

Children in police cells

"I was waiting for a bed [in a residence] - I had to wait for 7 days in the cells."

Mokopuna¹

In Aotearoa New Zealand the practice of remanding children in police cells should stop immediately. It is incompatible with the rights of mokopuna to remand them in police cells. They are not appropriate places for children.

Police cells are increasingly being used to hold mokopuna (children and young people) in custody, despite this putting them at risk of harm.²

Over the past two years, there has been a ten-fold increase in the number of mokopuna being held in police cells, and they are being held for longer periods.³ Mokopuna Māori are more likely to be detained this way.

Police cells are adult environments. Mokopuna held in police cells often face solitary confinement which is traumatic, especially for those who have already experienced trauma. They are also likely to experience round-the-clock lighting, a lack of privacy due to monitoring, poor hygiene facilities, inadequate food, and limited support. They may be near adult detainees, and therefore at risk of exposure to adult behaviours inappropriate for mokopuna.

Mana Mokopuna has dealt directly with a number of cases involving mokopuna held in police cells for long periods of time, and in situations that have been unsafe. The longest stay that Mana Mokopuna is aware of for a child in Police cells in recent times is nine days. Aroturuki Tamariki Independent Children's Monitor has heard directly from youth, including those in youth justice residences, about their experiences in police cells. They have reported spending long periods in police cells while waiting for decisions about where they can go.

Being held in a police cell limits contact with family, creates uncertainty, and can lead to mental, emotional, and physical harm. There is also increased risk of self-harm. This raises risks to the right of mokopuna to life, survival and development.

Under section 238(1)(e) of the Oranga Tamariki Act 1989, the Youth Court can remand a child to a police cell while they await their next hearing – with no set time limit. In some cases, children considered a risk may be held for short periods under other sections of the Act, if no suitable alternative facilities are available as agreed by senior police and social workers.⁴ While these exceptions are technically allowed, they should be avoided wherever possible.

Under the United Nations Convention on the Rights of the Child, mokopuna under 18 have a right to safe, appropriate custody.⁵ Police cells are usually incompatible with this right, and with the United Nations Juvenile Detention Rules.⁶ The UN Committee on the Rights of the Child has urged the New Zealand Government to *"repeal the practice of remands into police*

custody and reduce the proportion of children in secure youth justice residences who are on remand, including by investing in the development of community-based residences and strengthening the availability and use of non-custodial measures.”⁷

Three quarters of the current youth justice residence population identify as Māori.⁸ The ratio of Māori being detained in custody on remand over the last five years has increased.⁹ This represents an ongoing breach of Crown obligations under Te Tiriti o Waitangi. The increase for Pacific mokopuna has been even greater.¹⁰

The rights of mokopuna whaikaha (disabled children) are also likely to be at greater risk in the context of police cells, including mokopuna with loss of hearing, communication challenges, intellectual disability, Fetal Alcohol Spectrum Disorder, Attention Deficit Hyperactivity Disorder and other neurodiversity, as mokopuna involved in youth justice are significantly more likely to have neurodisabilities or brain injuries.¹¹ Most mokopuna in youth justice have been, or are in, State care. The progress of any young person from care and protection to youth justice detention is an indication of a system-wide failure to protect their right to thrive.

We acknowledge the issue of children and young people being held in police cells involves decisions and actions by Youth Court Judges, Police, Oranga Tamariki and community-based partners, and requires cross-system attention to uphold the rights of mokopuna and to prevent harm.

Our calls to action

Action is needed across the system to prevent mokopuna experiencing harm, and to prevent mokopuna from being held in police cells. Government must fulfil its duties and obligations under the UN Convention on the Rights of the Child. We call on the Government to:

- **Remove section 238(1)(e) from the Oranga Tamariki Act 1989**, so that no child or young person can be remanded in a police cell after their first Youth Court appearance.
- **Invest in, and make available more iwi and community-based remand options** as safe places for mokopuna to be remanded to, following a first Youth Court appearance.

While section 238(1)(e) of the Oranga Tamariki Act 1989 remains in force, we encourage Youth Court judges to:

- **Avoid using this section wherever possible**, in order to avoid children being detained in the environment of police cells, and instead order an alternative option available under the five other options under section 238(1) more consistent with the rights of the child under the Children’s Convention.

We call on Oranga Tamariki to:

- **Ensure all youth justice residences are safe places for mokopuna to be remanded to, with adequate provision of staffing** to optimise availability of places, support movement of mokopuna as required, helping to avoid mokopuna being remanded to police cells.

We call on Oranga Tamariki and Police to work together closely to:

- **Ensure regular visits by Oranga Tamariki social workers to all mokopuna held in police cells**, at least once every 24 hours, but preferably more regularly, regardless of whether the order is to be reviewed by the Youth Court.

What mokopuna say

Mokopuna who have experienced being held in police cells have shared some insights into their experiences. These highlight that police cells are inappropriate places for mokopuna:

"Solitary – depressed, going crazy, feel like you want to cry and flip out at the same time – just go nuts."

Mokopuna¹²

"It [being in the police cells] wasn't nice because you have to sleep on the ground ... you don't sleep on the mattress, and you have all these adults around you, it's not cool ... [it's] just quite lonely nothing too deep, I was crying."

Rangatahi, as shared with Aroturuki Tamariki

There are alternatives to being remanded in police cells, including youth justice residences or, where appropriate, community remand homes.

Although youth justice residences and community based remand where are not always where mokopuna want to be, they are more appropriate than police cells, because they are spaces that exist specifically for youth when they are deprived of their liberty. Some mokopuna in youth justice residences report feeling cared for in these spaces.

"Staff care, they advocate for me. Whaea tells me what I am entitled to and always makes sure things are advocated and pushed for. I was sick and one of the staff said I had a chest infection and I needed to go to the doctor. The social workers said they would take me next week, but luckily whaea pushed it and [social workers] came, as I did have a chest infection".

Mokopuna in community based where¹³

Mokopuna at Oranga Tamariki-run residences sometimes talk about appreciating the food and safety:

"The food's way better, everyone's better, the staff are better and it's just a lot better living at Te Au rere than [other Oranga Tamariki residence]."

Mokopuna¹⁴

"...they are the best staff ever."

Mokopuna in care and protection residence¹⁵

A mokopuna visited by our OPCAT Monitoring team in a community remand home felt a sense of belonging within the where, and that their wellbeing was being monitored:

"They treat me with manners and check in on me"

Mokopuna in remand home¹⁶

"Yo, it's all goods here, honest. Safe as!"

Mokopuna in remand home¹⁷

Endnotes

¹ Office of the Children's Commissioner (2018). [Limiting the use of Police cells to hold young people on remand](#) Mokopuna spoke to the Office of the Children's Commissioner about their experiences in Police cells in 2017.

² For example, mokopuna report facing unnecessarily rough and painful handling by Police during arrest (the law states restraint should be proportional, especially for mokopuna), including restraint of a broken limb. Some Police cells have nowhere to sit or lie down, leaving children to sit on a dirty floor. Girls report witnessing objectionable or offensive sexual behaviour by male adults in neighbouring cells, including being verbally threatened by them, and despite feeling uncomfortable, the police officers did nothing about it. (Mana Mokopuna OPCAT monitoring team internal briefing to Children's Commissioner, unpublished).

³ Oranga Tamariki (2024). [Youth justice custody: updated trends and outlook](#) reports increase in overnight police custody placements from 42 in 2021/22, to 154 in 2022/23 to 418 in 2023/24

⁴ Following their arrest, they may be held in Police custody until their first court appearance under s 236(1); After a court appearance, under s 242(1) a young person who has been remanded into the custody of Oranga Tamariki by a judge under s 238(1)(d) may be held in a Police cell for up to 24 hours at any one time.

⁵ UN Convention on the Rights of the Child, Article 37.

⁶ [United Nations Rules for the Protection of Juveniles Deprived of their Liberty](#)

⁷ UN Committee on the Rights of the Child (2023). [Concluding observations on the sixth periodic report of New Zealand](#) at para 43(b).

⁸ Oranga Tamariki (2023). [Secure-residence-review](#)

⁹ J Reil, I Lambie, A Becroft & R Allen (2022) How we fail children who offend and what to do about it: 'A breakdown across the whole system' Research and recommendations

¹⁰ Oranga Tamariki (2024). [Youth justice custody: updated trends and outlook](#) and [Canterbury | Aroturuki Tamariki | Independent Children's Monitor table A4](#).

¹¹ Lambie I. (2020). [What were they thinking? A discussion paper on brain and behaviour in relation to the justice system in New Zealand - Office of the Prime Minister's Chief Science Advisor](#)

¹² Office of the Children's Commissioner (2018). [Limiting the use of Police cells to hold young people on remand](#)

¹³ [OPCAT Annual Report 2022-23](#)

¹⁴ Mana Mokopuna (2025) [OPCAT monitoring report Te Au rere a Tonga](#)

¹⁵ OPCAT annual report (2023-24) (to be published)

¹⁶ Mana Mokopuna (2024) [Whare Pūmau Mana – Community Remand Home OPCAT Monitoring Report](#)

¹⁷ OPCAT annual report (2023-24) (to be published)