

# NGĀ KŌTI RANGATAHI O AOTEAROA

*News, stories and events from the Rangatahi Courts and Pasifika Courts*

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## E NGĀ RANGATIRA o ngā Kōti Rangatahi o Aotearoa, tēnā koutou katoa.

**Tēnā** hoki tātou i ō tātou tini Aituā e tangihia nei ki ō tātou marae maha puta noa o tātou rohe karangarangatanga. Heoi, ngā mate, haere! Haere takahia atu ngā huarahi kua takahia e nga tīpuna i mua atu i a koutou. Haere atu ki ngā pā kāenga o te ao wairua e kore nei o muri e hokia – haere! Haere! Haere rā e hika mā!

E ngā mate huhua o ngā Kōti Rangatahi o te motu whānui tonu, koutou e takataka nei i waenga i a tātou, haere! Waiho iho mātou ō koutou mōrehu ki te ao tūroa nei, poroporoaki atu ai, tangi atu ai mō koutou kua whakarere nei i a mātou i tēnei tau.

**2016** has been a year of achievements:

- The Rangatahi Court, produced a short video, *Ngā Kōti Rangatahi o Aotearoa*.
- The Rangatahi and Pasifika Courts were recipients of the [2015 Australasian Institute of Judicial Excellence \(AIJA\) Award for Judicial Excellence](#)
- The Rangatahi Courts were recipient of the [Institute of Public Administration New Zealand \(IPANZ\) Public Sector Excellence Awards for Excellence in Crown-Māori Relationships](#).
- The Rangatahi and Pasifika Courts hosted a number of local international guests including Judge Chambers (President of the Children's Court of Victoria, Australia), and the Rt Hon David Lammy (UK), Marama Fox (Māori Party Co -Leader), Alastair Scott MP, and Jacinda Adern MP.
- The Rangatahi Courts have been the

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Pōwhiri onto Te Poho o Rāwiri Marae in Gisborne, for the first ever Rangatahi Court sitting - 30 May 2008

subject of key-note speeches in a number of international conferences (two are noted in this issue).

- We have had a change in leadership - Judge John Walker was appointed Principal Youth Court Judge in July.
- We welcomed two new Youth Court Judges to the team. Judge James Johnston will be sitting in the Rangatahi Court.
- Planning is underway for a 10 Year Anniversary of the Rangatahi Courts. Save the date: **26—27 May 2018**. Details will follow in the New Year.

It is necessary to thank all of you who have worked tirelessly to support the operation of the Rangatahi Courts throughout Aotearoa New Zealand. Without the support of all involved, the Rangatahi Courts would not be able to function effectively and perform the excellent service that you all deliver. The work you are involved in is incredibly important for the rangatahi who appear before the Rangatahi Court: for their whānau, hapū, and iwi; for the victims of their crimes; for the safety of the communities you all live in; and ultimately, for the future well-being of our country, Aotearoa New Zealand.

**Nō reira**, rau rangatira mā, nei rā ngā mihi aroha e tuku atu nei ki a koutou. Tēnā hoki koutou i tā koutou i whakapau kaha ai i runga i te kaupapa o te Kōti Rangatahi. Kia tau ngā manaakitanga a te Runga Rawa ki runga i a koutou mō te wā whakatā kei te tū mai nei. Māna anō koutou katoa e manaaki e tiaki, mō āke tonu atu.

Nāku iti noa, nā

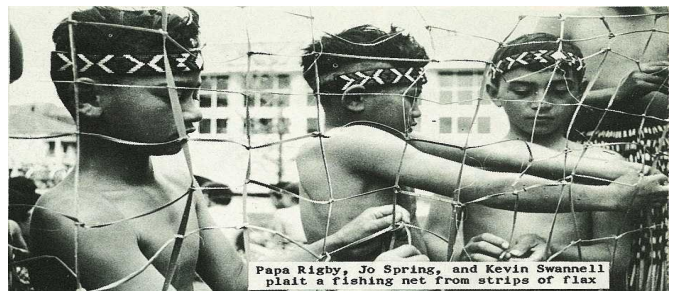
**Kaiwhakawā Heemi Taumaunu**

## E MŌHIO ANA KOE?

### Do you know how the Rangatahi Court got its name?

At its genesis, the Rangatahi Court was referred to as the Marae-Based Family Group Conference Plan Monitoring Youth Court. Judge Taumaunu was later asked, by the then Principal Youth Court Judge, Andrew Becroft, to suggest an appropriate Māori name for the Court.

Initially, Judge Taumaunu asked his father, the late Hone Taumaunu, what a suitable name would be. His father suggested the name “Rangatahi Court”. After lengthy consultation with pākeke and elders from Te Poho o Rāwiri Marae, Manurewa Marae and Hoani Waititi Marae, it was decided that the appropriate name for the marae-based courts is Ngā Kōti Rangatahi – the Rangatahi Courts.



© Gisborne Photo News, no.137, Nov 3, 1965

The literal meaning of the word “rangatahi” is “youth”. The word “rangatahi” also means “new net” in the sense that it is used in the famous Māori whakataukī (proverb) -

**“Ka pū te ruha, ka hao te rangatahi”**

“The old worn out net is cast aside and the new net goes fishing”

The name “Rangatahi Court” reflects the expectation that young people will “cast aside the old, worn out” behaviors that have led them to appear in Court, and that they will adopt a “new net” of positive, pro-social attitudes and behaviours to put them on the right track for the future.

The name Rangatahi Court became settled only shortly after the launch of the Hoani Waititi Rangatahi Court on 10 March 2010. Hoani Retimana Waititi, who the marae was named after, was the famous author of a series of te reo Māori books called “Te Rangatahi” (the new net). Therefore, it is fitting that a Rangatahi Court now operates at Hoani Waititi Marae. ■

## Te Kaiwhakawā Matua o te Kōti Taiohi Principal Youth Court for New Zealand



Ko Wharite te maunga  
Ko Manawatu te awa  
Ko Ulster Scots te iwi  
Ko John Walker ahau

**Born in Ireland**, and spending his very early life in a fishing village, Donaghadee, Judge Walker moved to Aotearoa New Zealand with his whānau when he was 3 1/2 years old. His mother and father had decided that there were more opportunities for the family in NZ.

His Honour spent his school years in Palmerston North, later moving to Wellington to study law at Victoria University. He was admitted to the bar in 1976 and practised as a barrister, in many areas of law (medical, resource management, civil litigation and criminal jury trials). He was a partner in Macalister Mazengarb and then a barrister in Harbour Chambers.

It wasn't until Judge Walker was appointed to the District Court Bench in 1994 and posted to Nelson, that he first went into a Youth Court -

*“At the time, there were only two Judges in Nelson and we had to do it all.”*

It didn't take long for Judge Walker to develop an affinity for youth justice and the Youth Court. He saw it as a Court where the greatest changes in lives was possible.

A solution-focussed judge, he saw the opportunity to take principles from the Youth Court and apply them in other areas of our justice system, particularly in the development of Court assisted interventions for alcohol and other drug dependency, including the establishment of the Youth Drug Court in Christchurch.

During his time as Resident Judge for the Porirua District Court, Judge Walker encouraged better engagement between the Court and community by working closely with the mana whenua, Ngāti Toa, and the wider Porirua

community and agencies. More recently, he has been leading the development of District Court responses to Family Violence.

When asked about his view on the Rangatahi Court movement, his Honour replied:

*“I fully support the development of the Rangatahi Courts. They have been effective in building a much better connection between young people and their culture, and a much better connection between the Court and the community which it serves.”*

Outside of the Courtroom, his interests include restoration of classic cars, architecture, fly fishing, gardening, woodworking, blacksmithing, photography, and many other distractions.

**And...** in the theme of Christmas and summer:

**What dish are you most looking forward to on Christmas day?** We have a Mexican side to our extended family so something hot and spicy will certainly be on the menu.

**Do you have any family Christmas-holiday traditions?** Musical performances ( including Irish ballads) are expected.

**What was the last book you read?** "The Scottish Prisoner " - Diana Gabaldon

**What is playing on your iPod right now?** Aine Crehan - think Galway meets Nashville.

**Swim in a pool or the ocean?** I prefer to be on the water than in it .



Three consecutive Principal Youth Court Judges (L-R): Judge John Walker, Sir David Carruthers, Judge Andrew Becroft

## Kaiwhakawā Judge James Johnston

District & Youth Court Judge



**Ko Hikurangi te maunga**

**Ko Waiapu te awa**

**Ko Ngāti Porou te iwi**

**Judge James Johnston** was sworn in on 10 June at Wellington District Court.

His Honour was admitted to the bar in 1989 and joined Wellington firm, Rainey Collins Lawyers, where he had been a partner since 1994

Judge Johnston was a youth advocate for over a decade in Wellington. He was also the Lead Legal Counsel for the Ngāti Porou Treaty Settlement, a Trustee of the Henwood Trust, a past Convenor of the New Zealand Law Society Youth Justice Committee, and a member of the Ministry of Justice Independent Advisory Group

**What dish are you most looking forward to on Christmas day?** My wife's marinated fish.

**Do you have any family Christmas holiday traditions?** Yes, the whānau getting together is a must.

**What was the last book you read?** Anne of Green Gables (with my daughter).

**What is playing on your iPod right now?** Coldplay.

**Swim in pool or the ocean?** Ocean (Waikanae, Gisborne)

**Watch sports, or play sports?** Both (hamstring permitting!)



Waikanae Beach, Gisborne

## Kaiwhakawā Judge Soana Moala

District & Youth Court Judge



**“Manukau is close to my heart. I am passionate about my community and the way that justice is delivered in it.”**

**Her Honour**, a proud daughter of Tonga, grew up in Manukau, South Auckland. It is where she went to school, where she practised law for most of her career, and where she now presides as a District Court Judge.

When she was 10 years old, her parents decided to leave their motherland in search of a better life for their whānau - “My father is the leader of our family, and he is the person that has had the most influence on me. He is generous, humble, hard working and honest.”

When asked what inspired her to get involved in youth justice, her Honour replied: “When I was at the Crown, I didn't do any Youth Court work because it wasn't as “cool” or “sexy” as doing jury trial work. Once I started doing Youth Court work, I found it really challenging with very interesting legal issues. This was due to the seriousness of the charges in the Manukau Youth Court and because I had to learn a whole new Act!”

**What dish are you most looking forward to on Christmas day?** Dad normally puts down an umu (Tongan hāngi). This year, he said that there will be no umu and no pig on because it is a Sunday and he will be at Church (God takes priority on a Sunday). So, it looks like we might be having ham and turkey like other kiwis.

**Do you have any family Christmas holiday traditions?** Food is our family tradition.

**What was the last book you read?** I am addicted to news, so, between the news of the world and reading for work, there is no time left for books.

**What is playing on your iPod right now?** I don't have an iPod, but I like old-school R&B.

**Swim in a pool or the ocean?** Both.

**Watch sports, or play sports?** Watch. ■

## Te Kōti Rangatahi ki Mātaatua

Emily Stannard, Research Counsel, provides a report on the wānanga held at Wairaka Marae, Whakatāne.

On 25 July 2015, about 40 youth justice stakeholders gathered at Wairaka Marae for a wānanga to discuss the progress of Te Kōti Rangatahi ki Mātaatua. It was an exciting day with lots of passionate people all in one place to discuss how the Court could be improved and share ideas for the future. There were representatives for every group that make the Rangatahi Courts work: kaumātua, the judiciary, youth advocates, lay advocates, Child Youth and Family Services, the Police, and the Ministry of Justice.

**Charlie Bluett** was the kaiwhakahaere and **Josh Kalan** (iwi liaison officer for Eastern Bay Police) was the facilitator for the day. Following whakawhānaungatanga (introductions) where we all did our pepeha, it was into the wharekai (eating house) for morning tea. The kai (food), of course, was wonderful. Wairaka's hospitality is well known.

**Enid Pryor**, Manager of Te Tohu o Ngāti Awa Social and Health Services was the first speaker at the wānanga. She spoke about changes to the Service and its focus. There were interesting discussions about how to engage rangatahi (young people) and their whānau (families) straight after Court so that they could benefit from the programmes and for different organisations to be able communicate with each other. Enabling the whole whānau to benefit from the Rangatahi Court process was a big theme throughout the day.

She was followed by **Chris Marjoribanks**, manager of Tūwharetoa ki Kawerau. He also addressed the practicalities of ensuring rangatahi had access to their services and ensuring that the Court was aware of the services and knew how to access them.

**Judge Louis Bidois** focused on the practicalities of how the Court was run day to day and how things could be improved. There was really good discussion around this. He also showed a [video](#) which was shown at the Australasian Institute of Judicial Administration award ceremony.



Back Row (L-R): Tracey Hillier, Tania McLean, Chris Marjoribanks, Peg Fong-May, Michelle Mellow, Graham Stewart, Renee Cruickshank, Te Tuhi Mate, Gene Tomlinson, Steve Franklin, Stella Black, Maurice Tooke, Melissa Richards, Ppp Brown, Carolyn Te Pou

Front Row (L-R): Rachel Paul, Kurei Knight, Judy Tini, Maanu Paul, Charlie Bluett, Mina Timutimu

In the last spot before lunch was **Stella Black** who is currently doing her PhD at the University of Auckland on the Rangatahi Courts as well as other specialist courts. She has observed many Rangatahi Court sittings and told us about her research and the differences between the Courts.

Lunch was a good time for everyone to catch up and then we went back for an open floor discussion. Kaumātua **Maanu Paul** raised the issue of continuing to provide programmes and services for rangatahi once they leave the Court process. Youth advocates, **Rachel Paul** and **Steve Franklin**, also built on this. Lay advocate **Hohepa McLean** spoke about the importance of culture in reaching offenders. Kaumātua **Tuhi Mate** and **Ngamihi Crapp** also weighed in on the discussion, as did Chris Marjoribanks, lay advocates **Tania McLean** and **Vicki Paul**, and many others. Youth Court supervisor **Graham Stewart** spoke about how important the Rangatahi Court was in reducing reoffending, and how low the reoffending rate was for rangatahi who went through the Court.

This was the first wānanga for the Mātaatua Rangatahi Court since it was established 5 years ago. It was a really great experience being around so many people who are enthusiastic about youth justice and who are looking to improve and strengthen the system's already in place. It was also neat to see what happens on the ground and all the detail, planning and mahi (work) that goes into making the Court a success. I think everyone left the marae feeling very well fed and looking forward to the Court's future. ■

## CULTURAL ROOTS OF RESTORATIVE JUSTICE RETREAT

Tukwila Community Centre

Seattle, Washington

8–9 October 2016

Kaiwhakawā Heemi Taumaunu reports on his visit to Seattle where he, along with other practitioners, discussed practices of restorative justice.

I was invited to attend as a keynote speaker alongside Children’s Commissioner **Judge Andrew Becroft**. We were joined in the conference by Child, Youth & Family, Family Group Conference Coordinator, **Mr Thomas Hohaia**. Throughout the week preceding the conference, the three of us presented at a number of different venues. We spoke to community groups and justice sector officials about the Youth Court of New Zealand, Ngā Kōti Rangatahi, and the way that Family Group Conferences work in Aotearoa New Zealand. We met with representatives of the indigenous people of Seattle, and we were also fortunate enough to attend a Juvenile Court sitting presided over by the Chief Judge of the Seattle Juvenile Court, **His Honour J. Wesley Saint-Clair**.

Chief Judge Saint-Clair had convened a special sitting of the Court to impose sentence on a young offender who had committed an aggravated robbery offence. The sentencing came at the end of a lengthy restorative justice process. Over 110 hours had been engaged in by the young offender and the restorative justice team prior to sentencing, and a detailed report was given by the Court Registrar as to the details of the restorative justice process that was undertaken. This case represented the first time that restorative practices had been engaged in by the Seattle Juvenile Court and was seen by all as a very successful initiative.

We were interested to observe that restorative justice practices and therapeutic justice approaches in Seattle are very much in their developing stages. The primary purpose of our attendance at the weekend re-



Peacemaking circle keeper Saroem Phoung of Point One North opening the circle on the school to prison pipeline on day one of the retreat .

treat was to share New Zealand’s experience of employing these restorative practices for the past 27 years in the context of our youth justice system. Our presentations at the retreat, and at the various speaking engagements preceding the retreat, were very well received. There was an excellent exchange of information between everyone involved.

We were very honoured to hear excellent presentations from some of the other speakers who attended the retreat and, in particular, **Dr Farnia Davis**, the Director of Restorative Justice for Oakland Youth. She spoke about the application of restorative justice principles in the wider community and in particular, the adoption of restorative justice practices within school environments. The key point she made was that restorative practices in schools are primarily designed to perform preventative functions with only a small emphasis on the application of restorative justice processes for disciplinary proceedings.

We also heard from **Dr Morris Jenkins** of Missouri State University, who spoke about the restorative justice practices of the Gullah people. He described the restorative practices of the Gullah people from South Carolina and traced the origin of those practices back to Africa. He noted that many of the restorative traditions had survived in present day South Carolina, and he also noted the similarities between the restorative practices of the Gullah people and those of the Māori people.

All in all, it was a fascinating and rewarding time spent in Seattle. In my opinion, we were very well represented as a country by Judge Becroft and Thomas Hohaia. It was also very much a



(L-R) Judge Becroft, Chief Judge Saint-Clair & Judge Taumaunu at the Seattle Juvenile Court

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# Chief Judge Wesley Saint-Clair

## A letter to the Editor

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On October 6, 8 and 9, a series of important events about youth justice took place in Seattle, Washington, and New Zealand played a crucial role. Children's Commissioner **Judge Andrew Becroft** and wife **Philippa Becroft**, National Rangatahi Court Liaison **Judge Heemi Taumaunu** and wife **Ingrid Taumaunu**, and Family Group Conference Coordinator **Thomas Hohaia**, flew 12 hours across the Pacific to participate in a discussion of "the Cultural Roots of Restorative Justice." They made many friends in our region, gave four presentations, and participated in countless conversations with policy makers and service providers. They were champion representatives of New Zealand Youth Justice.

Since 1989 when New Zealand passed the Children, Young Persons, and Their Families Act, New Zealand has become a beacon for the rest of the world. Progress is not perfection, as the New Zealand contingent made clear. But we here in the Pacific Northwest learned several key things during their visit and presentations:

- How New Zealand's Youth Aid Officers are key in working with youth to steer them away from law-breaking activities;
- How Family Group Conferences ensure that the youths' families and communities are brought into the crucial discussion of how to respond to youth offenses; and,
- How the Rangatahi Courts for Māori, Pasifika, and other youth are being used to address the specific issue of Māori and Pasifika youth in the Courts.

New Zealand sets an example for the world by showing how reconnecting to cultural traditions helps youth - and all of us - understand who we are and what our responsibilities are to each other as human beings living together in communities and societies.

Here in Seattle and King County, Washington, we experience a similar problem of the over-representation of youth of color – Native American, Latino and Latina youth, and especially African American youth – in our Juvenile Justice System. Even as the overall numbers of jailed youth have decreased by 70 percent in the last 20



Photo taken at the Duwamish Longhouse, the traditional meeting house of one of the local tribes.

(L-R) Thomas Hohaia, Duwamish Tribal Chair - Cecil Hansen (Direct descendant of Chief Seattle), Kaiwhakawā Heemi Taumaunu

learning opportunity for us to share and exchange ideas and learn from our different experiences in our respective countries. It is a timely reminder that Aotearoa New Zealand is seen as a world leader in the area of youth justice and restorative justice. There is significant international interest in the development and operation of Ngā Kōti Rangatahi in Aotearoa New Zealand. This is particularly so for indigenous populations in Australia, Canada, and the U.S.A, given the shared experience of colonisation and the consequences that have resulted.

Ngā mihi mahana.

Nā Kaiwhakawā Heemi Taumaunu

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## NGĀ KIRIATA | Film

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### Cultural Roots of Restorative Justice



Visit this [link](#) to hear the kōrero from Chief Judge Saint-Clair and our New Zealand delegation.

### Ngā Kōti Rangatahi o Aotearoa

The short film on the spirit of the Rangatahi Courts can now be viewed on [Vimeo](#) or

[YouTube](#).



On Wednesday 3 August, kaumātua from Rotorua and the Rt Hon David Lammy (MP Tottenham, London), attended the Pasifika Court.

**Judge Malosi** presided over the morning sitting of the Avondale Pasifika Court, and was also supported by Rangatahi Court Judge, **Judge Bidois**.

This was an auspicious occasion as it was the first time that Judges and cultural leaders from both the Rangatahi and Pasifika Courts had come together at a specialist Court sitting. Following the success of this sitting, Pasifika elders were extended an invitation to attend a Rangatahi Court sitting by Judge Bidois.




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(L-R) Pasifika Court elder, Tuau Rorani, and Te Arawa kaumātua

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This special Court sitting also coincided with [Rt Hon David Lammy's](#) visit. Mr Lammy was tasked to lead an inquiry into the disproportionate representation of ethnic minorities in the United Kingdom's criminal justice system - a longstanding issue there also. Similarly in their youth justice area, while incarceration rates of young people has fallen, the proportion of young people in ethnic minority communities has risen to over 40 percent. So, as part of this work, Mr Lammy visited the US, Australia and New Zealand to contrast each jurisdiction's experiences and lessons learned in dealing with over-represented, minority and indigenous populations. The findings of the inquiry are expected to be published early 2017. ■



Kaiwhakawā Louis Bidois, Kaiwhakawā Ida Malosi, and Rt Hon David Lammy, at the Avondale Pasifika Court.



Family Group Conference Coordinator, Thomas Hohaia

years, the percentage of detained black youth has risen: black youth are 10 percent of the King County youth population, but 51 percent of the jailed youth population.

We too are embarking on alternative approaches: Creative Justice, the 180 program, Restorative Mediation, Family Intervention and Restorative Services and for some of the more serious offenses Peacemaking Circles. Peacemaking Circles are a practice that has been shared by Native American and First Nation people. Like New Zealand's Family Group Conferences and the Rangatahi Courts, Peacemaking Circles help the youth and their communities reconnect to each other in a way that strengthens identity, forges bonds with family and community, and encourages personal and social responsibility.

**Thank you, New Zealand.** Thank you for leading the way with the 1989 legislation, Family Group Conferences, and the 2008 Rangatahi Courts. Thank you for sending such wonderful emissaries to our "Cultural Roots of Restorative Justice" events in October. Thank you Children's Commissioner Judge Andrew Becroft, Judge Heemi Taumaunu, and Family Group Conference Coordinator Thomas Hohaia for teaching us so much about youth justice, the New Zealand way. We look forward to following your progress and continuing the friendship we have begun.

*J. Wesley Saint Clair*

**Chief Juvenile Court Judge  
King County Superior Court  
Washington**



## AIJA INDIGENOUS JUSTICE CONFERENCE

ALICE SPRINGS, NORTHERN TERRITORY  
AUSTRALIA - 25-26 AUGUST, 2016



Rangatahi Court Judges, Louis Bidois, Frances Eivers, and Greg Davis attended the AIJA Indigenous Justice Conference. The Judges led a panel discussion on 'Māori Justice in New Zealand' and reported that the presentation was well received.

**“We acknowledge and pay our respect to the Arrent people, traditional owners past, present and future, of Mparntwe where we met”**

“We felt privileged and honoured to represent the District Courts of New Zealand and be able to give some insight into our culture and the judicial processes attempting to address over-representation of Māori. It is fair to say that our judicial leadership and initiatives were the envy of those present”.

The Conference largely focussed on justice in respect of Australian Aboriginal people. The Judges noted a common theme with Aotearoa New Zealand:

- Over-representation of Aboriginal/indigenous people;
- Alcohol and other drug dependency issues;
- Family violence; and,
- The need to address these issues in a culturally appropriate way.

“We gained a strong sense that our Rangatahi and Pasifika Courts are a step in the right direction and in the Australian context it is something they hope to achieve, building on their already well established Koori Courts.”

Cultural issues are of course different in Australia and the vastness of the land and the distances between communities is a factor which we in New Zealand do not have to contend with. The first step however is to recognise and respect the indigineous culture.” ■

## Over-representation of Māori in the Criminal Justice System



*Paper presented by Judge Louis Bidois at the AIJA Indigneous Justice Conference - 25-26 August, 2016*

### Introduction

The over-representation of indigenous people in the criminal justice system is a worldwide problem. Despite the philosophical attention of many intellectuals, academics, commentators, professionals and the rest, the over-representation trend continues without any recognised or acceptable prospect of arrest. Despite meaningful and aspirational intent, the different proposals to address this issue have been found wanting. It is a huge problem that cannot be overlooked or ignored. If we dare risk such an attitude, the over-representation will burgeon and society as a whole will seriously suffer. An answer must be found. It would be arrogant to try and find an acceptable pathway for indigenous people of countries other than my own – that is, the Māori of Aotearoa New Zealand, but the demands of civilised society and the [United Nations Declaration on the Rights of Indigenous People](#) require us to address this issue.

### Addressing Over-representation

Any pathway must focus on three particular areas:

1. Keeping Māori out of the criminal justice system;
2. Making the criminal justice system more culturally appropriate;
3. Better supporting Māori on exit from the criminal justice system and particularly after release from a sentence of imprisonment.

To achieve a reduction in offending and re-offending requires a collaborative, targeted and multi-disciplinary solution-focussed approach combining the efforts and resources of the state, social agencies, with the mobilisation of Māori themselves. I raise these issues and from the perspective of a Māori working in our criminal justice system.

## Brief History

The traditional demographic features which underlie causes of offending leading to involvement in the criminal justice system are recognised (among other factors), as poverty, poor education, health deficits and lack of employment opportunities. Poverty is measured by poor housing, ill-health, benefit dependency, or low paid employment. Many factors are intertwined but not necessarily interdependent. Addressing these social factors is primarily a responsibility of the State.

In order to address the significant social disparity between Māori and the majority population, it is important to identify the fundamental question - *What is it that has created that disparity which is reflected in adversely disproportionate numbers of Māori in all health and well-being measures across the spectrum?*

The statistics are clear and include:

- (a) Māori make up 15% of the population, but 55% of the prison population
- (b) 50% of the victims of crime are Māori
- (c) 60% of Youth Court convictions are in respect of Māori children and young people
- (d) 60% of children removed by our State agency (Child, Youth & Family) charged with responsibility for the protection of children and young people are Māori

Within our justice system we know that most of those appearing have been victims themselves and have had to deal with the myriad of issues arising from poverty in both a material and spiritual sense. Poverty and benefit dependence, housing difficulties and consequential transience, failure to remain engaged in education, and exposure to drug and alcohol abuse, physical and sexual violence, or some combination of all these, are hallmarks of most who come before our Courts. What we know also is that most Māori before the Court have lost their cultural connections and their relationships with their whānau, hapū and iwi. They have lost their whakapapa or genealogical ties.

In the view of many commentators, and this is also my personal view, the underlying cause is not the stereotyping we often hear - that Māori are lazy, useless or more interested in alcohol and drugs than work - but rather in the colonisation of Māori as individuals and as a society.

Our situation in present day Aotearoa New Zealand reflects the historical and political dominance of European culture, without value given to our indigenous culture, and indeed, with an approach, for much of the last 175 years, that seemed designed to fail Māori.

Our plight may be regarded as a little better than many other indigenous races who have suffered a similar fate. The constant fight, at first by battle and later, legally and politically, to hold our position and entitlements under the Treaty of Waitangi is, in my view, the reason for that advantage. Although we have never stopped fighting, Māori have been outmanoeuvred, with colonisation directly shaping our current socio-economic position.

Europeans arrived slowly at first, then by the boat load once the riches and beauty of the country were discovered. Māori were never conquered nor did we cede sovereignty. The Treaty of Waitangi was signed in recognition of working in partnership with each other and to bring some cessation to hostilities.

The record of the European colonising nations honouring treaties around the world is appalling (just ask the Native Americans) and within no time, breaches of the Treaty occurred and continued for an appreciable period. The result was significant land loss, cultural deficit, and a race destined for low educational expectations and manual jobs.

Alcohol was unknown in Aotearoa before the coming of Europeans. Its use befuddled minds. Later came the drugs, also previously unknown. Cannabis grows freely now, but was an introduced species – another befuddler of the mind and detrimental to health and thinking.

All of these factors have led to the present plight of Māori.

## Keeping Māori Out Of The Criminal Justice System

Closing the gate has to be the focus. All the efforts to address social issues will inevitably fail unless there is an honest and open recognition that colonisation has led to the current plight of Māori. A poem by Australian Aboriginal elder, [Lilla Watson](#), reflects that need:

*“If you have come to help me, you are  
wasting your time.*

*But if you have come because your  
liberation is bound up with mine,*

*Then let us work together”*

Until that recognition occurs, there can be no healing and no real commitment to change because without honesty and trust, we can't go forward. Phrases like, "what's the point?" come to mind. Without hope, the feelings of helplessness, low self-esteem, resentment, marginalisation, a sense of powerlessness, and exclusion, will continue.

Acceptance and acknowledgement can bring change in the psychology of our people - both Māori and Pākēha. The truth and reconciliation hearings in South Africa clearly confirm that such a paradigm shift is possible.

Iwi still struggle to settle Treaty claims and it continues to be difficult to achieve recognition of the role that Māori social structures could, or should play. There is an ongoing failure to teach New Zealand's history and the Māori language as part of the compulsory education curriculum. This is necessary so as to give the opportunity to all New Zealanders, to understand and value our indigenous culture, and to educate those who do not yet understand or appreciate the plight of Māori and the underlying causative factors. That understanding will lead us away from negative stereotyping and towards a focus on addressing causative factors. The call for harsher penalties and a more punitive regime must change in the face of knowledge and understanding.

As we know from the Restorative Justice literature and research, reconciliation and rehabilitation can only be achieved when the damaged party feels valued. It is that feeling of value that brings a change in attitude, outlook, and social engagement. A sense of intergenerational helplessness and hopelessness must be replaced with motivation to improve, preparedness to recognise and accept societal boundaries. The result will be uplift in spirit, and restoration of cultural identity and values will follow.

That prospect also motivates those Māori who can help, to work for a change in that entrenched view of many Māori – "Who cares? Why should I respect the rule of law if the rule of law doesn't respect me".

With better social engagement and a greater respect for the law, the rate of offending must reduce. That will stop Māori going through an open gate into the criminal justice system.

There are important offending focussed

initiatives in place now that do help keep Māori out of the criminal justice system, including Police pre-charge warnings, diversion and the establishment of Māori Community or Iwi Justice Panels.

Pre-charge warnings allow police to warn offenders rather than charge when minor infractions occur.

Diversion allows police to withdraw charges after agreed tasks are completed by an offender which may include voluntary community work or counselling, payment of reparation, and/or an apology.

Iwi Justice Panels are being established to hear referred matters outside of the Court setting, and hopefully in future, on the marae (traditional tribal meeting place).

Iwi leaders are beginning to develop an engagement framework to enable interaction with the State to achieve better outcomes for young Māori offenders. The framework focuses on changing the flow of children into state care and youths into prison. It is likely to provide a source of cultural report writers able to provide valuable information to the Court. New Zealand Courts have not yet embraced this effective power that is currently available, but underutilised.

In time, the framework should look at reinvigorating the whole criminal justice process.

The traditional Māori approach to harm

caused, was to balance the wrongdoing and re-establish the "mana" (respect) of those damaged. It was inherently victim focussed and therapeutic. Improvement in

housing, health, education, employment and poverty will all play an effective role in reducing Māori entering the criminal justice system but primarily we must reverse the poverty of spirit, the poverty of hope, the poverty of opportunity and the poverty of culture which presently exists.

### **More Culturally Appropriate Processes**

With European settlement came a criminal justice system from Britain which supplanted the indigenous system in a country where the indigenous population didn't even speak English. What chance did Māori have of understanding laws and the process? There was little chance for the Māori voice to be heard.

That led in the long term, to disrespect,

**It is that feeling of value that brings a change in attitude...**

disillusionment and disadvantage, but things are changing. Over the last 10 years our Court processes have undergone significant adjustment through a number of initiatives.

- There has been a greater focus on the need for judicial diversity.
- The Māori language is now required to be used in opening and closing court.
- Swearing in ceremonies for new judges are preceded by pōwhiri (the traditional Māori welcome ceremony).
- Judges taking up residence at a new court are accompanied by others and a powhiri is held for them in their new Court.
- We have Te Kōti Rangatahi, the Pasifika Courts and the Matariki Court.

You have heard about the benefit of Te Kōti Rangatahi and Matariki Court. The significant change in attitude, response, engagement that benefits all parties through these processes, has been recognised by both qualitative and quantitative evaluations.

These initiatives reflect, at least, a change in the level of respect for Māori cultural values and processes. With the recognised benefits arising from the operation of Te Kōti Rangatahi, there will be scope to explore an extension of marae-based Courts sitting in the family division and domestic violence cases in the District Court.

Family Group Conferences (FGCs) and Restorative Justice Conferences (RJC) are now important rehabilitative processes that are an integral part of the Youth Court and District Court. Both FGCs and RJC are meetings between the offender, victim, support people, family and state agencies. They are able to have a kaupapa Māori framework, and empower participants through acceptance of responsibility, insight into consequences, expression of grief, healing, and repair of harm. The focus is on reciprocity and accountability. One of the most important aspects is being heard, both offender and victim. The drivers or causes of offending are expressed, accepted, and addressed. These processes provide the springboard to break down barriers. They reduce marginalisation and encourage reintegration.

Cultural recognition in the Court process

## **Cultural recognition in the Court process brings respect and greater engagement.**

brings respect and greater engagement. With that comes greater prospect of compliance with sentences and reduced risk of re-offending. The processes applied at FGCs, RJC, Te Kōti Rangatahi, Pasifika Court, and Matariki Court all contain a Māori cultural perspective. Underlying these processes is a fundamental intent to change the attitude of an offender to their offending. It is hugely important to change the “feelings” - to encourage victim empathy and provide insight into the offending. Most criminogenic programmes focus on changing how offenders think. In truth, offenders know what they are doing is wrong. A 10 year old knows it is wrong to go in to someone’s house and take their T.V. It’s about changing the heart. Once offenders hear and feel the pain their offending has caused, emotions of sorrow and regret, shame and embarrassment will deter re-offending.

It is important to address the issues and the feelings which give rise to offending. Offenders are a product of their environment yet full responsibility is placed on them for their wrongdoing, with the community escaping accountability. All people, including offenders, must be able to retain their mana, or dignity. Without mana they have nothing and there will be little prospect of change. Address the feelings through the heart and there is a chance to accept punishment, make amends, engage in rehabilitation, to rebuild relationships and to restore self-esteem.

Within this process there is inclusion rather than exclusion. Inclusiveness was a part of the Māori way of life – whānau, hapū, iwi which has been truly fractured by colonisation and broken by urbanisation. It provides the opportunity to identify and value one’s roots. The community takes some of the responsibility for the offending and plays an important role in rehabilitation, strengthening and enhancing relationships and influencing outcomes.

Community involvement is rewarded with contribution and participation, the hallmarks of a properly functioning society.

## **Exit Support**

Fundamentally, most Māori in the criminal justice system and nearly all in jail, have a drug and alcohol problem and have

experienced a dysfunctional upbringing. Many do not have the capacity to organise their own lives, let alone comply with release conditions or sentence requirements. Offenders need support. Imagine if, while in prison, each received mandatory counselling to address their issues and a driver's licence; were assisted to obtain financial independence either by ensuring eligibility for unemployment benefits on release or supported into employment; had approved pro-social accommodation arranged and a time-table with all appointments identified.

It is a complete failure to let prisoners walk out the gate and then expect them to comply. It's naïve to say it's "their responsibility". The trauma most have suffered in their life reduces their capacity significantly. Constructive and focussed support would encourage compliance, bring order from chaos and reinforce the knowledge that they are being both supported and watched. We must have an approach that provides encouragement to comply and disincentive to re-offend.

### Conclusion

The harm caused by offending is immeasurable. There is a huge financial cost but it is the emotional cost that is more damaging to our society. We must take the over-representation issue seriously and continue to change and monitor what we do and how we do it, to ensure that we address this issue. There is no quick fix.

**Kaiwhakawā Louis Bidois**

**Te Arawa**



## Rangatahi Court wins Award

The Ministry of Justice picked up a few awards at the 2016 Institute of Public Administration New Zealand, including the **Crown-Māori Partnerships Award** for the Ministry's collaboration in the development and operation of Ngā Kōti Rangatahi.

"These awards recognise and celebrate outstanding performance in the public sector..."

- **Former Prime Minister John Key**



"Since the establishment of the first Rangatahi Court, the Courts have become a vibrant and valued part of the justice landscape" - **Tony Fisher**, Director Māori Strategy, Ministry of Justice

"The Rangatahi Courts exemplifies exactly what Parliament envisaged in the 1989 Children, Young Persons and Their Families Act, and the initiative breathed life into that legislation"

- **Children's Commissioner Judge Andrew Becroft**

## What do the statistics tell us?

- 24% of the 10-16 year old population is Māori.
- Māori made up 100% of all appearances in five Youth Courts in 2015. In a further 18 Youth Courts, young Māori constitute over 70% of all appearances
- The disproportion of Māori representation in the Youth Court has increased from 44% in 2005 to 63% in 2015.

Māori are disproportionately represented at every stage of the youth justice process. The following data groups individual Youth Courts by overall % of Māori appearances. The 'Total no. of young people' reflects all young people appearing in that Youth Court in 2015.



Te wero - A challenge is laid before the visitors entered Rauhoto Marae, Taupō, for the official launch of Te Kōti Rangatahi ki Tūwharetoa - 5 December 2015

In the following Courts, Māori = 100% appearances		
Location	% Māori	Total no. of young people
<b>National</b>	<b>63%</b>	<b>1801</b>
Ōpōtiki	100%	7
Te Kuiti	100%	5
Thames	100%	1
Dannevirke	100%	2
Queenstown	100%	1

In the following Courts, Māori = over 90% appearances		
Location	% Māori	Total no. of young people
<b>National</b>	<b>63%</b>	<b>1801</b>
Gisborne	96%	53
Huntly	94%	16
Whakatāne	92%	38
Kaikohe	90%	40
Taumarunui	90%	10

In the following Courts, Māori = over 80% appearances		
Location	% Māori	Total no. of young people
<b>National</b>	<b>63%</b>	<b>1801</b>
Kaitaia	89%	36
Whangarei	88%	84
Wairoa	88%	8
Rotorua	85%	95
Papakura	80%	55
Te Awamutu	80%	5

In the following Courts, Māori = over 70% appearances		
Location	% Māori	Total no. of young people
<b>National</b>	<b>63%</b>	<b>1801</b>
Hastings	79%	57
Taupō	78%	23
Whanganui	78%	41
Hamilton	76%	127
Napier	76%	37
Tauranga	76%	70
Dargaville	75%	4

## Te Kōti Rangatahi ki Mātaatua Wānanga—25 July 2016



Te Kōti Rangatahi ki Mātaatua—Wānanga, 25 July 2016

Back Row (L-R): Tracey Hillier, Rowie Hohapata, Chris Marjoribanks, Josh Kalan, Te Tuhi Mate, Melissa Richards, Steve Franklin, Carolyn Te Pou, Mina Timutimu

Fron Row (L-R): Gwenda Paul, Rachel Paul, Emily Stannard, Parearau Nikora Emily Stannard, Judy Tihi, Maanu Paul, Charlie Bluett, Hohepa McLean

Send in whakaahua (photos) of your event, hui, wānanga or noho marae to:  
[naomi-blaire.ngaronoa@justice.govt.nz](mailto:naomi-blaire.ngaronoa@justice.govt.nz)

## AIJA Award Ceremony Ōrākei Marae, 30 May 2016



Left: Martin Cooper and Rangī McLean

Right: Tony Fisher, Audrey Sonerson Judge Andrew Becroft, Michelle Hippolite

Bottom: Sacred Heart College Kapa Haka performance



## Avondale Pasifika Court - 3 August 2016



Lorna McIntosh, Rt Hon David Lammy, Matt Wootton (Deputy Director - Ministry of Justice UK), Judge Ida Malosi



Te Arawa whānau sing a waiata at the Pasifika Court

## IPANZ Award Ceremony Wellington, 6 July 2016

