Mental Health Foundation OF NEW ZEALAND
mauri tū, mauri ora

23 October 2019

To the Finance and Expenditure Committee

Submission on the proposed Arms Legislation Bill

Tuia te rangi e tū nei
Tuia te papa e takoto nei
Tuia i te here tangata
Tihei mauri ora
He hōnore, he korōria ki te atua ki te runga rawa
He whakaaro maha ki a rātou kua haere ki te wāhi ngaro
Rau rangatira mā, ānei ngā whakaaro me ngā kōrero nā Te Tūāpapa Hauora Hinengaro o Aotearoa

Introduction

Thank you for the opportunity to comment on the Arms Legislation Bill – ngā mihi nui ki a koutou.

The Mental Health Foundation wholeheartedly endorses the intentions of the Government to increase community protection in the wake of the March 15 atrocities in Christchurch. Security, and feeling safe from serious intentions to harm us, are necessary prerequisites to optimum mental well-being in everyday life.

The Foundation therefore supports the aims of this Bill. However, we are concerned that some sections of the Bill are counter-productive to these aims. The current Bill contains clauses that would (i) negatively affect those of us who live with mental illness and distress, and (ii) reduce general public (and police) understanding of community threats, thereby reducing a protective factor against those same threats. Our recommendations are designed to prevent these unintended and detrimental consequences of the proposed legislation.

Recommendations

1. Remove from the Bill any and all stigmatising, discriminatory and misleading language evoking “mental conditions” and “mental health issues”.
2. Name the Bill’s real subjects of concern: that is, people currently or recently demonstrating behaviour and/or cognitive and/or physical functioning that might adversely affect their ability to safely possess firearms.
3. Ensure that the Bill is aligned with the Convention on the Rights of Persons with Disabilities and does not discriminate against people solely on the basis of disability.
4. Ensure the Bill will not increase the likelihood of discrimination against Māori by the criminal justice system, and uphold the Treaty of Waitangi and the UN Declaration of Indigenous Rights by ensuring Māori have decision-making powers as Treaty partners within the Bill implementation, and by ensuring the Police Commissioner’s Firearms Advisory Group includes multiple Māori members.

5. Remove the requirement that health practitioners must consider notifying the Police regarding their patient's condition, in favour of health practitioners exercising their already available right to do so when appropriate.
6. Develop advice for health and possibly other sectors regarding firearm risk (including the option of Police notification), ensuring the advice is informed by the National Suicide Prevention Strategy; Māori; people who have planned or attempted to take their own life; and people bereaved by suicide; and ensuring the advice is disseminated and available in appropriate contexts.
7. Ensure it is made clear to firearms licence applicants at the time of application why they must notify the Police of their primary health provider and what will be done with that information.

Submission Structure and Focus

The specific provisions we examine in turn in this submission are:

i. Section 24A1(f): a person may not be a fit and proper person to possess a firearm or an airgun, if s/he "has exhibited significant mental health issues, including attempted suicide or other self-injurious behaviour, that might adversely affect their ability to safely possess firearms"
ii. New Section 91: health practitioners "must consider notifying the Police as soon as practicable" if they have reason to believe that "the mental or physical condition" of a likely firearms licence holder they have attended or been consulted about "is such that, in the interests of the safety of individuals or the public, the licence holder should not be permitted to use or possess a firearm" or their use should be subject to limitations.
iii. Section 34, final insertion: "An applicant must, at the time of making an application for a firearms licence, provide to a member of the Police the name and contact details of their health practitioner."

Two of the Mental Health Foundation's aims are particularly pertinent here: 1. reducing discrimination and prejudice against people with lived experience of mental illness, and 2. preventing suicide. With this kaupapa in mind, this submission considers two questions in turn for each of the provisions above:

1. **In the wake of the March 15 atrocities, does this provision increase community and public safety by diminishing the risk of firearm use with the intent to harm others?**
2. **Does this provision assist with suicide prevention?**

For an analysis of how provisions of the Bill other than those discussed here can best assist with suicide prevention, we recommend the New Zealand Suicide Mortality Review Committee submission on this Bill.[i]

Section 24A1(f): a misleading and discriminatory link between "mental health issues" and gun use with intent to harm others

A person may not be a fit and proper person to possess a firearm or an airgun, if s/he "has exhibited significant mental health issues, including attempted suicide or other self-injurious behaviour, that might adversely affect their ability to safely possess firearms"

Community safety: The language of this provision is discriminatory and stigmatising, and will *not* diminish the risk of firearm use with the intent to harm others. On the contrary, it may impede effective prevention of harmful use of firearms on others, by diverting attention away from likely causes of such behaviour. Our recommendations below are designed to reduce this risk.

Suicide prevention: If this provision is changed as per the recommendations below, it has the potential to assist with suicide prevention.

Section 24A1(f): Community safety

People with serious mental illness are not disproportionately likely to kill others with firearms

By including the unnecessary and misleading phrase "significant mental health issues" as a reason for finding an applicant for a firearms licence not "fit and proper", the Bill is associating mental illness with gun violence, which is stigmatising and misleading. We are not aware of data or research that supports a conclusion that harm caused by firearms is disproportionately carried out by people experiencing mental illness.

There is not much research in this area, but the research we do have points to the opposite conclusion: that people experiencing serious mental illness are less likely to be gun killers than others are. Research commissioned by the New Zealand Mental Health Commission in 1997 found that in Australasia, "the proportion of gun killers diagnosed as mentally ill is smaller than the proportion of Australians and New Zealanders who suffer from mental illness at any given time."[ii]

This is particularly the case for "unknown gunman" attacks such as that of March 15. Both international and local research indicates that people living with serious mental illness are *less* likely than the general population to target strangers for violence.[iii]

The language, as well as the substance, of this provision is prejudicial and stigmatising

In the context of proposed legislation, the phrase "significant mental health issues" is undefined, casual and imprecise. A reasonable understanding of the phrase would be that it includes, but is not limited to, diagnosed mental illness (attempted suicide, offered as an example of a "significant mental health issue", is not sufficient on its own to warrant a diagnosis of mental illness, and within the mental health sector, it is now more likely to be described as a sign of "distress", rather than a "mental health issue", emphasising the person's emotional experience). The phrase's vagueness increases the risk of subjective interpretation: who decides what type of uncommon behaviour can be codified as a "mental health issue"? Decision-makers are likely to err on the side of caution when it comes to assessing whether a "mental health issue" is safe or not: it may be difficult for them to avoid

assessing even the most benign and historic "mental health issue" as a potential barrier to the ability to safely possess firearms.

In addition, an "issue" is usually something one "faces" rather than something one "exhibits" – the word "exhibits" in the Bill emphasises the assumed link between mental illness and potentially illegal behaviour (ie, gun violence), while avoiding the health-paradigm understanding that "mental health issues" are most often experienced as distressing by those who "face" them.

Stigmatisation and discrimination reduces safety for people living with mental illness

We work hard, along with others, on the Like Minds, Like Mine programme, which aims to debunk myths that people who live with mental illness are dangerous, untrustworthy and unsafe to be around. The language of this Bill compromises those (Government-funded) efforts.

Just weeks before as this legislation Bill was announced, the Government also announced it would release a raft of mental health initiatives as part of the Wellbeing Budget, stating: "When New Zealanders are in distress they need to know there is appropriate support available, and it has to be easily accessible. **We need to make it as easy as possible for people to get the help they need**" (emphasis added). As it currently stands, this Bill also undermines these efforts: increasing prejudice and discrimination toward people with mental illness discourages those people from asking for help or sharing their experiences. It causes more isolation, more loneliness and less fewer opportunities to take part in work or social activities. Confusion, misconceptions and discrimination related to mental illness are the main obstacles to the provision of care for people with mental distress.[iv]

It is important the Bill does not increase confusion between extremism and "mental health issues"

The misguided focus on those with mental illness unhelpfully pulls focus away from real risks to community safety, such as extremism. This unnecessarily limits public understanding of the risks. White supremacy and other forms of extremism are *not* mental illnesses,[v] and it is very important that the general public, the police and other decision-makers recognise this, in order to identify and respond appropriately to the threat extremism poses.

Discrimination against people with mental distress may increase discrimination against Māori

The Bill may increase discrimination toward Māori for several reasons[vi]; here we discuss possible discrimination on the grounds of subjective and possibly inappropriate interpretations of "mental health issues".

There is evidence of structural discrimination against Māori within Police and the criminal justice system[vii] and we are concerned the Bill will lead to an uneven application of mental health grounds to unjustly deny Māori access to legal firearms. Māori are more likely to experience mental disorders than the general population[viii], which further increases the likelihood of this type of discrimination. We want whānau in distress to be as safe as possible – there are situations in which it may be appropriate to refuse someone a firearms

license, whether Māori or non-Māori, on behavioural or cognitive functioning grounds – but under the proposed legislation it is likely that more Māori than non-Māori will be *inappropriately* refused a firearms licence. We are particularly concerned about the effects of this likely increased discrimination on rural Māori, some of whom depend on hunting as part of their livelihood. This Bill has the potential to force some to choose between foregoing their usual hunting diet, which in some cases is an important food source for whanau, or using arms illegally – exacerbating the (already heightened) risk of being subject to Police scrutiny. As such, the Bill might contravene the Treaty of Waitangi by eroding customary rights to gather kai on one's own whenua including for reasons such as tangi, celebrations and koha.

This Bill originated in the aftermath of a white supremacist attack on people of colour, an attack which some Māori and other New Zealanders may view within a long-term context of past limited government surveillance of white supremacists yet illegal government surveillance of Māori (for example, previous to the 2007 Police raids on Urewera). This is something to bear in mind when implementing this Bill, in order to avoid further discrimination and mistrust.

Section 24A1(f): suicide prevention

Limiting access to firearms is a proven way of preventing suicide

Not everybody who attempts suicide will receive a diagnosis of a mental illness; current accepted terminology is that suicide ideation and attempts are evidence the person concerned is experiencing distress. However, the Foundation considers that it is appropriate that if there is evidence that a firearms licence applicant is at current risk of harming self with a firearm (for example, if a family member of the applicant expresses such a worry during the vetting process), then their firearms licence application should be refused on that basis. An internationally recognised and highly effective form of suicide prevention is to limit access to possible means or methods of self-harm to someone who is currently experiencing suicidal ideation.[ix]

Such limits should not be permanent

However, concern regarding self-harm should not lead to a permanent licence refusal. The current phrase '*has* exhibited' implies any lifetime mental health issues (or any previous elevated risk) in the past could be considered a risk factor in present decisions. This could be totally disproportionate and indeed, the Foundation has heard from a person concerned that they will be failed as a "fit and proper person" the next time they wish to renew their licence, given that they once in the past experienced a significant mental health issue; they are deeply worried this will result in the loss of their firearms licence and reduction in work efficacy, specifically pest control capability. It is important that any consideration of mental health recognises the ability of people to recover.

Section 24A1(f): Recommended changes

Mitigation of risk: remove all mention of "mental health"; be precise about actual concerns

It seems that the Bill is inappropriately using the phrase "significant mental health issues" as a misleading synonym for a far more precise phrase such as "currently or recently exhibiting behaviour and/or cognitive and/or physical functioning that might adversely affect their ability to safely possess firearms". Alternative phrasing such as this would also be more in line with the Convention on the Rights of Persons with Disabilities, which New Zealand is obligated under international law to implement, and which prevents laws that discriminate people solely on the basis of disability, including those with long-term mental impairments. Legislative wording should be designed to cover people who, due to a neurological condition, for example, may not have the cognitive capabilities to store firearms and ammunition safely (even if they have a sound knowledge of such, as per Section 24(2)(a)). "Significant mental health issues" does not cover this scenario; it is irrelevant as a proxy measure for a risk factor for not being "fit and proper".

We agree with the New Zealand Suicide Mortality Review Committee that it should be clear in the Bill that judgements on behaviour and functioning are time-limited and will need to be reassessed. It is not that the person is not fit or proper but that their current state of functioning means that they are not in a position to safely be in control of a firearm. An explicit time period in which an applicant may reapply could be specified, as behaviour and functioning, including suicidality, change over time.

Recommendations

1. Remove from the Bill any and all stigmatising, discriminatory and misleading language evoking "mental conditions" and "mental health issues".
2. Name the Bill's real subjects of concern: that is, people currently or recently demonstrating behaviour and/or cognitive and/or physical functioning that might adversely affect their ability to safely possess firearms.
3. Ensure that the Bill is aligned with the Convention on the Rights of Persons with Disabilities and does not discriminate against people solely on the basis of disability.

Mitigation of risk particularly for Māori: Treaty partnership and ongoing monitoring of potential discrimination

As Treaty partners and under the UN Declaration of Rights of Indigenous People, Māori have the right to participate in decision-making in matters which would affect their rights. Arms licencing is one such matter. With this in mind, and in order to further mitigate the serious risk of entrenching discrimination against Māori, we recommend:

- Ensuring Māori have decision-making powers as Treaty partners within the Bill implementation and ongoing operationalisation
- The inclusion of multiple Māori members on the Police Commissioner's Firearms Advisory Group
- Monitoring designed and embedded into operations from before the time the Bill comes into effect (including immediate baseline measuring) to detect any evidence of discrimination arising from the Bill, and possible mitigations to address it.
- Ensuring vetting assessors have experience and understanding of the cultural context of the applicants they are assessing. All behaviour and cognitive and physical functioning happens within cultural and social contexts, and is best understood and vetted by assessors who, among other skills and knowledge, have deep knowledge of those contexts.

These recommended provisions would uphold Māori rights as per the United Nations Declaration on the Rights of Indigenous Peoples, including but not limited to: the right to be free from any kind of discrimination; the right to self-determination, the right to participate in decision-making in matters which would affect their rights.[x]

4. Ensure the Bill will not increase the likelihood of discrimination against Māori by the criminal justice system, and uphold the Treaty of Waitangi and the UN Declaration of Indigenous Rights by ensuring Māori have decision-making powers as Treaty partners within the Bill implementation, and by ensuring the Police Commissioner's Firearms Advisory Group includes multiple Māori members.

New Section 91: An unnecessary and unhelpful health practitioner obligation to consider notifying the Police

The Bill proposes that health practitioners have a responsibility to consider notifying Police if, after seeing or being consulted about a patient, they consider the person should not be permitted to use or possess firearms or should only do so subject to limitations that may be warranted by their mental or physical condition (new section 91). Part of this notification will include an assessment of whether they believe the person poses a risk of harm to themselves or to others. Licence holders may then be required to undergo a further medical assessment or surrender their licence (new section 91(3)).

Community safety: As health practitioners already have the right to break confidentiality to prevent or lessen potential threats to individuals and public safety, this provision will *not* diminish the risk of firearm use with the intent to harm others.

Suicide prevention: For the same reason, this provision will *not* assist with suicide prevention. On the contrary, it may be counter-productive by legally prioritising one potential response to perceived threat above others, regardless of appropriateness.

Health practitioners already have the right to break confidentiality if they perceive a threat

Concern about the mental health of farming communities and access to firearms is a real one in terms of the risk of self-harm[xi]. However, the Mental Health Foundation believes that this provision will *not* reduce access to firearms for those at risk of self-harm. This is because under the Health Information Privacy Code 1994, health practitioners may already disclose personal information where, they believe, on reasonable grounds, that it is necessary to prevent or lessen a serious threat to public health or public safety; or the life or health of the individual concerned or another individual. There are clinical pathways for practitioners to help support a person experiencing significant suicidal risk, such as requesting an acute mental health assessment, and disclosing personal information to protect the person's safety. For individuals who are not experiencing an acute crisis, clinical pathways emphasise ensuring the person has support, and communicating with those support people, for example: "If possible, involve whānau or support people in discussions about the patient's care and safety."

Legally requiring practitioners to "consider" using this right unreasonably prioritises this option

Codifying one sole specific requirement to consider notifying the Police increases the priority placed on contacting the Police, whether it is appropriate or not. It is likely to encourage health practitioners to prioritise risk management over best possible outcomes for the patient. The appropriate parallel here is the effects of the Mental Health Act 1992: evidence suggests that due to the Act, patients are more likely to be subjected to compulsory treatment over alternative options which are less restrictive and could lead to better outcomes for nearly all patients, but which are considered high-risk. The Ministry of Health asked for feedback on the Act in 2017 and found that "Many respondents thought that fear and risk avoidance are driving a lot of decision-making under the Act. There was a strong view that this culture of fear and risk-avoidance puts tangata whaiora/service user wellbeing and quality of life at risk, as fear of coming under the Act means people may avoid services and compulsion/restrictive practices placed on them often leads to loss of hope…. RANZCP and some clinicians/service providers thought that the challenge of not operating conservatively is that when things go wrong, the clinician becomes the target. There needs to be greater support from DHBs and the public for clinicians to use the Act in a less coercive, risk averse way."[xii]

This provision could discourage people experiencing mental distress from seeking help

People have told us that, by prioritising disclosure to the Police, the Bill puts people in a position where they feel they have to choose between seeking professional help for mental health issues and holding their firearms license. We expect this concern will be a particularly strong disincentive for those who need access to firearms as part of their job (farmers, for example), and also an issue for rural Māori (as outlined above).[xiii]

Alternative: ensure health practitioners and others have clear guidelines about dealing with firearms risk, including but not limited to awareness of notifying the police as an *option*

Discussions about how to mitigate the possibility of self-harm through firearms should be happening within a wider discussion of suicide prevention, which can consider the range of help and support options needed. For example, currently family and friends sometimes remove guns as a temporary safety measure – and they are often much better placed than Police to decide when to do this, and when to return them.
Thus, it would be better for policy makers to encourage health practitioners to contact Police, where appropriate, in guidelines and policies covering clinical protocols and pathways regarding threats to public and personal safety. In this way, the advice regarding the option of notifying the Police can be read alongside advice regarding other additional and/or replacement options.
We support the development of national-level guidelines for health practitioners, drafted to align with the National Suicide Prevention Strategy, which would provide them with best practice advice on how to support people at risk of harm to themselves and others, including when to contact the Police. Due to the increased risk in certain rural sectors (hunting; animal farming), we also support targeting national guidelines on this issue, both in terms of content and implementation/promotion, at rural health practitioners.
We also believe that similar guidelines about how to mitigate suicide risk may be of use to practitioners in other non-health sectors, such as education and social services.

5. Remove the requirement that health practitioners must consider notifying the Police regarding their patient's condition, in favour of health practitioners exercising their already available right to do so when appropriate.
6. Develop advice for health and possibly other sectors regarding firearm risk (including the option of Police notification), ensuring the advice is informed by the National Suicide Prevention Strategy; Māori; people who have planned or attempted to take their own life; and people bereaved by suicide; and ensuring the advice is disseminated and available in appropriate contexts.

Section 34, final insertion: needs clarification

"An applicant must, at the time of making an application for a firearms licence, provide to a member of the Police the name and contact details of their health practitioner."

Based on Police advice to Ministers 23 August 2019 (par 13, p 5), we understand that the reason for this insertion is so Police can "notify the relevant primary health care provider that their patient has a firearms licence." We have some support for this provision, as a way to avoid the situation where health practitioners may notify Police of an individual's physical or cognitive functioning only to find the individual does not have a firearms licence.

However, this reason – an exchange of information about the firearms licence holder – is not currently clear in the proposed legislation. This reason must be made clear to the licence (re)applicant before they give the Police their health practitioner's details.

7. Ensure it is made clear to firearms licence applicants at the time of application why they must notify the Police of their primary health provider, and what will be done with that information.

Other matters

We support the potential to temporarily suspend licences

Our understanding is that new section 60A of the Bill allows for Police to temporarily suspend a licence, instead of immediate revocation. From a recovery approach to mental health, this recognises that suicide risk is not static and usually not chronic. It also recognises that having firearms and a firearms licence removed without the prospect of renewal may be cause for further distress and/or suicide ideation.

Concerns about the select committee process

We wish to pass on feedback we received that the public release of submissions made to the Committee for this Bill may have discouraged people with lived experience of mental illness or distress to make a submission on this important issue of gun law reform. While we appreciate that Parliament tries to be as open and transparent as possible, we recommend that careful consideration be given as to whether each select committee will accept anonymous submissions or consider receiving secret or private submissions, as was the case for the Abortion Legislation Bill. The views and expertise of those with lived experience is vital in developing workable and non-discriminatory solutions for all New Zealanders, and many Bills seeking to address health and social issues would benefit from more options for people to share their views in a way they feel is as safe as possible.

We also wish to pass on feedback we received that, due to a perceived lack of pro-active consultation with Māori and the brief window of opportunity to make a submission, Māori voices have not been heard to the extent they should have been within the process of developing the Arms Legislation Bill. This is a concern given the State's Treaty of Waitangi obligations, and the Bill's potential for discrimination.

Summary

While many of its provisions have the potential to assist with suicide prevention, by way of means reduction, the proposed legislation needlessly and harmfully discriminates against people with lived experience of distress and/or mental illness; is likely to increase discrimination against Māori; and unnecessarily prioritises one suicide prevention action (notifying the police) over current clinical pathways, without regard for appropriate action. We are concerned that, in several ways, the proposed legislation will discourage people experiencing mental distress from seeking help.

The discrimination against people with lived experience of distress and/or mental illness should be avoided with phrasing changes; the likely discrimination against Māori should be mitigated with new provisions to ensure Māori have decision-making power within the

operationalisation of this Bill; and the unnecessary requirement for health practitioners to consider notifying the Police should be deleted, but they should be informed about the option to do so if and when appropriate.

Ngā mihi,

Shaun Robinson
Chief Executive
Mental Health Foundation of New Zealand

About the Mental Health Foundation

The MHF's vision is for a society where all people flourish. We take a holistic approach to mental health and wellbeing, promoting what we know makes and keeps people mentally well and flourishing, including the reduction of stigma and discrimination (particularly on the basis of mental-health status).

The MHF is committed to ensuring that Te Tiriti o Waitangi and its Articles are honoured, enacted, upheld and incorporated into our work, including through our Māori Development Strategy. We are proud that Sir Mason Durie is a Foundation patron.

The MHF takes a public health approach to our work, which includes working with communities and professionals to support safe and effective suicide prevention activities, create support and social inclusion for people experiencing distress, and develop positive mental health and wellbeing. Our positive mental health programmes include Farmstrong (for farmers and growers), All Right? (supporting psychosocial recovery in Canterbury, Kaikōura and Hurunui), Pink Shirt Day (challenging bullying by developing positive school, workplace and community environments), Open Minds (encouraging workplaces to start conversations about mental health) and Tāne Ora (working with tāne Māori and their whānau to build wellbeing skills). Our campaigns reach tens of thousands of New Zealanders each week with information to support their wellbeing and help guide them through distress and recovery.

We value the expertise of tangata whaiora/ people with lived experience of mental distress, and incorporate these perspectives into all the work we do. Established in 1977, the MHF is a charitable trust, and our work is funded through donations, grants and contract income, including from government.

Notes

[i] The New Zealand Suicide Mortality Review Committee supports the following Bill provisions as potentially reducing rates of suicide involving firearms: a compulsory gun registry; a reduced license period (5 years); inspection of gun storage for all firearms; continuation of face-to-face in-person vetting for all license applications and renewals, including speaking to family members. The Committee also recommends that the Bill specifies separate storage of firearms and ammunition (Section 24(1b)), thereby slowing down access to lethal means and providing more time for intervention or a change of mind. The Mental Health Foundation endorses all the Committee's recommendations.

[ii] Alpers, P. (1997) "The People Most Likely to Kill with a Gun: Mental Health Commission Fact Sheet" Mental Health Commission, Wellington.

[iii] Matejkowski, J., Fairfax-Columbo, J., Cullen, S. W., Marcus, S. C., & Solomon, P. L. (2014). Exploring the potential of stricter gun restrictions for people with serious mental illness to reduce homicide in the United States. *The Journal of Forensic Psychiatry & Psychology*, *25*(3), 362-369.
Simpson, A., McKenna, B., Moskowitz, A., Skipworth, J., & Barry-Walsh, J. (2003). Myth and reality: The relationship between mental illness and homicide in New Zealand. Auckland: Health Research Council.

[iv] Sartorius, N. (2007). Stigma and mental health. *The Lancet*, *370*(9590), 810-811.

[v] See Mental Health Foundation commentary "Extremism is not a mental illness", *The Spinoff*, 20 March 2019.

[vi] It is concerning that the Arms Legislation Bill is not the only governmental response to the March 15 attacks that is likely to lead to relatively poorer outcomes for Māori; the recently announced Police trial Armed Response Teams are at high risk of disproportionately using firearms against Maori and Pasifika communities, given criminal justice system bias. (see next footnote)

[vii] For example as discussed in *He Waka Roimata* (2019), the report of **Te Uepū Hāpai i te Ora** - the Safe and Effective Justice Advisory Group; and *TŪ MAI TE RANGI ! Report on the Crown and Disproportionate Reoffending Rates* (2017), the report of the Waitangi Tribunal on Wai2540. While structural discrimination elsewhere in society indirectly leads to more Māori coming to the attention of the criminal justice system, there is evidence that Police practices also discriminate against Māori: for example, Pākehā caught with cannabis are more likely to receive a pre-charge warning or get diversion than if they were Māori, while Maori are more likely to be convicted and sent to jail. (Fergusson, Swain-Campbell, & Horwood. 2003. Arrests and convictions for cannabis related offences in a New Zealand birth cohort. Drug Alcohol Depend, 70(1):53–63; Bingham, E.& Penfold, P (2016) "New Zealand's racist justice system - Our law is not colour-blind", *Stuff*.)
As the Human Rights Commission has noted: "Because it is located in habits and built into structures and systems in often covert ways, structural discrimination can be more difficult for those in power to identify than individual discrimination or personal bias… Organisations or systems may not be conscious that their rules and practices discriminate against specific ethnic groups. Yet these unconscious practices serve to perpetuate disadvantage." (Human Rights Commission (2012) "A fair go for all? Rite tahi tātou katoa? Addressing Structural Discrimination in Public Services".) We are concerned that the Bill will introduce new rules which will make it more difficult to avoid such unconscious practices.

[viii] Baxter, J., Kokaua, J., Wells, J. E., McGee, M. A., & Oakley Browne, M. A. (2006). Ethnic comparisons of the 12 month prevalence of mental disorders and treatment contact in Te Rau

Hinengaro: The New Zealand Mental Health Survey. *Australian and New Zealand Journal of Psychiatry*, *40*(10), 905-913.

[ix] Beautrais AL. Farm suicides in New Zealand, 2007–2015: A review of coroners' records. Australian & New Zealand Journal of Psychiatry. 2018 Jan;52(1):78-86.

[x] Assembly, U. G. (2007). United Nations declaration on the rights of indigenous peoples. *UN Wash*, *12*, 1-18. New Zealand is a signatory since 2010.

[xi] Beautrais AL. Farm suicides in New Zealand, 2007–2015: A review of coroners' records. Australian & New Zealand Journal of Psychiatry. 2018 Jan;52(1):78-86.

[xii] Ministry of Health. 2017. Submission on the Mental Health Act and human rights discussion document – An analysis. https://www.health.govt.nz/our-work/mental-health-and-addictions/mental-health/mental-health-and-human-rights-assessment

[xiii] We understand that Māori, especially Māori men, are already less likely than others to visit primary health care such as a GP or be registered with a primary healthcare organisation.