Enemy": The Role of "Science" in Declaring the "War on Prisoners"', *Connecticut Public Interest Law Journal* 9 (2010): 219-227.

37 Stanton Samenow, 'Making Moral Education in Prison a Living Reality', *Journal of Correctional Education* 37 (1986): 44.

38 Lawrence Heinemann, 'Dependency Factors in Delinquent Behaviour', *Canadian Journal of Corrections* 6 (1964): 296-307.

Zealand, with important parallels to the language and justification used by the Roper committee in presenting the goal of habilitation as 'to equip and make fit for life'.

The novelty of the Roper committee's proposals rested not only on a shift in the language used to justify correctional goals but, more importantly, on shifting the site where these goals would be achieved from prisons into community settings. And it named an American halfway house, the Delancey Street Foundation in San Francisco, as a model for the development of habilitation centres in New Zealand.[39] Delancey Street was both a halfway house and a capitalist enterprise that promoted an ethos of self-reliance through hard work, accepting no state funding and instead running businesses by drawing on the (often unpaid) labour of participants.[40] The programme became notorious for techniques of group therapy like 'the game', which called on residents to verbally taunt and make exaggerated allegations against one another.[41]

The Delancey Street model became influential in New Zealand after David Hall, a prisoner at Paparua Prison, was inspired by the book *Sane Asylum: Inside the Delancey Street Foundation* (1976). [42] Along with Dave Robinson, a probation officer and prison psychologist, he founded the Salisbury Street Foundation in Christchurch. They borrowed extensively from Delancey Street, introducing controversial methods of group therapy like 'the game' and, in the years before the ministerial inquiry, were marketing the programme as aimed at the 'total reorganisation of an individual's values, attitudes, psychological and behavioural patterns and general lifestyle'.[43]

The Salisbury Street Foundation articulated its programme mission

39 Committee of Inquiry, *Te Ara Hou*, 38.

40 Mimi Silbert, 'Delancey Street Foundation: An Example of Self-Reliance', in *Bridging Services: Drug Abuse, Human Services and the Therapeutic Community*, ed. Eleanor Nebelkopf (San Francisco: Abacus Printing, 1986), 303-306.

41 Julia Lurie, 'The Toughest Love', *Mother Jones*, May/June 2020.

42 Donna Hough, 'A History and Analysis of the Salisbury Street Foundation in Christchurch' (MA Thesis, University of Canterbury, 2003), 79.

43 Hough, 'Salisbury Street', 96.

in terms of 'habilitation'—drawing the word from Delancey Street—and this seems to have been an important influence on the Roper committee's decision to adopt this language. Roper had a relationship with Salisbury Street that extended before and after the ministerial inquiry. He developed the connection through the parole board in Christchurch and, during the earlier ministerial inquiry into violence, presented Salisbury Street as a model deserving further state funding.[44] The committee visited the programme and met personally with staff during the ministerial inquiry and, later, Roper joined the board of trustees (along with fellow committee member Kathy Dunstall).[45] By one account, these exchanges were the genesis of the habilitation centre concept entering the ministerial inquiry. Dave Robinson, a member of the board at the time, said the programme had 'developed a phrase that came out of Delancey Street Foundation – we called it a habilitation programme', and, when taken up by the Roper committee, it 'mainly came out of Salisbury Street Foundation'.[46]

The Delancey Street Foundation was founded in San Francisco in 1971. This was a period when the American prison was widely viewed as a failed institution destined to be replaced by more humane alternatives, with many reformers investing their hopes for change in the burgeoning field of community corrections.[47] The range of alternatives rapidly proliferated, as policymakers and community advocates alike developed all kinds of halfway houses and residential centres, group homes and hostels, camps, and shelters. The myriad innovations included 'habilitation houses' opened in Alaska in 1964—described in one evaluation as 'half-way type residences for recently discharged mental patients and or public offenders on work release or other discharge arrangements'—and the Hawai'i substance-abuse

44 Committee of Inquiry into Violence, *Report of the Ministerial Committee of Inquiry into Violence* (Wellington: Department of Justice, 1987), 120.

45 Christine McCarthy, 'From Roper to Regional Prisons: A Story of Habilitation', in *New Zealand Architecture in the 1990s: A One Day Symposium*, ed. Christine McCarthy (Wellington: Centre for Building Performance Research, 2020), 52.

46 Hough, 'Salisbury Street', 130.

47 Stanley Cohen, *Visions of Social Control: Crime, Punishment, and Classification* (Cambridge: Polity Press, 1985), 32-36.

treatment centre Habilitat, which opened in 1971.[48]

The Roper committee proposals were based in part on an optimistic assessment of these developments and how they might inform penal policy locally. The acknowledgments section of the final report thanked criminologist Michael Tonry, then at the Castine Research Foundation in Maine, whose monograph *Intermediate Sanctions* was named as the basis for the committee's chapter-length review of (largely US) community corrections focusing on the potential for bringing home detention and electronic monitoring to New Zealand. The chapter was introduced with a direct quote from Joan Petersilia, then with the RAND Corporation in Washington DC, arguing that 'these programmes represent a part of, if not the entire, positive future of American corrections'.[49]

The committee could have found a very different picture in the text *Visions of Social Control*, published by sociologist Stan Cohen two years before the Roper inquiry. Cohen argued that these kinds of community alternatives had been less successful at emptying prisons than in justifying new and more dispersed forms of social control. Cohen was the leading figure in a group of scholars—often inspired by the work of Michel Foucault—engaged in sustained critique of community-based carceral expansion.[50] He pointed out that the American prison population had not shrunk despite the explosive growth in supposed alternatives; indeed, a historic period of expansion had begun in the 1970s.[51] Within the emerging system of mass incarceration, a vast web of community corrections formed a carceral net which complemented rather than replaced the existing institutions of penal power. Cohen's work popularised the term 'net-widening'—and

48 Carroll Craft, *Final Report: South Central Alaska Project* (Anchorage: Alaska Office of Vocational Rehabilitation, 1970), 32; Megan Alexinas, 'Working for Better Outcomes: An Inquiry into the Rehabilitation and Reintegration of Ex-Offenders Through Integration in the Labour Market as Part of the Criminal Justice Process' (MA Thesis, University of Canterbury, 2008), 48.

49 Committee of Inquiry, *Te Ara Hou*, 61.

50 See also, John Lowman, Robert Menzies, and Ted Palys, eds., *Transcarceration: Essays in the Sociology of Social Control* (Cambridge: Cambridge University Press, 1987).

51 Cohen, *Visions of Social Control*.

foreshadowed the trajectory of the habilitation centre concept as it was ultimately practiced in New Zealand.

Habilitation as theory and practice

In the wake of the ministerial inquiry, the Department of Justice set up a working group to examine how the habilitation centre concept might be translated into practice. In the final report, the contradictions at the heart of the idea surfaced as concrete operational problems, with the group struggling to find a viable way for habilitation centres to 'exercise custody' without undermining their intended use as non-authoritarian community alternatives. For example, one option involved having a prison official physically present, but this 'would blur the lines of authority in the centre and could have a detrimental effect on the therapeutic atmosphere'.[52] Similarly, giving the responsibility to community-containment officers might 'upset the balance which is intended for habilitation centres, where the emphasis is clearly intended to be on creating an atmosphere which is conducive to the rehabilitation of offenders rather than on custody or security issues'.[53] In the view of the working group, habilitation centres might need to be officially designated as penal institutions under the law, so that programme management and staff could be granted the powers to exercise custody. But in the group's words:

> We are doubtful that the benefits which the [Roper] committee found in existing programmes would be retained if the centres were institutionalised to this extent. There is also the fact that most, if not all such organisations, would bridle at being declared penal institutions and would reject any attempt to impose legal authority or responsibility on them, as the essence of such programmes is voluntary

52 Department of Justice Habilitation Centre Development Group, *Habilitation Centres: Report of the Department of Justice Habilitation Centre Development Group* (Wellington: Department of Justice, 1990), 25.

53 Habilitation Centre Development Group, *Habilitation Centres*, 26.

> participation and the individuals desire to change. With regard to marae-based programmes, we were clear that it would be inappropriate and unacceptable to designate a marae as a penal institution.[54]

The working group ultimately rejected the Roper committee's whole approach of shifting the site of habilitation from prison into community settings. Instead, they argued that the priority should be given to further developing the prison case-management system, which was designed to co-ordinate programmes across the course of a sentence, primarily inside prison but also outside after release. For the working group, habilitation centres could be introduced by the Department of Justice as an extra option used alongside its other programmes, some of which were already being contracted out to community organisations. As stated in the Foreword, 'the development group's report sees habilitation centres as a natural and positive extension to the case management system; they are an important addition rather than an alternative to the programmes that are being developed in prisons'.[55]

Around the same time, the Department of Justice released a reform package labelled *He Ara Hou* (a new way)—a twist on *Te Ara Hou* (the new way)—that made no mention of habilitation centres. This was led by Kim Workman, head of the Penal Division and, in his words, 'as the He Ara Hou strategy was developed, I decided to align it to the belief that rehabilitation *should* take place in prisons'.[56] Workman described the reforms as upgrading the objective of (in-prison) rehabilitation to give it equal status to security, in part by implementing some of the Roper committee recommendations around improving prison conditions, and he personally used the term 'habilitation' in working to change attitudes among prison staff.[57] But on the core issue of the site of habilitation—

54 Habilitation Centre Development Group, *Habilitation Centres*, 26.

55 Habilitation Centre Development Group, *Habilitation Centres*, Foreword.

56 Kim Workman, *Journey Towards Justice* (Wellington: BWB, 2018), 161.

57 Kim Workman, 'The Moral Performance of New Zealand Prisons', paper delivered at the 'Ethical Foundations of Public Policy' conference, Victoria University of Wellington, December 2009; *Journey Towards Justice*, 162.

prison or community—Workman opposed the ministerial inquiry. As he wrote at the time, 'research shows that the critical factor in programmes is not their location but their quality and the way they target specific needs of inmates. The department's view is that it would be an abdication of our responsibility if we did not provide opportunities for all inmates to change for the better in the course of a prison sentence'.[58]

In March 1990, the Hutt Valley Family Violence Network brought together a group of community organisations for a two-day hui at Rimutaka Prison. A journalist in attendance described the event as like a 'battle' between opposing 'combatants'—with justice officials on one side and community groups on the other.[59] Around 10 months had passed since the release of the Roper report. The hui participants represented organisations eager to take on the challenge of habilitation, but who believed this should be done on their terms and outside prison walls. Yet at a time of fiscal austerity and neoliberal state withdrawal, the Department of Justice was using the scarce resources available for habilitation on programmes inside prison.

Kathy Dunstall, a member of the Roper committee in attendance at the event, was especially critical of the government response. Dunstall was the only woman on the inquiry and was appointed four months after the men, a move she later described as a clear case of tokenism.[60] With a background working for Women's Refuge and doing community-health research, she came to represent the demands of community organisations, articulating a vision of habilitation quite different from the emerging approach of policymakers:

> What the department had done is co-opt the language and thrust of the report, and has the audacity to say they are implementing Te Ara Hou. But the true spirit of Te Ara Hou is based on habilitation centres. It

58 Penal Division, *Major Prison Reform: He Ara Hou – Questions and Answers on New Policy Direction* (Wellington: Department of Justice, 1990), 4.

59 Pauline Swain, 'New Dawn of Prison Reform Under a Cloud', *The Dominion*, 2 March 1990, 9.

60 Bruce Ansley, 'Matters of Conviction', *The Listener*, 1 October 1990, 20.

> was never our intention that habilitation should apply within prisons. Habilitation centres are still custodial, but the setting is different. They are independently based. This is where you have the ability to talk about a bicultural approach, because the Maori community can set up their own habilitation centres. The programmes have to be based in the community, run and managed by people in the community who know how to deal with their own. What's the point of pouring all these resources into a system which has been demonstrably a failure for over 100 years? It's a continued misdirection of resources, and the department is doing that right now.[61]

Dunstall's public advocacy stemmed not only from her role on the Roper committee, but from membership in the Habilitation Centres Task Force, established by a network of community-based activists involved in churches who hoped to put political pressure on the government. By the time of the hui at Rimutaka prison, according to one estimate there were 25 task-force groups across the country.[62] Members mobilised not only to support the development of community programmes but to oppose expansion of the traditional prison system. The local group in Whangarei, for example, claimed to have prevented a new prison being built in the region.[63]

The national coordinator of the task force, Jim Consedine, articulated the habilitation centre as a strategy of decarceration or even prison abolition.[64] And for many years after the ministerial inquiry, the group organised public political actions: in 1993, for example, they held a 'National Awareness Day for Habilitation Centres' and detained two volunteers in a mock prison cell in Cathedral Square in Christchurch. Members lobbied government and cultivated relationships with the Labour Party in particular. Jim Consedine was in regular correspondence with Phil Goff, for example, who made his first address as justice spokesperson to the 1994 annual general meeting of the Habilitation Centres Task Force. In

61 Swain, 'New Dawn', 9.

62 Swain, 'New Dawn', 9.

63 Swain, 'New Dawn', 9.

64 Jim Consedine, 'Pathways to Prison Abolition: Reflecting on the New Zealand Experience', *Catholic Worker*, 2006.

one letter to Consedine, Goff committed to 'promote the resourcing and the implementation of habilitation centres as recommended by the Roper Committee Report'.[65]

After the group changed its name to the National Movement for Habilitation Centres and Restorative Justice, it helped organise for New Zealand to host the Eighth International Conference on Penal Abolition in 1997. The event was opened by former prime minister David Lange, while Thomas Mathieson, among the world's best-known abolitionist scholars, delivered a keynote address. Pita Sharples, a leading figure in movements for Māori self-determination, gave a talk titled 'A Way Forward: Māori Habilitation Centres'. On the day he presented, the venue of the event was moved from Auckland University to Hoani Waititi Marae, around 20km away in West Auckland. Sharples had been a driving force in building Hoani Waititi, an intertribal marae for urban Māori, where he also founded the country's first kura kaupapa. There he presented the habilitation centre as another potential vehicle for promoting Māori self-determination.

Sharples's talk foreshadowed one of the more notable attempts to institutionalise the habilitation centre concept. He later became a member of parliament with the Māori party, leading the development of what he called 'Māori habilitation units' or 'whare oranga ake'.[66] Two whare oranga ake were established, at Mangaroa and Spring Hill prisons, in both cases located outside the secure perimeter of the institution. Sharples described these as 'unique institutions' that were 'founded on the Māori values of manaakitanga, kotahitanga, rangatiratanga, whanaungatanga and wairuatanga'.[67] But the whare oranga ake were still located on prison grounds and were under the control of the Department of Corrections. Participants completed regular drug tests and wore electronic monitoring bracelets.

At the whare oranga ake at Mangaroa Prison, the Department of

65 McCarthy, 'From Roper to Regional Prisons', 52.

66 Pita Sharples, 'Habilitation Units Enhance Public Safety', *Scoop News,* 5 May 2009.

67 Pita Sharples, 'Whare Oranga Ake Opening a National Milestone', *Press Release*, 15 July 2011.

Corrections signed a partnering agreement with the local hapū, Ngāti Poporo. But Demsa Ratima, hapū kaumātua and chair of the Takitimu District Māori Council, argued the department did not provide proper support for building capacity: 'we realised that the department values experts, but the knowledge that we have about our own people does not make us experts in the eyes of the department'. And for Ratima, the development of the units outside Māori control was 'an opportunity missed' that undermined their ability to provide a meaningful alternative:

> Now from the outside looking in, Whare Oranga Ake still looks and feels like a jail. I understand that it is underfunded. The prison still controls it because it decides who goes into the unit: the low hanging fruit. Those men who most need help are the least likely to get it. The Department invested all of this money in the Whare Oranga Ake buildings, but it does not actually do things differently in those buildings.[68]

The contradictions of the habilitation centre concept—as both an alternative to prison *and* an institution of carceral control—appear as concrete tensions in the development of whare oranga ake. This includes the ambiguous physical location of the 'habilitation units' outside the wire but still on prison grounds, articulated through Māori values like manaakitanga and rangatiratanga, but located within the Department of Corrections and maintaining the 'look' and 'feel' of a jail. In the wake of the Roper report, many policymakers argued the concept could be introduced without developing any alternative institution, with habilitation practiced not in the community but inside conventional prisons along with existing programmes and interventions. And when a pilot project established a small number of community based habilitation centres, the basic legal and institutional framework of the trial ensured these programmes were also closely aligned with the existing penal system.

---

68 Desma Ratima, 'Summary of Evidence', Waitangi Tribunal, Wellington, 2016, Wai 2540.

Habilitation centres as correctional outposts

At the end of 1992, Douglas Graham, then minister of justice in the National government, entered a bill to parliament that would create the legal foundations for the habilitation centre pilot project. The Criminal Justice Law Reform Bill proposed habilitation centres be introduced under a new category of community supervision to be called 'residential parole'.[69] The legislation sought to broadly tighten post-release restrictions, more uniformly apply parole conditions, and, in this context, introduce both habilitation centres and home detention at the same time, with people released to residential parole entering one or the other.[70] The framework was starkly different from the vision of decarceration outlined by the Roper committee—which imagined most people sentenced to imprisonment being transferred into habilitation centres—and instead located the new programmes as an additional form of supervision imposed on those already leaving prison.

When the regulatory framework was finalised and passed into law through the Criminal Justice Amendment Act 1993, habilitation centres were made available only to prisoners finishing their full sentence or already eligible for parole.[71] These criteria intensified (rather than replaced) the existing sanction of imprisonment. People completing a full sentence before entering a habilitation centre would now be subject to a variety of additional restrictions in the community. All other habilitation centre placements were reserved for people released on parole, with the person subject to both parole conditions *and* an extra layer of carceral surveillance at the programme in which they lived.

Institutionally, the legislation established habilitation centres as part of the existing network of community controls operated by the Department of Corrections. Prisoners released to the centres were placed under the

69 Douglas Graham, 'Criminal Justice Law Reform Bill', House of Representatives, 8 June 1993.

70 McCarthy, 'From Roper to Regional Prisons', 51.

71 Criminal Justice Amendment Act 1993, no. 43, 102(1). Eligibility was also restricted to those serving a prison sentence of at least 12 months.

supervision of a probation officer. The officers were given an official role as 'habilitation co-ordinators', in which they were charged with monitoring violations of programme rules and, at the same time, enforcing the parole conditions attached to the person's release from prison. More broadly, probation officers were responsible for advising habilitation centre staff on operational and security matters, and for reporting on the programmes and participants in their assigned district to the local manager of community corrections.[72]

The Department of Corrections also controlled the process of selecting which community programmes would be funded as habilitation centres, with an initial target of selecting five. At the end of 1994, the department circulated contract guidelines and draft tender agreements to more than 275 groups and individuals who might be interested, with 22 responses.[73] And the process of granting accreditation for programmes to operate habilitation centres—which came with full state funding—came to shape the basic contours of how these institutions worked in practice.

Glenn Newman, the director of Salisbury Street Foundation at the time, believed the programme would function most effectively as an 'outpost' of the Department of Corrections. Newman joined Salisbury Street from a background working for the department as a probation officer and viewed the pilot as a chance to professionalise the community programme and establish clearer administrative expectations, spearheading the process of gaining accreditation as a habilitation centre to expand the involvement of the department. As he put it, 'I would have liked to have merged Salisbury Street into something to do with Corrections so we became almost like a Corrections structure, the administration being completely handled by Corrections'.[74]

For more than a year, corrections officials made regular visits to Salisbury Street to review the programme and establish guidelines for accreditation. For their part, some staff at the small community organisation, who faced

72 Criminal Justice Amendment Act, 1993, nos. 43, 45(1) and 45(2).

73 McCarthy, 'From Roper to Regional Prisons', 53.

74 Hough, 'Salisbury Street', 165.

an uphill battle attracting funding, saw the partnership as a chance to establish financial security and ensure the survival of the programme. In exchange, they created a new policy-and-procedures manual and submitted to ongoing evaluation. In 1996, the Salisbury Street Foundation signed a three-year contract to become the country's first official habilitation centre. But Kathy Dunstall, the former Roper committee member on the board of trustees at Salisbury Street at the time, was staunchly opposed to what she described as the Department of Corrections claiming 'ownership' of the programme. Dunstall believed that, as the pilot project developed and an increasingly close relationship was established with the department, this undermined the ability of Salisbury Street to provide a meaningful community alternative—and eventually resigned from the board in protest.[75]

At some level, the introduction of habilitation centres in New Zealand was a classic case of net-widening, repeated often in the history of community corrections, in which reforms intended to replace prisons ultimately extended the reach of the carceral. Rather than providing a vehicle of decarceration, the institution was articulated in criminal law as an additional form of post-release supervision, in which people leaving prison on parole entered programmes controlled in important ways by the same Department of Corrections that controlled the prison they were leaving.

But this line of analysis can only go so far, because perhaps the most striking feature of the pilot project was the tiny scale. There were only four programmes that ever operated as habilitation centres: the Salisbury Street Foundation, Te Ihi Tu o Roopu Tane Taranaki in New Plymouth, Aspell House in Plimmerton, and Te Whānau o Waipareira Trust in Auckland, with a combined capacity to hold 42 people. These programmes also operated well *under* capacity throughout the pilot. For example, in the first full year of the trial, the average number of residents at Te Ihi Tū never went above 3 in any quarter, despite it having capacity for 10.

75 Hough, 'Salisbury Street', 166.

	Capacity	Jan-March	April-June	July-Sept	Oct-Nov
Aspell House	10	–	1.56	5.66	7.76
Salisbury Street	10	6.15	7.37	8.09	9.01
Te Whānau O Waipareira	12	4.41	6.37	6.81	7.95
Te Ihi Tū	10	3	–	3	–

Table 1. Average number of residents at each habilitation centre, 1997 (quarterly).

In 1996, an article was published about Aspell House on the front page of *The Dominion* newspaper titled 'Empty Rehab Centre Fully Staffed'.[76] It described how the Department of Corrections had signed a $1.2 million contract with the National Society on Alcoholism and Drug Dependency to run the house in February and, by November, the programme had seven staff providing supervision 'around-the-clock'—but no residents at all. Aspell House continued to attract public scrutiny for its lack of residents, even after being closed for a four-month review. Labour party politician Mike Moore, for example, described it as 'like something out of a Yes Minister episode'.[77] The programme lost the habilitation centre contract altogether at the end of 1998.

The national evaluation of the pilot project published by David Yeboah, a contract researcher with the Department of Corrections, argued that the department itself was primarily responsible for low levels of occupancy across the four habilitation centres. As he wrote:

> The referral of an adequate number of participants to habilitation centres has been a major problem throughout the pilot. There is no systematic process of identifying potential residents for assessment. For prison inmates the option of referral to a habilitation centre does not appear to have been built into the case management process. From interviews it is clear that many inmates learn of the programme from other inmates or relatives rather than

76 Wilson Giles, 'Empty Rehab Centre Fully Staffed', *The Dominion*, 29 November 1996, 1.

77 McCarthy, 'From Roper to Regional Prisons', 55.

> from the prison administration. The inmates themselves approach the prison administration or the habilitation centre itself. This reactive approach by the prisons is clearly unsatisfactory and will defeat the efficient and effective operation of the centres.[78]

Translated from theory into practice, the habilitation centre concept not only became a relatively orthodox form of community supervision but was largely neglected by the Department of Corrections, which never properly used the small number of centres contracted. The legislation that enabled the habilitation centre pilot was repealed in 2002 as part of broader policy changes that dramatically increased the proportion of prison sentences being served inside. In a punitive political climate, in which prison numbers rapidly escalated, methods of community supervision were increasingly articulated as a threat to public safety (rather than, say, an opportunity for reintegration). The legislative foundations of the habilitation centre were scrapped.

The tiny scale of the pilot makes quantitative assessment of most outcome measures fruitless; the final evaluation of the trial, for example, never even calculated reoffending rates for Aspell House and Te Ihi Tū because of the small number of residents. But perhaps the trial being so marginal, and so clearly flawed in practice, gives grounds to those who hope it could be done better next time. If the habilitation centre concept was never really tried, perhaps it can still be used to challenge the worst excesses of hyper-incarceration.

The habilitation centre as prison replacement

The 2017 general election marked an important juncture in New Zealand penal policy, with the incoming Labour-led government publicly committing to reversing a long period of prison growth and facilitating large-scale decarceration. As an expert panel was established to develop ideas for change, travelling the country to carry out public consultation,

78 David Yeboah, *National Evaluation Report on the Habilitation Centres Pilot Programme* (Wellington: Department of Corrections, 1999), 12.

the habilitation centre ideal returned to the forefront of national debate. An editorial in the *New Zealand Herald* quoted directly from the Roper report to explain 'habilitation' and propose replacing prisons with 'small community-based facilities', while the Green party established as official policy a call to 'develop habilitation centres as recommended in the 1989 Prison Systems Review'.[79] The expert panel presented a vision of justice transformation in which habilitation centres would largely replace prisons altogether.

The history of the habilitation centre points not only to the logistical challenges of developing a community infrastructure on this scale, but also the difficulty in finding a legal and institutional framework that would allow the programmes to replace prisons without also creating an enormous new carceral network. If the new programmes operated at a similar size to past habilitation centres—with capacities of around ten—then 100 new programmes would be needed for every 1,000 people transferred from prison to these community settings. Without other major changes to legislation and police practice to significantly stem the flow of people into the criminal justice system, hundreds of habilitation centres would need to be built around the country.

One reason for concern that these institutions would operate as extensions of the prison system, rather than replacements for it, is that 'habilitation' is a relatively orthodox reframing of the existing correctional mission of *re*habilitation (rather than a more fundamental challenge). As articulated by the Roper committee, for example, the idea implies an aggressive approach to corrections by suggesting that the individual is even more flawed than traditional methods assumed—with nothing worth rehabilitating, they need to be *made* fit for life. This encourages potentially greater intrusion into the emotions, thoughts, and behaviours of the person being habilitated. And when the site of habilitation is shifted from prison into the community, it continues to invite coercive control, transferring the

79 Paul Little, 'Criminal Justice Summit budget dwarfed by $1.3 billion cost of running prisons', *New Zealand Herald*, 14 October 2018; 'Justice Policy', New Zealand Green Party, 18 February 2020, https://d3n8a8pro7vhmx.cloudfront.net/beachheroes/pages/9615/attachments/original/1596421087/Policy-Greens_Justice.pdf?1596421087

everyday practice of correctional punishment into a more dispersed network operating at arm's length from government oversight.

Beyond the Roper report, the concept of habilitation can be traced historically to the United States, where it continues to be used at the punitive edge of mass incarceration. The sociologist Jill McCorkel, for example, carried out four years of fieldwork at 'Project Habilitate Women' located inside a crowded state prison filled overwhelmingly with African-American women. The programme was created by one of the largest for-profit providers of prison healthcare services in America, contracted to deliver an intensive and confrontational brand of drug treatment and which articulated habilitation as a tougher alternative to more lenient models of rehabilitation. And for many prisoners in the research, 'habilitation was the most coercive aspect of their prison experience, not only because of its intensity and unrelenting character, but also because of the intrusiveness of its reach'.[80] Other US researchers have found habilitation operating as the guiding philosophy at drug-treatment facilities promoted as alternatives to prison, but which impose a form of 'strong arm rehab' that combines residential confinement with regimented programmes of cognitive behavioural reform. [81]

For advocates of the habilitation centre concept in Aotearoa New Zealand, these are uncomfortable connections to the system of mass incarceration in America. There is nothing inevitable about it working the same way locally: as it has in the past, how the idea is implemented in practice would depend on political struggles over different visions of the institution. But with decarceration on the political agenda, there needs to be careful scrutiny of the alternatives being proposed as replacements for imprisonment. And examining the history of habilitation raises hard questions about whether it is the right language for imagining the future.

---

80 Jill McCorkel, *Breaking Women: Gender, Race, and the New Politics of Imprisonment* (New York: New York University Press, 2013), 224.

81 Sarah Whetstone, '"Addiction Doesn't Discriminate": Colorblind Racism in American Rehab', *Social Problems*, online first (2021); see also Allison McKim, *Addicted to Rehab: Race, Gender, and Drugs in the Era of Mass Incarceration* (New Jersey: Rutgers University Press, 2017).