

To: Facebook, Inc.

From: Department of Corrections, New Zealand **Date:** 16 November 2018

Subject: Request to Remove Facebook Page/Post

Request

The Department of Corrections, New Zealand has been made aware of a violation of Facebook Terms and Conditions and requests that the following page be removed from Facebook.

The link to the page is as follows:

<https://www.facebook.com/arthur.taylor.925>

Reason For Request ¹	
The offender in the page is currently on sentence with Corrections	
On 13 November 2018, at 12.33pm a post was made to the above account detailing an interaction with a Department of Corrections staff member. The post attracted numerous responses many of which were derogatory and abusive toward the staff member involved. It is possible this post and subsequent responses have the potential to endanger the safety of the staff member and the overall safety and security of the prison site.	
○	There is information regarding real world security risk, such as an assault of staff, verbal or written threats or online harassment, smuggling weapons in prison, prisoner harassment of those on the outside, or membership in violent prison gang.

If you have any further questions or require any further clarification, please contact us on S29(1)(a)

Appendix I

Relevant Legislation Regarding Removal of Facebook Pages/Posts *Prisoners*

The Department of Corrections has the following law/legal authority for the request regarding removal of Facebook pages and posts.

Corrections Act 2004²

¹ As per advice received from Facebook on 10 August 2017

² Corrections Act 2004:

http://www.legislation.govt.nz/act/public/2004/0050/latest/DLM294849.html?search=ts_act_Corrections_resel&p=1&sr=1

Definitions:

Unauthorised item means

- (a) any article that could, while in the possession of any prisoner, be harmful to that prisoner or to any other person:
- (b) any drug, alcohol, or other intoxicating substance:
 - (ba) tobacco:
 - (bb) any equipment used for smoking tobacco or any other substance:
- € any electronic communication device:
- (d) anything that could be used for the purpose of facilitating the escape from lawful custody of any person:
- € in relation to any person, anything that may not lawfully be retained in the person's possession:
- (f) any article or thing that is in the possession of any person in contravention or intended contravention of [section 128](#), [section 129\(a\)](#), section 129(aa), [section 141](#), [section 143](#), or [section 144](#):
- (fa) anything or substance that could be used to tamper with or dilute or contaminate any sample that a prisoner is required to supply in accordance with a prescribed procedure under [section 124](#):
- (g) any offensive weapon within the meaning of [section 202A](#) of the Crimes Act 1961:
- (h) any disabling substance within the meaning of that section:
- (i) any article or thing declared to be an unauthorised item by regulations made under this Act

Electronic communication device

- (a) means an electronic communication device (other than a device used to assist with a disability) that is capable of any or all of the following actions:
 - (i) transmitting sound:
 - (ii) computing information:
 - (iii) functioning as a telephone:
 - (iv) communicating in any other way using any technology (including telecommunication, radio communication, Internet, and broadcasting technology):
- (b) includes any part of an electronic communication device (for example, a SIM card) regardless of whether the part—
 - (i) is capable of any of the actions specified in paragraph (a); and
 - (ii) is detachable and may be used in other electronic communication devices:
- € includes any device that enables or facilitates the functioning of an electronic communication device (for example, a recharger or charging device):
- (d) does not include—
 - (i) any telephone facility provided for the use of prisoners under [section 77](#); and
 - (ii) any telephone facility or telephone system (whether inside or outside a prison) that a prisoner is permitted to use by a person under whose control or supervision the prisoner is

128 Offences by prisoner

- (1) Every prisoner (whether inside or outside a prison) commits an offence against discipline who—
 - (a) disobeys any lawful order of an officer or a staff member, or disobeys or fails to comply with any regulation made under this Act or any rule of the prison made under [section 33](#):

- (b) deliberately mismanages his or her work:
- € behaves in an offensive, threatening, abusive, or intimidating manner:
- (d) without authority, communicates with any person inside or outside the prison by using a telephone or other electronic communication device:
- € leaves or is absent from his or her cell or place of work or other place where the prisoner is required to be without permission or reasonable excuse:
- (f) without the approval of an officer, has any article in his or her cell or in his or her possession, or gives to or receives from any person any article, or attempts to obtain any article:
- (g) assaults, or fights with, any other person:
- (h) deliberately disfigures, damages, or destroys any part of the prison or any property that is not his or her own, or who loses any prison property because of his or her negligence or improper conduct:
 - (i) obstructs any officer in the execution of his or her duty:
 - (j) makes an allegation against any staff member, security officer, prisoner, or any other person lawfully in the prison, knowing that the allegation is false:
- (k) combines with other prisoners for a purpose that is likely to endanger the security or good order of the prison:
- (l) escapes from any prison or from lawful custody:
- (m) contrary to a direction given under [section 41](#), refuses to submit to—
 - (i) photographs being taken of the prisoner:
 - (ii) biometric information being collected from the prisoner:
 - (iii) measurements being taken from the prisoner:
 - (iv) any other prescribed procedure designed to create a record to enable the subsequent identification of the prisoner.
- (n) being a prisoner who is temporarily removed from prison under [section 62](#), is in breach of any condition imposed under [section 64](#).

141 Unauthorised deliveries, communications, recordings, and possession of unauthorised items

- (1) Subject to subsection (1A), every person commits an offence who, except under the authority of this Act or of any regulations made under this Act or the express authority of the prison manager or the chief executive,—
- (a) brings anything, or causes anything to be brought, into a prison, intending that it should come into the possession of a prisoner:
 - (b) places anything, or causes it to be placed, anywhere in a prison (whether inside or outside a building) or outside a prison, intending that it should come into the possession of a prisoner:
 - € delivers anything, or causes it to be delivered, to any prisoner inside a prison:
 - (d) takes anything, or causes it to be taken, out of a prison on behalf of a prisoner:
 - € holds any communication with a prisoner who is inside a prison if that communication may prejudice the maintenance of the law, the safe custody of the prisoner, the well-being of any victim of an offence committed by that prisoner, the safety of any person, or the security of any prison:
 - (f) makes any visual recording (whether by photograph, film, videotape, or otherwise) or sound recording of a prisoner if the making of such a recording may prejudice the maintenance of the law, the safe custody

of the prisoner, the well-being of any victim of an offence committed by that prisoner, the safety of any person, or the security of any prison:
(g) without reasonable excuse, has in his or her possession any unauthorised item while in a prison:
(h) attempts to do any of the things described in paragraphs (a) to (g).

(1A) Subsection (1)(g) does not apply to a prisoner.

141A Unauthorised use or possession of electronic communication device by prisoner

(1) Every prisoner (whether inside or outside a prison) commits an offence who, except with the express authority of the prison manager or the chief executive,—
(a) uses an electronic communication device knowing that he or she is not authorised to use it; or
(b) knowingly has an electronic communication device in his or her possession.

Appendix II

Relevant Legislation Regarding Removal of Facebook Pages/Posts Offenders Serving Community Sentences/Orders

The Department of Corrections has the following law/legal authority for the request regarding removal of Facebook pages and posts.

Parole Act 2002³

107JA Standard extended supervision conditions

(1) The standard extended supervision conditions are—
(a) the offender must report in person to a probation officer in the probation area in which the offender resides as soon as practicable, and not later than 72 hours, after commencement of the extended supervision order:
(b) the offender must report to a probation officer as and when required to do so by a probation officer, and must notify the probation officer of his or her residential address and the nature and place of his or her employment when asked to do so:
(c) the offender must obtain the prior written consent of a probation officer before moving to a new residential address:
(d) if consent is given under paragraph (c) and the offender is moving to a new probation area, the offender must report in person to a probation officer in the new probation area in which the offender is to reside as soon as practicable, and not later than 72 hours, after the offender's arrival in the new area:
(e) the offender must not reside at any address at which a probation officer has directed the offender not to reside:
(ea) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:

³ <http://www.legislation.govt.nz/act/public/2002/0010/latest/DLM137632.html>

- (eb) the offender must, if a probation officer directs, allow the collection of biometric information:
- (f) the offender must obtain the prior written consent of a probation officer before changing his or her employment:
- (g) the offender must not engage, or continue to engage, in any employment or occupation in which the probation officer has directed the offender not to engage or continue to engage:
- (h) the offender must take part in a rehabilitative and reintegrative needs assessment if and when directed to do so by a probation officer:
 - (i) the offender must not associate with, or contact, a person under the age of 16 years, except—
 - (i) with the prior written approval of a probation officer; and
 - (ii) in the presence and under the supervision of an adult who—
 - (A) has been informed about the relevant offending; and
 - (B) has been approved in writing by a probation officer as suitable to undertake the role of supervision:
 - (j) the offender must not associate with, or contact, a victim of the offender without the prior written approval of a probation officer:
 - (k) the offender must not associate with, or contact, any person or class of person specified in a written direction given to the offender for the purposes of this paragraph.

(2) In this section, **contact** includes communicating, or attempting to communicate, with a person by any means, such as by telephone or via the Internet.

15 Special conditions

(1) The Board may (subject to subsections (2) and (4)) impose any 1 or more special conditions on an offender.

(2) A special condition must not be imposed unless it is designed to—

- (a) reduce the risk of reoffending by the offender; or
- (b) facilitate or promote the rehabilitation and reintegration of the offender; or
- (c) provide for the reasonable concerns of victims of the offender; or
- (d) comply, in the case of an offender subject to an extended supervision order, with an order of the court, made under [section 107IAC](#), to impose an intensive monitoring condition.

(3) The kinds of conditions that may be imposed as special conditions include, without limitation,—

- (a) conditions relating to the offender's place of residence (which may include a condition that the offender reside at a particular place), or his or her finances or earnings:
- (ab) residential restrictions:
- (b) conditions requiring the offender to participate in a programme (as defined in [section 16](#)) to reduce the risk of further offending by the offender through the rehabilitation and reintegration of the offender:
 - (ba) conditions prohibiting the offender from doing 1 or more of the following:
 - (i) using (as defined in [section 4\(1\)](#)) a controlled drug:
 - (ii) using a psychoactive substance:
 - (iii) consuming alcohol:
- (c) conditions that the offender not associate with any person, persons, or class of persons:
- (d) conditions requiring the offender to take prescription medication:
- (e) conditions prohibiting the offender from entering or remaining in specified places or areas, at specified times, or at all times:

(f) conditions requiring the offender to submit to the electronic monitoring of compliance with any release conditions or conditions of an extended supervision order, imposed under paragraph (ab) or (e), that relate to the whereabouts of the offender:

(g) an intensive monitoring condition, which must, and may only, be imposed if a court orders (under [section 107IAC](#)) the imposition of an intensive monitoring condition.

SENTENCING ACT 2002⁴

52 Other special conditions

(1) A court may impose any of the special conditions described in subsection (2) if the court is satisfied that—

- (a) there is a significant risk of further offending by the offender; and
- (b) standard conditions alone would not adequately reduce that risk; and
- (c) the imposition of special conditions would reduce the likelihood of further offending by the offender through the rehabilitation and reintegration of the offender.

(2) The conditions referred to in subsection (1) are—

- (a) any conditions that the court thinks fit relating to the offender's place of residence (which may include a condition that the offender not move residence), finances, or earnings:
- (b) conditions requiring the offender to take prescription medication:
 - (ba) conditions requiring the offender to undertake training in basic work and living skills:
 - (bb) conditions prohibiting the offender from doing 1 or more of the following:
 - (i) using (as defined in [section 4\(1\)](#)) a controlled drug:
 - (ii) using a psychoactive substance:
 - (iii) consuming alcohol:
- (c) any other conditions that the court thinks fit to reduce the likelihood of further offending by the offender.

54I Other special conditions

(1) A court may impose any of the special conditions described in subsection (3) if the court is satisfied that—

- (a) there is a significant risk of further offending by the offender; and
- (b) standard conditions alone would not adequately reduce that risk; and
- (c) the imposition of special conditions would reduce the likelihood of further offending by the offender through the rehabilitation and reintegration of the offender.

(2) A court may only impose a condition of the kind described in subsection (3)(d) (which relates to judicial monitoring) if it is also satisfied that, because of the special circumstances of the offender, this is necessary to assist the offender's compliance with the sentence.

(3) The conditions referred to in subsections (1) and (2) comprise—

- (a) any conditions that the court thinks fit relating to the offender's place of residence (which may include a condition that the offender not move residence), finances, or earnings:
- (b) conditions requiring the offender to take prescription medication:
 - (ba) conditions prohibiting the offender from doing 1 or more of the following:

⁴ <http://legislation.govt.nz/act/public/2002/0009/134.0/DLM135342.html>

- (i) using (as defined in [section 4\(1\)](#)) a controlled drug;
- (ii) using a psychoactive substance;
- (iii) consuming alcohol;
- (c) conditions requiring the offender to undertake training in basic work and living skills;
- (d) a condition requiring the offender to comply with the requirements of judicial monitoring under [subpart 2B](#) as directed by a probation officer or the sentencing Judge;
- (e) any other conditions that the court thinks fit to reduce the likelihood of further offending by the offender;
- (f) a condition that the offender must, when required to do so by a probation officer, submit to the electronic monitoring of compliance with any conditions of his or her sentence imposed under paragraph
- (e) that prohibit the offender from entering or remaining in specified places or areas at specified times or at all times.

80D Special conditions of sentence of home detention

(1) In addition to the standard conditions that apply under [section 80C](#), the court may, subject to subsections (2), (3), and (7), impose 1 or more special conditions described in subsection (4).

(2) A court may impose any of the special conditions described in subsection (4) if the court is satisfied that—

- (a) there is a significant risk of further offending by the offender; and
- (b) standard conditions alone would not adequately reduce the risk; and
- (c) the imposition of special conditions would reduce the likelihood of further offending by the offender through the rehabilitation and reintegration of the offender.

(3) A court may only impose a condition of the kind described in subsection (4)(d) (which relates to judicial monitoring) if it is also satisfied that, because of the special circumstances of the offender, this is necessary to assist the offender's compliance with the sentence.

(4) The special conditions referred to in subsection (1) or (2) are—

- (a) any conditions that the court thinks fit relating to the offender's finances or earnings;
- (b) conditions requiring the offender to take prescription medication;
- (c) conditions relating to a programme;
- (ca) conditions prohibiting the offender from doing 1 or more of the following:
 - (i) using (as defined in [section 4\(1\)](#)) a controlled drug;
 - (ii) using a psychoactive substance;
 - (iii) consuming alcohol;
- (d) a condition requiring the offender to comply with the requirements of judicial monitoring under [subpart 2B](#) as directed by a probation officer or the sentencing Judge;
- (e) any other conditions that the court thinks fit to reduce the likelihood of further offending by the offender.

80P Special post-detention conditions

(1) A court may impose any of the special post-detention conditions described in subsection (2) if the court is satisfied that—

- (a) there is a significant risk of further offending by the offender; and
- (b) standard conditions alone would not adequately reduce that risk; and

- (c) the imposition of special conditions would reduce the likelihood of further offending by the offender through the rehabilitation and reintegration of the offender.
- (2) post-detention conditions are the following—
- (a) any conditions that the court thinks fit relating to the offender's place of residence (which may include a condition that the offender not move residence), finances, or earnings:
 - (b) conditions requiring the offender to take prescription medication:
 - (ba) conditions prohibiting the offender from doing 1 or more of the following:
 - (i) using (as defined in [section 4\(1\)](#)) a controlled drug:
 - (ii) using a psychoactive substance:
 - (iii) consuming alcohol:
 - (c) conditions relating to a programme:
 - (d) any other conditions that the court thinks fit to reduce the likelihood of further offending by the offender.

93 Imposition of conditions on release of offender sentenced to imprisonment for short term

- (1) A court that sentences an offender to a term of imprisonment of 12 months or less may impose the standard conditions and any special conditions on the offender and, if it does so, must specify when the conditions expire.
- (2) If a court sentences an offender to a term of imprisonment of more than 12 months but not more than 24 months,—
- (a) the standard conditions apply to the offender until the sentence expiry date, unless the court specifies a different date; and [sections 94](#), [95](#), and [96](#) apply as if the standard conditions had been imposed by order of the court; and
 - (b) the court may at the same time impose any special conditions on the offender and, if it does so, must specify when the conditions expire.
- (2A) The court may specify that conditions imposed under this section expire on—
- (a) the sentence expiry date; or
 - (b) the date that is a specified period before the sentence expiry date; or
 - (c) the date that is a specified period of up to 6 months after the sentence expiry date.
- (2AB) If the court imposes special conditions on an offender, the special conditions may apply for as long as, but no longer than, the standard conditions apply to the offender.
- (2B) In this section,—**sentence expiry date** has the meaning given to it in [section 4](#) of the Parole Act 2002
- special conditions** includes, without limitation, conditions of a kind described in [section 15\(3\)](#) of the Parole Act 2002, other than a residential restriction condition referred to in section 15(3)(ab) of that Act

113 Effect of non-association order

- (1) A non-association order prohibits the offender from associating with—
- (a) any person or persons specified in the order; or
 - (b) any person or persons of any class specified in the order.
- (2) A non-association order has effect for the period, not exceeding 12 months, that the court may specify in the order.