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ANZAPPL Sydney October 2008
Risk v. Rights Conference 1

Arbitrary Detention of Sex Offenders?



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- Major challenge in the New Zealand High Court was made in July 2008 to
 1. The independence of the Parole Board
 2. The extension of imprisonment by the Department of Corrections rather than the courts



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- English Court of Appeal decisions in early 2008 in *Brooke* and in *Walker* had determined that the Parole Board was not independent and that at some stage continued imprisonment could become an arbitrary detention and therefore unlawful
- The New Zealand case *Miller and Carrol v New Zealand Parole Board and the Attorney-General* – case was heard over two weeks no judgment yet...



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- **Why is the Parole Board not independent?**
- Sponsorship
- Three year tenure
- Too close to the Department of Corrections
- Corrections pays Chairman and Lay members



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- **How do you get released especially from an indeterminate sentence?**
- Need a favourable report from Department psychologist that not a high risk of re-offending



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- Can not get a favourable report unless completed sex offenders treatment program
- Can not get on the program unless the psychologists consider it appropriate
- Discriminatory entrance to program compared to persons on finite sentence
- Effect is that release for minimum non-parole period of ten years extended to fourteen years on average ie sentence extended by psychologists, not judges