



# COURT IN THE ACT

Youth Court of New Zealand Te Kōti Taiohi o Aotearoa

ISSUE 82

I

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## IN THIS ISSUE

Editorial	1
Youth Justice News	2
Notice Board	4
Youth Justice trends and statistics	5
<b>Youth Court Case Watch:</b>	6
◆ <i>New Zealand Police v BJ</i> [2017] NZYC 829	
◆ <i>New Zealand Police v MC</i> [2017] NZYC 489	
◆ <i>New Zealand Police v AD</i> [2017] NZYC 351	
◆ <i>R v MH</i> [2017] NZYC 66	
<b>Te Reo Māori in Youth Justice</b>	7
<i>Chris Merrick and Corin Merrick</i>	
<i>Manukau Youth Advocates</i>	
<b>Youth Justice Research and Publications</b>	15

## EDITORIAL

### Breaking Down the Barriers to Engagement

Judge John Walker  
Principal Youth Court Judge



I begin this last editorial for the year by paying tribute to all of you who work with such dedication with our young people.

We judges see young people in our courts for a short time, but there are many of you who work with them and their whanau almost daily. I know that the work is challenging and sometimes disheartening, but I also know that the Youth Court is a place of great hope and our faith in young people is repaid often enough for it to be worthwhile.

I hope that all of you are able to have a restful time over the Christmas period. I hope you will reflect on the good work that you have done, the lives you have changed and return refreshed to face the inevitable challenges ahead in 2019. One challenge that faces our young people is being able to participate in our court processes. Young people in conflict with the law must be enabled to participate in the court processes which are largely about them. It is fundamentally about procedural fairness.

The young people we see in the Youth Court are often those who have dealt with incredible challenges and complexities, sometimes since birth. I have spoken of these challenges before: neuro-disabilities; neglect; traumatic brain injury; a history of trauma and family violence; alcohol and other drugs; dislocation from schooling.

*Continued overleaf.*

**Court in the Act is a publication coordinated by the Office of the Principal Youth Court Judge.**

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These issues underlie the offending behaviour, tucked away beneath a bright red flag. It is addressing and enabling full participation that will provide the best opportunity to realign a young person's trajectory. Addressing the barriers to participation will result in a more safe and secure society for all.

We know what the issues are, and we know that we need to address and respond to them. Section 11 of the Oranga Tamariki Act 1989 requires that children and young people in court be "encouraged and assisted to participate ... to the degree appropriate for their age and level of maturity". In practice, developments include communication assistance, courtroom adjustments, having the judge sit at the same level as the child and the use of youth-appropriate language. In the words of Rule 14(2) of the Beijing Rules, this also requires "an atmosphere of understanding".

An atmosphere of understanding is the feel of the courtroom. That sentiment is made up of all the components (people and architecture), finding a way to cut through the raw stress and emotion that many young people find themselves experiencing in court. It can be an intimidating environment, but it can also be a turning point if managed appropriately.

The limitations in this respect are part of why I see audio-visual link ("AVL") as a problematic medium. In my view AVL is not appropriate for children, and will only be

appropriate in exceptional instances, when used in the best interests of the young person.

So how do we ensure that these young people are engaged with the judicial processes around them? How do we connect with them in a meaningful way to invoke change? We must be innovative and forward-thinking in our development of judicial processes, including those which are culturally appropriate. We must consider all the ways that we, as youth justice professionals, can ensure that the process about this young person, involves and engages the young person. Engagement is the foundation of effective interventions.

Regardless of which issues hold a young person back, in my view procedural fairness is more than just going through a tickbox of processes. It is looking at the young person in front of us, really looking, and asking the right questions to determine whether justice is being served. Justice is not served when a young person is confused, or kept out of the loop, or not acknowledged as being at the centre of our youth justice system. Justice is not served when it does not recognise the role that culture has to play in a young person's paradigm. To hold a young person to account for their actions, we must ensure they are truly present at every stage of the journey.

Ngā mihi o te Kirihimete ki a koutou katoa.

## YOUTH JUSTICE NEWS

### Youth Advocate Conference

August 2018

The 2018 Youth Advocate Conference was held over two days in Ellerslie, Auckland between 27-28 August.

Run by NZLS CLE Ltd., the programme boasted an impressive range of topics. These included: "The Psychology of Youth who Offend" (Dr Julia Ioane); family group conferences; legislative change; discussion around unconscious bias (Maria Pecotic); communication assistance (Mark Stephenson) and ideas for incorporating te reo and tikanga Māori into practice in the youth justice field.



(Left) Ngā Manu Kōrero—Rangatahi perspectives delivered in whaikōrero .



(Right) Panel Discussion

To close day one of the Conference, three Administrative Youth Court Judges (Judges Clark, Lynch and McMeeken) formed a panel in the session titled "Views from the Bench". There was also a special presentation of Rangatahi speeches to conclude the evening.

The event was very well-received, with approximately 80 Youth Advocates and other youth justice professionals in attendance. Thank you to the NZLS CLE Committee for organising such an engaging and informative event.

# YOUTH JUSTICE NEWS

## Talking Trouble— The Experiences of Young People Within the Youth Justice Sector

A report detailing the research undertaken by Talking Trouble has been released.

The substance of the report is discussion of young people's experiences of communication within the youth justice sector. It considers the perspectives of young people as to what the youth justice workforce could do differently to enable participation in all the conversations and processes that affect them.

Young people also discussed how services can adapt their programmes so that they are more accessible, easier to understand and are more motivating.

You can access the full research report "Youth Voices about Youth Justice: Listening to young people's experience of communication within the youth justice sector in New Zealand" [here](#).

## Latest Youth Justice Statistics

Latest data statistics for the year ended June 2018 have now been published on the Stats NZ and Ministry of Justice websites.

Changes to statistics made public by default include several aspects specific to children and young people in court, such as the number of children and young people charged in court and children and young people given an order in court.

The most recent Ministry of Justice infographic is accessible at page [5], and full data analysis is accessible via the following links.

[Stats NZ](#)

[Ministry of Justice](#)

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## South Pacific Council for Children and Youth Courts

The 2018 Committee meeting for the South Pacific Council for Children and Youth Courts ("SPCYCC") was hosted by Judge John Walker at the Chief District Court Judge's Chambers in Wellington. Heads of Bench from throughout Australia and the South Pacific, as well as representatives from UNICEF, met over the course of three days to consider important issues pertaining to the Youth Court jurisdiction.

The Conference commenced with a Pōwhiri to welcome the delegates on to Pipitea Marae, and the Council meeting was a valuable opportunity to share ideas, observations and suggestions for the future.

Presentations on young female offending, Fetal Alcohol Spectrum Disorder ("FASD"), communication assistance, Ngā Kōti Rangatahi and terrorist offences by young people were informative and provided a foundation on which to build discussion. Delegates visited the Billy Graham Foundation Naenae Boxing Academy, and some took the opportunity to observe a Rangatahi Court sitting. These experiences further bolstered discussions around the ways in which the various nations and states could look to assist young people who have come, or may be at risk of coming, into conflict with the law.

The Office of the Principal Youth Court Judge would like to thank all delegates for their contributions to the discussions, and wishes them well for 2019.



*Delegates and support staff following the pōwhiri at Pipitea Marae, Wellington.*

## YOUTH JUSTICE NOTICE BOARD



### Working with violence in adults and youth

Effective clinical, welfare and legal strategies:

An international conference in Prato, Tuscany

**Conference dates:** 30 September—2 October 2019.

Following the conference there will be a post-conference workshop on 3 October 2019.

Violence is a serious and pervasive problem in both young people and adults. A concerning level of crime and disorder and the criminalisation of youth has broad social, legal, economic and health consequences.

For full information about the conference including keynote speakers, abstract submission dates and registration details please see: [Swinburne Website](#).

The conference will give particular attention to the following themes:

- Understanding violence and offending
- Exploring youth violence and child welfare
- Family violence and child welfare
- Gender and cultural effects
- Legal reforms for managing violent offending
- Advances in offending programs and approaches to desistance from violence
- Mental illness, trauma, personality dysfunction, substance misuse and violence
- Risk, intervention, diversion and decarceration approaches and policy.

The conference will offer considerable opportunity for cross-national dialogue. Keynote speakers, presented papers and roundtable forums will address the aims of the conference.

CALL FOR ABSTRACTS: opens 1 March, closes 30 May 2019.

## HAVE ANY OF YOUR CLIENTS WORKED WITH A COMMUNICATION ASSISTANT?



**I would like to speak with young people (and their whānau members) about times when they have been helped by a communication assistant in meetings, family group conferences, and in court.**

I am a clinical psychology doctoral student and am conducting evaluative research into the new and evolving role of the communication assistant (usually a speech language therapist) in the criminal justice system. Communication assistants are being appointed in increasing numbers to support the oral language needs of young people who offend. The views of young people and their whānau are important to me and I would like to include them in my research.

If you have worked with a young person (defendant) who has utilised a communication assistant, please contact me via email, Kelly Howard: [kelly.howard@auckland.ac.nz](mailto:kelly.howard@auckland.ac.nz)

# YOUTH JUSTICE STATISTICS



## Trends in children and young people in court

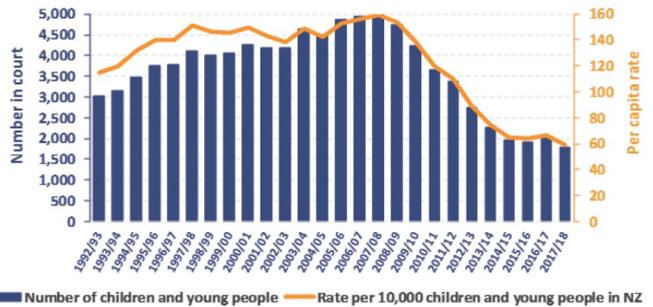
2017/2018 statistics for children (aged 10-13) and young people (aged 14-16) in Youth, District and High Courts

Most offending by children and young people is dealt with outside the court system

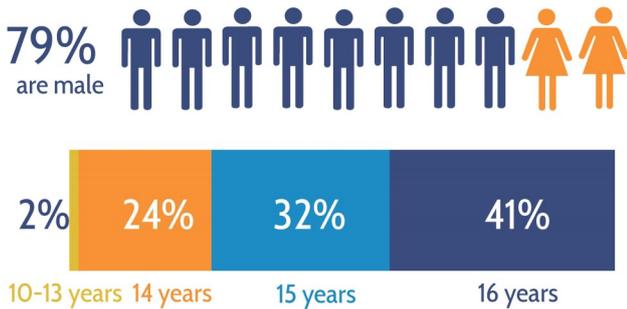
Number of children and young people with charges finalised in court in 2017/2018: **1,785**

- ↓ Decreased by 11% since 2016/2017
- ↓ Decreased by 35% since 2012/2013
- Accounts for 2% of all people charged in court in 2017/2018

Number and rate of children and young people charged in court, 1992/1993 - 2017/2018

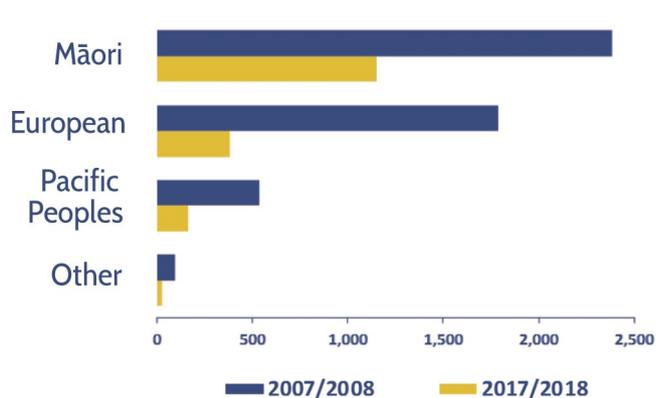


The gender split has been stable over the past 10 years



However, the percentage of 14 year olds is increasing, while 16 year olds are decreasing

The number with charges has fallen for all ethnicities over the past 10 years



The number charged with **burglary**, **theft** or **assault** has been decreasing

However, the number charged with **robbery** has increased in the last 2 years



Most children and young people in court had charges proved (77%)

The majority followed plans agreed at Family Group Conferences and were discharged

However 1 in 3 received orders or sentences for their offending, of these:



More detailed statistics are available on the StatsNZ website (<http://nzdotstat.stats.govt.nz/>) under "Justice". Percentages may not add up to 100 as they have been rounded to the nearest whole number. All data has been randomly rounded for privacy reasons.

# YOUTH COURT CASE WATCH

All published judgments are anonymised to comply with legal requirements.

## NEW ZEALAND POLICE v BJ [2017] NZYC 829

*Judge Lynch*

The young person (“YP”) was charged with burglary, aggravated robbery and driving while suspended.

As a result of numerous factors including the YP’s age, time spent in residence and anticipated structure of the Oranga Tamariki plan, the YP was ultimately not given an order for Supervision with Activity or Supervision with Residence. Of particular weight was the well-resourced and structured mentoring plan. The Judge noted the effort expended in the plan and commitment of youth justice professionals: “they do not see you as a lost cause” (at [12]).

## NEW ZEALAND POLICE v MC [2017] NZYC 489

*Judge Walker*

The YP faced a charge of aggravated robbery. In question was whether the theft of a bottle in a liquor store had been completed at the time when the interaction became violent (upon confrontation by staff). This violence was used to overcome resistance to the property being stolen.

The Judge considered various New Zealand and overseas case law before concluding that the theft was complete when the YP walked towards the door. Therefore, a charge of aggravated robbery was not appropriate.

## NEW ZEALAND POLICE v AD [2017] NZYC 351

*Judge Eivers*

The YP was charged with the attempted murder of his stepmother. Given the very serious nature and circumstances of the offending, the degree of premeditation and murderous intent, as well as concern about his behaviour during the time elapsed since the offence, the Judge concluded that transfer to the High Court per s 289 was the appropriate outcome.

Of note was discussion about the interpretation of s 283(o)(ii) to enable conviction and transfer to the High Court for charges that do not have a maximum penalty of life imprisonment.

## R v M H [2017] NZYC 66

*Judge Mill*

The YP denied 13 charges of sexual offending against two minors under 12. The victims were a sibling of the YP and another relative.

In a Judge alone trial, the Judge was required to assess the credibility of the two complainants, whose evidence was given by playing their evidential interviews and oral evidence via CCTV.

Ultimately the Judge found the evidence for charges 1 and 2 both truthful and reliable in a thorough assessment of each charge.

## NEW ZEALAND POLICE v JT [2017] NZYC 462; MW v POLICE [2017] NZHC 3084.

In *New Zealand Police v JT* [2017] NZYC 462, a YP had been charged with sexual violence by rape. The Judge considered the range of factors including those under s 284, and noted the successful completion of the FGC plan, but also the strong counter-veiling factors including the seriousness of the admitted charge, and likely penalties were it to be transferred to the District Court. The Prosecution sought a conviction and transfer to the District Court for sentencing. The Youth Advocate sought a discharge under s 282.

At [69] the Judge noted:

This is offending that in my view is serious in nature. I take the view that despite the efforts of [JT], that this offending cannot go unmarked. It is too serious for that to occur but I do not believe that it is offending that needs any further response to it.

The Judge elected to make an order under s 283(c): order to come to the Court for further action if called on within 12 months of the order. A ‘good behaviour bond’ of sorts, but one which would remain on the young person’s record. This decision was upheld on appeal in the High Court:

*MW v Police* [2017] NZHC 3084.

Youth Court judgments since 2016 are published in full on the District Court website. Click ‘[All Judgments](#)’ at the top left of the homepage to search.

For cases heard prior to 2016, summaries are available through the [Online Summary Database](#).

# TE REO MĀORI IN YOUTH JUSTICE

## Tūwhitia te hopo! | Feel the fear and do it anyway

*Chris & Corin Merrick – Manukau Youth Advocates*

We are all very familiar with our Youth Court statistics (and criminal justice statistics for that matter) regarding Māori:

- The proportion of Māori charged by Police has increased in the last 10 years from 47% to 62% of all youths charged nationally in the Youth Court.<sup>1</sup>
- In 2015, rangatahi Māori made up 61% of youths charged in the Youth Court and 64% of all young people given a court order.<sup>2</sup>
- In 2015, rangatahi Māori made up 100% of all appearances in 5 Youth Courts,<sup>3</sup> and 70% of all appearances in a further 18 Youth Courts.<sup>4</sup>

Those statistics when combined with our professional development obligations, would in our view mean that building capacity with te reo Māori and tikanga Māori is incumbent on us as youth justice professionals. For example, being proficient enough in Māori pronunciation to be able to say clients' names correctly helps preserve the integrity and reputation of the profession, as well as the professional.

The Oranga Tamariki Act 1989 (*the OT Act*) is something that we deal with day in day out. Because we deal so frequently with the OT Act it is easy to take for granted how unique it is in the legislative landscape of Aotearoa, New Zealand. Uniquely, it includes provisions that specifically seek to address, engage, and improve outcomes for Māori. We know those provisions well and as from 1 July 2019, there will be additional provisions relevant to the issue.<sup>5</sup>



In essence, by virtue of the OT Act, and the flexible, responsive nature of our jurisdiction, we are perfectly placed to be leaders in the justice sector when it comes to building te reo Māori into our practice. We already have a number of examples in operation of how that is done. For example at Te Kooti Rangatahi, we routinely ask our rangatahi to learn and recite their pepeha. Often that will go along with our words of encouragement, or advice about how important it is for them to do so.

At a recent sitting of Te Kooti Rangatahi o Hoani Waititi Marae, his Honour Judge Taumaunu summarised the value that we all see in the process of learning and delivering your pepeha. He commented on the idea “*don't tell me how, show me how*” in the context of coming together during whakawhanaungatanga (introductions). In essence, his Honour's comments were directed at all those present (Māori and non-Māori) who had done their utmost to model the value in standing in a Māori place (the wharenuī) with pride, and using te reo Māori.

By doing so would also increase client confidence in our ability to represent their interests. In the words of Leslie Thomas QC, counsel for 17 victim core participants in the, Grenfell Towers Inquiry in England:<sup>6</sup>

**“Confidence - or lack of it - affects participation. And a lack of participation from the people that matter will affect justice. And a lack of justice is injustice.”**

However, professional obligation is not the only reason why we should be jumping at the chance to learn more te reo Māori and use it in our practice. Te reo Māori is not just a transfer of words, it is also the transfer of customs and traditions, and in turn the Māori world view.

<sup>1</sup> Ministry of Justice “Trends in Child and Youth Prosecutions” (Press release, June 2016).

<sup>2</sup> Statistics New Zealand “Children and Young People Charged in Court – most serious offence fiscal year” (10 February 2017); Statistics New Zealand “Children and Young People given an order in Court – most serious offence fiscal year” (10 February 2017).

<sup>3</sup> Ministry of Justice newsletter “Nga Kooti Rangatahi o Aotearoa” (December 2016), at page 14.

<sup>4</sup> As above.

<sup>5</sup> See: currently Oranga Tamariki Act 1989: s 4(f), s 5(c)(ii), s 208 (c)(i), s 208(c)(i) &(ii), S208(f). From 1 July 2019: Oranga Tamariki Act 1989: s 7AA ; s 4A(2) ; s 5(g); s 208(1).

<sup>6</sup> When addressing panel members at the commencement of the Grenfell Towers Inquiry in 2017.

For instance, we all know the word “whānau”, and it is usually translated to mean nuclear family. Whānau, in fact, covers more than just mum, dad, and the 1.7 kids. Corin’s whānau, for example, includes her mother’s 7 siblings and their children and grandchildren, and her father’s 15 siblings and their children and grandchildren. Whānau is also the word for giving birth. You see then that whānau has a much deeper meaning than family, or extended family, it is also about extending families.

Te reo Māori is a beautiful language, it’s fun, and it’s unique to Aotearoa. Imagine the All Blacks with no haka, or the national anthem sung only in English, or a night club with no Poi e.

## Whakahua tika | Pronunciation Guide

We are genuinely moved by the time and effort that our colleagues put into learning te reo Māori, their pepeha, and some basic mihimihi. We know that learning a new language as an adult is very difficult, especially when it comes to pronunciation.

Te reo Māori is phonetic and is relatively easy to read and pronounce, however, as we all know, there are some tricky bits. All we ask is that you try your best to pronounce Māori words correctly. This shows respect towards your client and their whānau. It also shows a level of professionalism which sets you apart from many who do not make an effort. It will take a lot of practice, and re-programming your brain to undo years of saying words wrong, however, it is well worth the effort.

Te reo Māori is made up of:

- Five vowels: a e i o u
- Eight consonants: h k m n p r t w
- Two digraphs: ng wh

		Short	Long
<b>a</b>	as in	allowed	bar
<b>e</b>	as in	enter	bed
<b>i</b>	as in	eat	peep
<b>o</b>	as in	ordinary	pork
<b>u</b>	as in	too	loot

## Te arapū Māori | The Māori Alphabet

Most of the consonants are pronounced the same as the English language. The two exceptions are:

**T:** When followed by a, e, or o – the t sound is soft without an ‘s’ sound. When followed by i or u – there is an ‘s’ sound.

**R:** The r is always rolled. If you can purr like a cat, you can roll your r. If this is difficult for you, you should aim for the ‘d’ sound in English, just softer.

### Digraphs

Ng as in singer. Not finger (unless, of course, you are from Tūhoe or Kai Tahu). Wh as in feather. Not weather (unless, of course, you are from Taranaki or Ngāpuhi).

## Oropuare | Vowels

Vowels are short or long. The long sound is shown by a macron, eg Māori.

Whilst a single vowel might be easy to say out loud, it is the combination of vowels in a syllable (known as diphthongs) that is more difficult. For example the “au” sound is always pronounced like the “o” sound in English. Try these: Manukau Taupo Tauranga Mauku Kawau

### Why are long/short sounds important?

Some words are spelt the same but have different meanings depending on the long vowel sound:

Tangata - one person	Tāngata - people
Wahine - woman	Wāhine - women
Keke - cake	Kēkē - armpit

As you can see with the latter two examples, an important distinction if you were to express your hunger for cake. But fear of getting it wrong, shouldn’t stop you from trying it. Tūwhitia te hopo! Feel the fear and do it anyway.



<b>a</b>	ha	ka	ma	na	pa	ra	ta	wa	nga	wha
<b>e</b>	he	ke	me	ne	pe	re	te	we	nge	whe
<b>i</b>	hi	ki	mi	ni	pi	ri	ti	wi	ngi	whi
<b>o</b>	ho	ko	mo	no	po	ro	to	wo	ngo	who
<b>u</b>	hu	ku	mu	nu	pu	ru	tu	wu	ngu	whu

## Ko wai tō ingoa? | What's your name?

Māori children are often named after an ancestor, a relative, or an event. What ever the name and story behind their names, it is important to them and their whānau, therefore you should pronounce it correctly.

Next time you meet a young person with their whānau, ask about the meaning of their name – regardless of whether it is an English or Māori name. Make it part of your practice to ask your client and their whānau about the name/s – Are they named after someone? Who named them? What is their full name? Do they know the meaning of their name? There is a wealth of knowledge to be gained in learning about someone's name. You may learn about some of the key relationships and people in the young persons life. This information can be useful later on when considering bail addresses, FGC's, and monitoring plans.

Here are some names to practice:

Mere	Tama
Hine	Hone
Aroha	Henare
Rahera	Piri
Kauaearu-waihirere	Heemi / Hēmi

## Whakataukī / whakatauākī | Proverbs

Proverbs play a significant role in te ao Māori – they explain natural phenomena, historical events, links between people, and often provide advice/instruction/guidelines on any number of issues. The language is poetic and their use demonstrates a deeper understanding of a situation in a uniquely Māori way. You will often hear them in whaikōrero, in the same way that a case may be cited in legal submissions. Here are some for your kete:

Whāia te iti kahurangi, ki te tuohu koe me he maunga teitei.	Pursue your aspirations, if you falter, let it be because of insurmountable difficulties.
Mahia te mahi hei painga mō te iwi.	Do the work for the benefit of the people.
Kia mau ki te aka matua, kei mau ki te aka tāepa.	Cling to the main vine, not to the loose one.
E kore te pātiki e hoki ki tōna puehu.	The flounder does not return to the mud it has stirred.
Kaua e mate wheke, mate ururoa.	Don't die like an octopus, die like a hammerhead shark.
Tama tu tama ora, tama noho tama mate.	An active person will remain healthy, while a lazy one will become sick.
Kaua e takahi i te ara o Taihoa, kei tae koe ki Aua-atu.	Don't go by the path of Procrastination, lest you arrive at Nowhere.
Ahakoia he iti, he pounamu.	Although it is small, it is greenstone.
Waiho mā te whakamā e patu.	Let shame be the punishment.
Hokia ō maunga kia purea ai koe e ngā hau o Tāwhirimātea.	Return to your mountains to be cleansed by the winds of Tāwhirimātea.

## Ngā mihi | Simple Greetings

E ngā kaumātua, e ngā kuia, e te kaiwhakawā, tēnā koutou, tēnā koutou, tēnā tātou katoa	To the elders, to the Judge, I greet you, I greet you, I greet you.
E ngā mana, e ngā reo, rau rangatira mā, tēnā koutou, tēnā koutou, tēnā tātou katoa.	To the authorities, the orators, the esteemed leaders, I greet you, I greet you, I greet you.
Kei aku nui, kei aku rahi, tēnā koutou katoa e rāmemene mai nei i runga i te whakaaro kotahi.	To our highly esteemed hosts compliments are extended to you all who have assembled here with one focus in mind.

## Pepeha | Who are you?

As we know delivering a pepeha is customary when introducing yourself to a group in a Māori setting.

Here is a template to help with yours:

Ko \_\_\_\_\_ te maunga.

Ko \_\_\_\_\_ te awa.

Ko \_\_\_\_\_ te iwi.

Ko \_\_\_\_\_ te hapū.

Ko \_\_\_\_\_ te waka.

Ko \_\_\_\_\_ te marae.

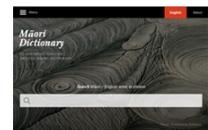
Ko \_\_\_\_\_ tōku ingoa.

Ko ahau te rōia o \_\_\_\_\_.

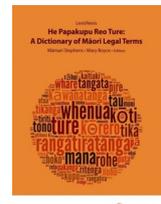
## Ngā rauemi | Resources

### Dictionaries

[www.maoridictionary.co.nz](http://www.maoridictionary.co.nz)

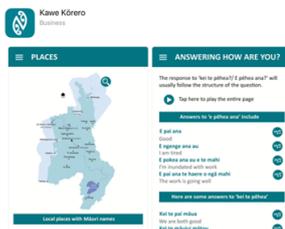


### A Dictionary of Māori Legal Terms

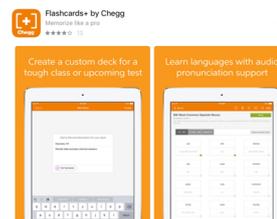


## Apps

### Kawe Kōrero

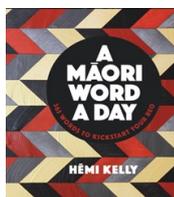


### Chegg—Flashcards



## Books

### A Māori word a day (by Hēmi Kelly)



### Ngā Pēpeha a ngā Tīpuna (by Hirini Moko Mead)



## Whakamahia | Put it to use

Client and whānau engagement – meeting / FGC suggestions

When whānau Māori attend meetings with youth justice professionals, sometimes a guard can be put up which requires a fair bit of work to bring down. Here are just a few simple ways te reo Māori and tikanga can be used to good effect in client and whānau engagement:

*Name pronunciation:* working with your client to ensure you can pronounce their name and whānau members names correctly. Asking the meaning behind the name.

*Mihimihi:* allowing a short period of time for mihimihi at the beginning of a meeting can be beneficial. For example, if you are meeting at your office, delivering a short mihi to the client and family when you meet can set the tone for a constructive meeting. Importantly it also shows manaakitanga (care for others). This can be done simply by saying:

“Tēnā koutou, I would like to mihi to you all for coming to meet with me and to support \_\_\_\_\_” Ngā mihi nui ki a koutou.

*Karakia:* starting and ending meetings with a brief karakia can also help set the tone, settle everybody, and make everyone mindful for the meeting.

**Manaakitanga** (hospitality/caring for others) offering a cup of tea, coffee, glass of water, piece of fruit when meeting at your office: again an illustration of manaakitanga.

**Whakawhānaungatanga:** allowing appropriate time for introductions and explanation of relationships.

**Hui-a-whānau:** identifying whānau capacity or assisting to prepare a young person and their whānau to organise themselves and meet outside of the Court / FGC process in order to put their thoughts together of what is required moving forward for their young person.

### Timatanga | To start

### Whakamutunga | To finish

<p><b>Whakataka te hau</b></p> <p>Whakataka te hau ki te uru Whakataka te hau ki te tonga Kia mākinakina ki uta Kia mātaratara ki tai E hī ake ana te atakura He tio, he huka, he hau hū Tīhei mauri ora!</p>	<p>Cease the winds from the west Cease the winds from the south Let the breeze blow over the land Let the breeze blow over the ocean Let the red-tipped dawn come with a sharpened air  A touch of frost, a promise of a glorious day.</p>	<p>Kia tau ki a tātou katoa Te atawhai o tō tātou Ariki, a Ihu Karaiti Me te aroha o te Atua Me te whiwhingatahita nga Ki te wairua tapu Ake, ake, ake Amine</p>	<p>May the grace of the Lord Jesus Christ, and the love of God, and the fellowship of the Holy Spirit be with you all Forever and ever. Amen</p>
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## Family Group Conference Plans

As youth justice professionals, it is one of our roles to ensure that youth justice processes are carried out correctly and fairly and in accordance with the principles in the OTA. Our work is also collaborative, and to some extent reliant on the work of others especially when it comes to process and substance at FGC's.

One of the major challenges for all of us who work in youth justice, is making our processes, and in particular FGCs meaningful to our clients and their whānau. Often this requires participants to take off the "process" lenses and view things from a "values" based lens.

To this end, te reo Māori and tikanga can be used to help bring meaning to FGCs and FGC plans.

Below are just a few examples of how:

- Asking the FGC co-ordinator to engage an culturally appropriate person to facilitate the FGC and any tikanga based restorative processes.
- Using whakataukī within FGC plans, or as headings/themes for plans.
- Working to ensure the lay advocate has assisted to identify the young person's pepeha prior to the FGC.
- Creating space to discuss the pepeha, its meaning, significance during the FGC. Discussing whether there are simple and achievable steps that can be taken to bring further meaning to the pepeha. For example visiting the awa, maunga, or marae.
- Meeting with your client and whānau prior to the FGC to discuss what will happen. There are some simple things they could achieve by holding their own whānau hui to organise what they would like to see happen.
- Being prepared, and willing to assist in the delivery of a karakia if the young person and whānau would like one given, and there is no one else with capacity to do so.
- Delivering a short mihi to those gathered for the FGC.
- In appropriate cases, including mihi in FGC plans to be learnt by the young person alongside pepeha when attending Te Kooti Rangatahi.

## Hei whakakapi | Conclusion

We hope that within this paper each of you have found something that can be of use in your Youth Court practice and development as a person and youth justice professional.

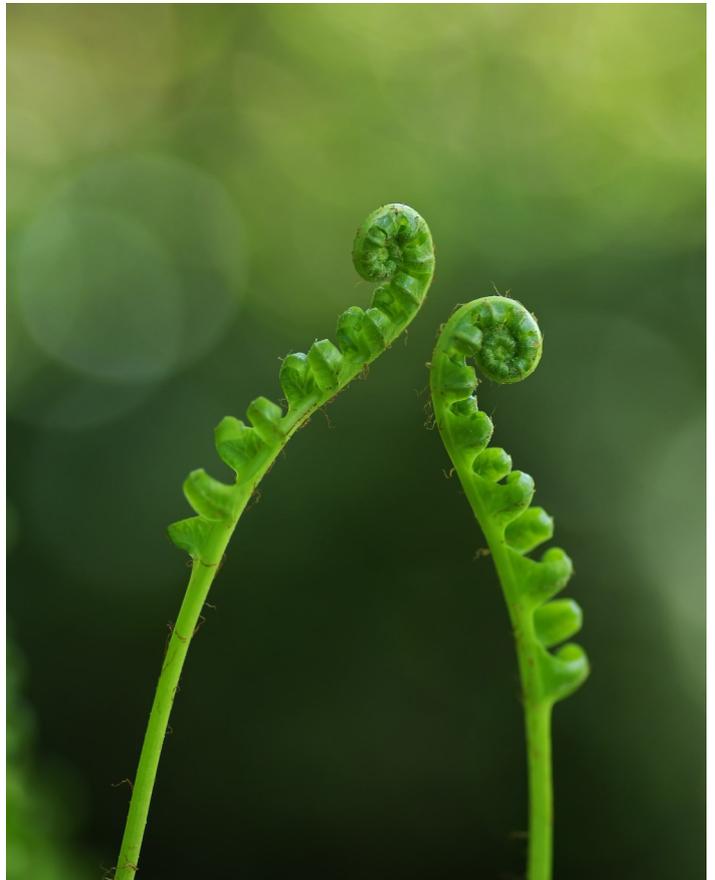
As previously mentioned in this paper, learning te reo Māori will take time and effort. However the benefits are many.

We encourage those of you who are fluent, or knowledgeable in te reo Māori to encourage and assist those in the youth justice arena who are just starting out on their reo journey. If you are just starting out and are looking for guidance or assistance, reach out to someone who can help.

Those of us in youth justice who are able to speak te reo Māori are not only passionate about doing so ourselves, but also helping people who wish to learn.

***E tika ana te whakataukī - Nāu te rourou, nāku te rourou, ka ora ai te iwi - with your basket and my basket the people will live.***

*Chris and Corrin Merrick are Youth Advocates in Manukau, and fluent speakers of te reo.*



## RECENT RESEARCH AND PUBLICATIONS

### Editorial note

*A correction to Issue 81 of Court in the Act:*

The author of "It's never too early, never too late: a discussion paper on preventing youth offending in New Zealand" is Associate Professor Ian Lambie. Subsequent drafts had incorporated comments and input from Sir Peter Gluckman and other departmental science advisors.

### NEW ZEALAND

#### *Towards a Principled Legal Response to Children Who Kill*

Author: Dr Nessa Lynch

Source: Journal of Youth Justice, vol. 18, 3: pp.211-229., First Published December 10, 2018

Abstract: This article surveys common-law jurisdictions, finding that the typical response to a homicide charge against a child is prosecution and sentencing in the adult jurisdiction. Reforms, such as alterations to trial procedure, and lower sentencing starting points have focussed on mitigating the excesses of adult trial and sentence. A principled approach requires a different lens. Practical strands of an age-appropriate response include custody as a last resort and only where there is a risk to public safety, an automatic prohibition on publication of identifying biographical details, and a child-specific jurisdiction. The prevailing societal interest is in reintegration.

#### *Harnessing resistance in interventions with young people*

Author(s): Robyn Munford and Jackie Sanders

Source: Journal of Social Work Practice 31(1) March 2017:79-93

Abstract: This article draws on the findings from the qualitative phase of a New Zealand longitudinal study concerning vulnerable young people's transitions to adulthood. The young people, aged between 12 and 17 at the time of the first interview had sustained exposure to harm (abuse, violence, addictions, disengagement from school and mental health issues) and were clients of statutory and non-governmental services including: child welfare services, juvenile justice services, remedial education services and mental health services. Qualitative interviews explored young people's experiences of services and the strategies they used to locate support.

#### *A get-out-of-jail-free card: discharge without conviction in New Zealand*

Author: Dennis Dow

Source: Public Interest Law Journal of New Zealand 4 2017:78-105

Abstract: This article argues that Parliament should amend the Sentencing Act 2002 to empower judges to grant conditional as well as absolute discharges. A conditional discharge requires a specified period of good behaviour during which no further offences can be committed. If the offender reoffends within that period, he or she is re-sentenced for the original offence. This article argues that a conditional discharge better reflects the second chance rationale of a discharge without conviction.

#### *Downwards trends in adolescent risk-taking behaviours in New Zealand: exploring driving forces for change*

Author(s): Sonia Lewycka and others

Source: Journal of Paediatrics and Child Health online, 2018

Abstract: There has been considerable progress in reducing many adolescent risk behaviours in New Zealand and internationally over recent years. In this article, the authors explore potential driving forces for these trends.

### AUSTRALIA

#### *Video links in youth justice proceedings: when rights and convenience collide*

Author: Tamara Walsh

Source: Journal of Judicial Administration 27(4)2018:161-181

Abstract: The use of audio-visual links in courtrooms is a cost-effective alternative to face-to-face court appearances. Appearance by video link is becoming increasingly common around the world, yet there have been few evaluations of the use of audio-visual links in courtrooms. Particular issues arise with respect to the use of audio-visual links where the accused person is a child – indeed it is often concluded that "virtual courts" are not appropriate for vulnerable defendants, including children and young people. Despite this, in many Australian States and Territories audio-visual links are used extensively in youth justice proceedings. This article considers the findings of a 2016 scoping study in which a focus group was conducted with eight lawyers in Brisbane who represent children and young people who have received criminal charges.

### ***Understanding and preventing the onset of child sexual abuse in adolescence and adulthood***

Author(s): Nadine McKillop and others

Source: Australian Institute of Criminology Trends and issues in crime and criminal justice, 554.

Abstract: Offender and offence characteristics associated with the onset of child sexual abuse in adolescence and adulthood were examined in a sample of males adjudicated for sexual offences. Predictors of adolescent- and adult-onset abuse reinforce that adolescents and adults, for the most part, are two distinct offender populations who may be motivated to sexually abuse for different reasons and who are influenced by opportunity structures, constraints and experiences that characterise these developmental stages. Findings here support tailored prevention efforts for adolescents and adults.

### **UNITED KINGDOM**

### ***Young minds, old legal problems: can neuroscience fill the void? Young offenders and the Age of Criminal Responsibility Bill—promise and perils***

Author: Hannah Wishart

Source: The Journal of Criminal Law 82(4) August 2018: 311-320

Abstract: From 10 years of age, the criminal law requires a person demonstrate a reasonable degree of normative competence. But what if a young person aged between 10 and 14 years does not possess such mental capacities, cannot do anything about it and is not capable of holding responsibility? Should the criminal law make allowances for him in these circumstances? In this UK article, the author argues that it should, because neuroscientific studies reveal young adolescents to be incapable of exercising normative competence.

### ***Keeping vulnerable offenders out of the courts: lessons from the United Kingdom***

Author: Tamara Walsh

Source: Criminal Law Journal 42(3) 2018:160-177

Abstract: Vulnerability has been a focus of the English criminal justice system in recent years, and concerted efforts are being made by police to keep vulnerable people out of the courts. This empirical research project investigated the rationale behind this shift in approach, and how it works in practice.

### ***Meeting the needs of young adult women in custody***

Author: Rob Allen

Source: Transition to Adulthood, London, 2016

Abstract: This UK report looks at how best the prison system can meet the needs of young adult women. In particular, the author seeks to analyse in detail what might be needed, outlines good practices in the UK and abroad and concludes by making a number of further recommendations.

### ***Disclosure of youth criminal records***

Author: Katie Jones

Source: Archbold Review 8 October 2018: 6-9

Abstract: This article examines the state of youth criminal record disclosure in England and Wales, and explores the possibility of reform. The article is divided into four sections. First, it sets out the history of the current system and the governing legislative framework as it applies to youth criminal records. Secondly, it provides a brief outline of the relevant cases before the Supreme Court. Thirdly, it examines a number of problems with the way in which the disclosure of youth criminal records operates at present. And finally, there is a brief exploration of alternative models from other jurisdictions and possible avenues for reform.



Court in the Act is a quarterly newsletter produced by the Office of the Principal Youth Court Judge.

We welcome feedback, contributions and submissions. These can be sent to: [courtintheact@justice.govt.nz](mailto:courtintheact@justice.govt.nz)