

Submission to Justice Committee on the Policing Amendment Bill 2026

Introducing Mana Mokopuna – Children's Commissioner

Mana Mokopuna – Children's Commissioner (Mana Mokopuna) is the independent Crown entity with the statutory responsibility to advocate for the rights, interests, participation and wellbeing of mokopuna¹ (all children and young people) under 18 years old in Aotearoa New Zealand, and young people under 25 years of age if they are, or have been, in care or custody. The Children's Commissioner is Dr Claire Achmad.

We independently advocate for and with mokopuna within the context of their families, whānau, hapū, iwi and communities, based on evidence, data and research, including the perspectives of mokopuna.

Our work is grounded in the United Nations Convention on the Rights of the Child (the Children's Convention), Te Tiriti o Waitangi and other international human rights instruments. We are a National Preventative Mechanism under the Optional Protocol to the Convention Against Torture, meaning we monitor places where mokopuna are deprived of their liberty, including in the care and protection, youth justice, youth mental health and intellectual disability spaces.

We have a statutory mandate to promote the Children's Convention and monitor the Government's implementation of its duties under the Convention, and to work in ways that uphold the rights of mokopuna Māori including under Te Tiriti o Waitangi. We place a focus on advocating for and with mokopuna who are experiencing disadvantage, and we recognise and celebrate the diversity of mokopuna in all its forms.

Our moemoeā (vision) is *Kia kuru pounamu te rongō* – All mokopuna live their best lives, which we see as a collective vision and challenge for Aotearoa New Zealand.

When it comes to the rights of mokopuna, our advocacy for their rights is a focus across our four strategic advocacy areas:

- A strong start in life (first 2000 days)
- Growing up safe and well (free of all forms of child maltreatment in all circumstances; thriving mental health and wellbeing)
- Thriving families and whānau (living free of poverty, with resources needed to support mokopuna to thrive), and

¹ At Mana Mokopuna we have adopted the term 'mokopuna' to describe all children and young people in Aotearoa New Zealand. 'Mokopuna' brings together 'moko' (imprint or tattoo) and 'puna' (spring of water). Mokopuna describes that we are descendants, and or grandchildren, and how we need to think across generations for a better present and future. We acknowledge the special status held by mokopuna in their families, whānau, hapū and iwi and reflect that in all we do. Referring to children and young people we advocate for as mokopuna draws them closer to us and reminds us that who they are, and where they come from, matters for their identity, belonging and well-being at every stage of their lives.



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- Participating in what matters to me (mokopuna have told us, for example, about the importance of participating in their education, culture and identity, sport and recreation, and caring for the natural environment).

Summary of our position on the Policing Amendment Bill 2026

1. Mana mokopuna opposes Part 1 of the Policing Amendment Bill 2026 (the Bill), because:
 - a. the powers in Part 1 for Police to collect, use and retain personal information including photos, videos and voice recordings² are so broadly framed that they are inconsistent with New Zealand's obligations under the UN Convention on the Rights of the Child and Te Tiriti o Waitangi and raise significant risks to mokopuna rights, interests and well-being
 - b. the Bill as it is currently drafted raises significant risks of disproportionate impacts on the rights of mokopuna Māori, and
 - c. there are not enough safeguards in the Bill to protect children's rights.
2. Incorporating safeguards into this Bill is crucial if it is to proceed, especially in light of the findings of the 2022 Joint Inquiry of the Independent Police Conduct Authority and the Office of the Privacy Commissioner (the Joint Inquiry)³, which found that Police had been misusing their powers to obtain, use and retain personal information from mokopuna, thereby breaching mokopuna rights.
3. In relation to Part 2 of the Bill:
 - a. we refer the Committee to our submission on the Anti-Social Road Use Amendment Bill 2025⁴ (to which Part 2 relates), in which we have already raised concerns about the disproportionate impact the proposed antisocial road use offences and fines would have on mokopuna, particularly mokopuna Māori, including that they do not align with the Children's Convention or Te Tiriti o Waitangi.

Recommendations

4. Mana Mokopuna recommends the Bill does not proceed as currently drafted because the broad powers it contains are under-defined. The proposed expanded information collection, use and retention powers pose significant risks to the rights of mokopuna.
5. We acknowledge that in some circumstances there are legitimate policing purposes to collect the personal information of mokopuna. It is our strong view that the rights of

² Voice recordings are regarded as personal information if it contains identifying information: [Privacy Act 2020 | New Zealand Legislation](#).

³ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", refer here: [8-SEPTEMBER-2022-IPCA-AND-OPC-Joint-Inquiry-into-Police-photographing-of-members-of-the-public.pdf](#).

⁴ [Submission on the Antisocial Road Use Legislation Bill | Mana Mokopuna](#).

mokopuna must be expressly safeguarded with the Bill itself, providing clear legislated protections for children's rights, and we recommend the Bill is amended accordingly.

6. Mana Mokopuna urges the Justice Committee to recommend to Parliament the insertion of specific protections into the Bill for mokopuna under the age of 18 years. Protections inserted should align with the findings of the Joint Inquiry, specifically that personal information of mokopuna is only lawfully collected, used and retained by the Police if:
 - a. when turning their minds to their reasons for collection, Police staff are able to articulate a reasonable possibility, based on more than mere conjecture⁵, that the information could be relevant to a lawful policing purpose
 - b. the child specific protections in the Oranga Tamariki Act and the Children's Convention are applied⁶
 - c. the explanation required under Information Privacy Principle 3 (IPP 3) is consistently communicated to mokopuna before information is collected, and that this communication is tailored to them in an age-appropriate way⁷ and in a way that ensures their understanding of the information^{8,9} (unless an exception applies as set out in IPP 3, in which case the rationale and evidence of this is recorded)
 - d. consent from mokopuna is obtained for the collection of information to ensure collection is fair and does not intrude to an unreasonable extent on their personal affairs,¹⁰ and
 - e. the requirements of Information Privacy Principle 4 (IPP 4) are upheld, including Police engaging with the family, whānau or caregiver of the specific tamaiti. In the case of a tamaiti under the age of 14, this includes obtaining their parent or caregiver consent (or if the parent or caregiver are unavailable, another

⁵ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", Recommendation 1(a).

⁶ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", Recommendation 2(a).

⁷ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", Recommendation 2(b).

⁸ Talking Trouble Aotearoa New Zealand (2025) "What could improve communication in justice settings?", refer here: [What could improve communication in justice settings?](#).

⁹ Sally Kedge (2018) ""WHEN THEY SAY IT FAST AND I DON'T UNDERSTAND AND THEN I JUST... GOES BLANK AND THEN BOOM": Helping legal contexts make sense to complainants and defendants in New Zealand", refer here: ["When they say it fast and I don't understand and then I just... goes blank and then boom": Helping...](#)

¹⁰ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", Recommendation 1(d)(i).

appropriate and independent adult), before collecting information from the tamaiti.¹¹

7. Given the significant implications the Bill has for mokopuna privacy rights, Mana Mokopuna also recommends clarity is sought on:
 - a. whether the Bill meets Information Privacy Principle 1(b) which states that, "*the collection of information is **necessary for that purpose***" (emphasis added), and
 - b. whether the Bill would inadvertently displace the Privacy Act 2020, noting section 24(2) of that Act.

The rights of mokopuna when Police want to collect their personal information

8. In our assessment, the rights, interests and well-being of mokopuna, particularly mokopuna Māori, are at risk under this Bill, in particular in relation to Police collection of their personal information. The Bill as drafted does not include adequate protections for children's rights, including of their right to privacy.
9. As a States Party to the UN Convention on the Rights of the Child (the Children's Convention), all parts of the State, including Police, are duty-bound by the Articles of the Convention, and are duty-bearers in respect of the rights of all mokopuna under the age of 18. Article 16 of the Children's Convention guarantees all mokopuna the right to privacy. The full text of Article 16 is as follows:
 1. *No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.*
 2. *The child has the right to the protection of the law against such interference or attacks.*
10. The Information Privacy Principles (IPPs) under the Privacy Act 2020 govern how personal information, such as photos, videos, voice recordings and biometric information can be collected, used, stored and shared.¹² All IPPs apply to children and young people, but IPP 4 makes particular reference to the special protections required when collecting children and young people's information.¹³

Information Privacy Principle 4

Manner of collection of personal information

An agency may collect personal information only –

- (a) by a lawful means; and

¹¹ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", Recommendation 2(c).

¹² [Office of the Privacy Commissioner | Privacy Act 2020](#).

¹³ [Office of the Privacy Commissioner | Principle 4 - Manner of collection](#).

- (b) by a means that, in the circumstances of the case (particularly in circumstances where personal information is being collected from children or young persons), –
 - (i) is fair; and
 - (ii) does not intrude to an unreasonable extent upon the personal affairs of the individual concerned.

11. The Office of the Privacy Commissioner’s (OPC) guidance on IPP 4 provides more information about the special protections which are required in relation to the collection of personal information of mokopuna. It makes clear there is a higher threshold of protection that must be applied, and emphasises the particular elements that extra care should be given to:

“You need to take particular care when collecting information from children and young people. It may not be fair to collect information from children in the same manner as you would from an adult. You may need to take special care with the information of young people to address any power imbalance, and to obtain their genuine consent for the collection (or the authorisation) of their family/whānau.”¹⁴

12. As is discussed in detail below, Mana Mokopuna remains concerned that the process of collection and the information collected/used/retained itself under the proposed powers will not uphold the rights of mokopuna. This concern stems largely from the very broad way in which the powers under Part 1 are drafted, and in light of Policing practices that have been found to breach mokopuna rights in recent times, as documented in the Joint Inquiry. As the Privacy Commissioner has stated in relation to this Bill:

“...it’s possible this bill could allow police to take video of young people hanging out in a park, not because they’re connected to a possible crime, investigation, or public safety reason, but to keep tabs on a group of people because that video “might” be useful one day.”¹⁵

Mokopuna have specific rights and protections when in contact with the criminal justice system, which should be reflected in this Bill

13. The paragraphs below outline specific rights and protections that mokopuna have when they are in contact with the criminal justice system. These specific rights and protections are not currently reflected in the Bill, which is inconsistent with New Zealand’s children’s rights obligations.

Treatment of the child

¹⁴ [Office of the Privacy Commissioner | Principle 4 - Manner of collection.](#)

¹⁵ [Office of the Privacy Commissioner | Policing and privacy can work together, but not like this](#) (20 April 2026)



14. Article 40 of the Children’s Convention guarantees that all children under the age of 18 years who are alleged, accused or recognised as having infringed penal law have the right:

“...to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society.”¹⁶

Full respect for privacy throughout proceedings

15. Article 40(2)(vii) obligates States Parties, including New Zealand, to uphold the right of all mokopuna:

*“...to have his or her privacy fully respected at all stages of the proceedings”.*¹⁷

Safeguarding children’s rights from the moment of first contact with the criminal justice systems

16. The United Nations Committee on the Rights of the Child has issued its authoritative guidance on the application of Article 40 in its *General Comment No. 24 (2019) on children’s rights in the child justice system*,¹⁸ and states that:

“State parties should enact legislation and ensure practices that safeguard children’s rights from the moment of contact with the [criminal justice] system, including the stopping, warning or arrest stage, while in custody of police or other law enforcement agencies, during transfers to and from police stations, places of detention and courts, and during questioning, searches and the taking of evidentiary samples. Records should be kept on the location and condition of the child in all phases and processes.”¹⁹

17. This means that Police must uphold the rights of mokopuna, including to non-discrimination and to privacy, from the moment of first contact. This must apply in instances of collection of mokopuna personal information through photography and sound recording.

Special protections are required for children and young people

18. The Bill’s Regulatory Impact Statement (RIS) refers to special protections for children and young people in the Oranga Tamariki Act 1989. The Oranga Tamariki Act contains four primary considerations,²⁰ as well as general principles²¹ and youth justice

¹⁶ [Convention on the Rights of the Child | OHCHR](#), Article 40(1).

¹⁷ [Convention on the Rights of the Child | OHCHR](#), Article 40(2)(vii).

¹⁸ [General comment No. 24 \(2019\) on children’s rights in the child justice system | OHCHR](#)

¹⁹ Committee on the Rights of the Child General Comment No. 24 (2019) on children’s rights in the child justice system UN Doc CRC/C/GC/24 (18 September 2019) at D.41.

²⁰ Oranga Tamariki Act 1989, s 4A(2).

²¹ Oranga Tamariki Act 1989, s 5.

principles,²² which apply to mokopuna who are involved in the youth justice system. These special protections recognise:

*"...that the vulnerability of children and young persons entitles a child or young person to special protection during any investigation relating to the commission or possible commission of an offence by that child or young person."*²³

Mokopuna whaikaha

19. Mokopuna whaikaha have specific rights under the Children's Convention and the UN Convention on the Rights of Persons with Disabilities (UNCRPD). Mana Mokopuna has serious concerns about the impact of the Bill on mokopuna whaikaha (disabled mokopuna) including those with Fetal Alcohol Spectrum Disorder (FASD) and/or other neurodiversities, who are overrepresented in the youth justice system.²⁴ The UN Committee on the Rights of the Child has urged New Zealand to develop an effective plan that (among other matters) addresses the connections between offending and neurodisability.²⁵ The Bill contains no specific safeguards for mokopuna, including mokopuna whaikaha, and there has been a distinct lack of consideration of the rights and needs of these mokopuna in the policy development of the Bill.²⁶ This should be addressed before the Bill proceeds, otherwise it risks disproportionate impacts on mokopuna whaikaha and a heightened potential for violation of their rights under the Children's Convention, Te Tiriti o Waitangi and the UNCRPD.

Police have breached mokopuna rights when collecting their personal information

20. As referenced in the Bill's Explanatory Note, the Joint Inquiry was established following reports from members of the public that Police had been taking photographs of mokopuna Māori on the street.²⁷ In relation to three individual complaints from whānau of mokopuna Māori, the Joint Inquiry found Police were not justified in photographing the rangatahi, as the photographs were not necessary for a lawful

²² Oranga Tamariki Act 1989, s 208.

²³ Oranga Tamariki Act 1989, 208(2)(h).

²⁴ Donald Beasley Institute. (2024). Prevention of Harm and the Cultivation of Wellbeing: Tamariki, Rakatahi, and Mātua Whaikaha. Oranga Tamariki – Ministry for Children. Refer here: [Prevention of harm and the cultivation of wellbeing](#).

²⁵ CRC/C/NZL/CO/6, para 43(e).

²⁶ [Regulatory-Impact-Statement-Amendments-to-the-Policing-Act-2008.pdf](#).

²⁷ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", para 1.

policing purpose.²⁸ Furthermore, many photographs collected unlawfully in the recent past were of mokopuna who had no offending backgrounds at all²⁹.

21. The Joint Inquiry found that Police had not sought consent from the rangatahi or their parents or caregivers before taking the photographs, and had not adequately explained to the mokopuna why the photographs of them were being taken and what they would be used for.³⁰ In one incident, Police wrongly threatened to arrest a rangatahi if they did not consent to being photographed.³¹
22. The Joint Inquiry found that special protections for mokopuna in contact with the justice system, and regarding their rights to privacy, were not given effect to by Police when collecting the personal information focused on in the Inquiry. This was in breach of their rights.³² It was found that Police had in fact received advice that the practice of stopping and photographing mokopuna likely breached the UN Convention on the Rights of the Child,³³ and yet, the practice persisted.
23. Concerns were raised with the Joint Inquiry about racial profiling and/or discrimination influencing Police's collection, use and retention of personal information, given that over half of the unlawfully obtained and/or retained photographs and/or information belonging to under 18-year-olds were from rangatahi Māori.³⁴
24. The Bill provides no safeguards to prevent these mokopuna rights breaches being repeated. This is very concerning. Such a law should not be progressed, because it is undermining to New Zealand's children's rights duties and obligations under domestic and international law. Rather than advancing children's rights, this Bill as currently drafted raises the real risk of Police practice in this area continuing to breach the rights of mokopuna, especially their rights to privacy, non-discrimination, and the special protections guaranteed to them as children in contact with the criminal justice system. These risks are heightened particularly if there is little oversight of the exercise

²⁸ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", para 3.

²⁹ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", para 53, paras 463-465.

³⁰ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", para 3.

³¹ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", para 3.

³² Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", paras 66-72; paras 155-169.

³³ [Police lawyers advised photographing youth likely breached UN protections for children | RNZ News.](#)

³⁴ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", para 99, para 116, para 124 as examples.

of the powers, as was the case in the recent past, even when the practices were unlawful.³⁵

Recent practice shows that mokopuna Māori are at greater risk of being impacted by these powers

25. Mana Mokopuna draws the Committee's attention to the rights, interests and well-being of mokopuna Māori who are highly likely to be subjected more than other groups of mokopuna to the collection, use and retention of personal information under the Bill. Mana Mokopuna draws this conclusion due to:
 - a. the Joint Inquiry finding that of the personal information recorded in the Police database relating to individuals aged under 18 years, 53% had a recorded ethnicity of Māori³⁶
 - b. recent data showing that mokopuna Māori are disproportionately represented to a significant degree at all stages of the youth justice system,³⁷ and
 - c. recent Ministry of Justice analysis showing that this disproportionality remains partly unexplained, and the unexplained factors may be influenced by discretionary decision-making within the justice system,³⁸ including at the State policing level.
26. The *Understanding Policing Delivery* study has shown that bias and structural racism within Police are part of why Māori men are more likely to be stopped, prosecuted and tasered by Police.³⁹ Mana Mokopuna remains very concerned that mokopuna Māori will, once again, be subjected to these broad and under-defined Police powers established by the Bill, and that they will experience these in a discriminatory manner, as has occurred in the past. This risks Police breaching Article 2 of the Children's Convention which guarantees all mokopuna the right to be free from all forms of discrimination.
27. As tangata whenua, mokopuna Māori have specific rights under Te Tiriti o Waitangi, and the Crown has obligations to them, including within the context of their whānau, hapū and iwi. These include kāwanatanga (good governance) in Article One, tino rangatiratanga (participation and authority in decision-making) and taonga (active protection of treasures including rights) in Article Two, and ngā tikanga katoa rite tahi (equity) in Article Three.

³⁵ [Police illegally photographing youth, Māori a 'widespread practice', investigation finds | RNZ News.](#)

³⁵ Independent Police Conduct Authority and Office of the Privacy Commissioner (2022) "Joint inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public", para 116(c)-(d).

³⁷ Ministry of Justice (2026) "Youth Justice Indicators Summary Report", p 8. Refer here: [Youth-Justice-Indicators-Summary-Report-February-2026-v1.0.pdf](#).

³⁸ Ministry of Justice (2026) "Youth Justice Indicators Summary Report", p 8.

³⁹ [Māori men more likely to be stopped, tasered, prosecuted by police due to 'bias' and 'structural racism' | RNZ News.](#)

28. Upholding kāwanatanga obligations requires the Crown to exercise good governance in respect of the criminal justice system, including addressing and reducing the disproportionate representation of mokopuna Māori within the criminal justice system, and ensuring active safeguards to achieve this.
29. Mokopuna Māori have the right to tino rangatiratanga. In the context of this Bill, this means that they have the right to retain control of when their personal information is collected, and how their personal information is used and retained. This is closely linked to their rights in relation to taonga. Mokopuna Māori themselves are taonga of their whānau, hapū and iwi,⁴⁰ and this includes their personal information, requiring active protection from the Crown. For mokopuna Māori, their personal information including photos, videos and sound recordings of them are their own taonga (because they are their personal information) which must be actively protected by the Crown through adequate and effective safeguards.
30. Article Three guarantees ngā tikanga katoa rite tahi which means the Crown must ensure equitable outcomes for mokopuna Māori in the exercise of its powers, including State policing powers. The current and persistent overrepresentation of mokopuna Māori within the youth justice system shows that this protection by the Crown is not being adequately fulfilled.
31. If Part 1 of this Bill is to proceed as it is currently drafted, it risks the Crown breaching its Te Tiriti o Waitangi obligations in relation to mokopuna Māori. This must be avoided. The Bill, if it is to proceed, must be amended to include specific protections for all mokopuna to safeguard their rights, including those of mokopuna Māori.

The Policing Amendment Bill 2026 must be amended to expressly safeguard children's rights

The exercise of State Police powers in the lives of mokopuna must be subject to appropriate limitations

32. The Bill proposes to enable Police to collect, use and retain personal information such as photos, videos and voice recordings from and/or about mokopuna aged under 18 years, for any broad lawful policing purpose. The Explanatory Note of the Bill describes the Joint Inquiry as having "*narrowed the law*".⁴¹ We strongly disagree.
33. Rather than narrowing the law, the Joint Inquiry clarified important and justified limits on Police powers to protect children's rights. Such limits are necessary in the exercise of the State's significant powers in the lives of mokopuna, not least because of the imbalance of power between the State's policing powers and the position of children in our society.

⁴⁰ The Waitangi Tribunal (2021) "He Pāharakeke, he Rito Whakakīkinga Whāruarua", at p 6.

⁴¹ [Policing Amendment Bill | New Zealand Legislation](#), at Explanatory Note.

34. The Bill as currently drafted reflects a complete lack of safeguarding for the rights of mokopuna in the exercising of these significant policing powers, and expressly goes against the recommendations of the Joint Inquiry.

Safeguards for mokopuna rights should be stated within the Bill

35. The RIS states that Police's internal operational policies and guidelines will outline how Police's obligations to children and young people will be given effect to, rather than being included in the Bill.⁴² Together with how broadly drafted the powers are, this opens the real potential for mokopuna rights to be breached by Police in exercising these powers. This must be avoided.
36. Mana Mokopuna is strongly of the view that the rights of all mokopuna must be expressly safeguarded within the Bill itself, providing legislated protections for children's rights. The findings of the Joint Inquiry have plainly shown that Police's internal policies and guidelines cannot be relied upon to be the method of safeguarding children's rights. There are also particular risks for mokopuna Māori of safeguards only being contained in operational policies and guidelines. This is due to evidence (discussed above) that the overrepresentation of mokopuna Māori in the justice system may be partly influenced by the way Police, and other actors in the justice system, exercise discretion. As noted at paragraph 19 of our submission, mokopuna whaikaha remain at particular risk too.
37. If the Bill proceeds, specific legislative safeguards within the Bill are required, to clearly reinforce the fact that upholding children's rights is a requirement of Police given New Zealand is State Party to the Children's Convention, not a matter where discretion can be exercised.
38. Mana Mokopuna notes that including special protections and safeguards for children and young people within the Bill was a policy option considered during its development,⁴³ but was not a preferred option,⁴⁴ and therefore the Bill contains no such safeguards or protections. This is completely misaligned with the Government's duties and obligations to New Zealand's mokopuna under the Children's Convention.
39. Mana Mokopuna acknowledges that in the course of fulfilling their duties, Police may have legitimate grounds upon which to collect mokopuna personal information through photography, videography and/or sound recording. However, New Zealand's children's rights duties and obligations at domestic and international law make clear very specific requirements for the safeguarding of children's rights, and these should be upheld at all times in the exercise of such powers by Police in the collection, retention and use of personal mokopuna information.

⁴² New Zealand Police (2025) "Regulatory Impact Statement: Amendments to the Policing Act 2008", paras 121-125. Refer here: [ris_amendments_policing_act_2008.pdf](#).

⁴³ New Zealand Police (2025) "Regulatory Impact Statement: Amendments to the Policing Act 2008", paras 77-78.

⁴⁴ New Zealand Police (2025) "Regulatory Impact Statement: Amendments to the Policing Act 2008", paras 79-80.

The rationale relied upon to not include special protections and safeguards for mokopuna rights in the Bill is flawed

40. Mana Mokopuna strongly disagrees with the rationale relied upon by government officials in the RIS to reject the option of including special protections for mokopuna and safeguards for their rights in the Bill. The RIS states that:

“The principles of the UNCRC are already incorporated into New Zealand legislation through the Oranga Tamariki Act. As the Oranga Tamariki Act will continue to apply, so too will the provisions set out in the UNCRC.”⁴⁵

Further, it states that:

“This proposal is not seeking to legislate any additional protections for the collection, use, and retention of personal information on children and young people. The requirements for children and young people outlined in UNCRC, the Oranga Tamariki principles of youth justice, and the Privacy Act requirements, as specified, will continue to apply. Police will seek to ensure operational policy and guidance is aligned with our legislative obligations. This will include reasonable safeguards on the manner of collection, use, and retention of youth information through ongoing adherence to IPP 4.”⁴⁶

41. While section 5(1)(b)(i) of the Oranga Tamariki Act 1989 refers to respecting and upholding the rights of children and young people, including those in the Children’s Convention (among others), the Children’s Convention itself has not been fully incorporated into domestic legislation (as would be best practice, and as a range of other jurisdictions have done).
42. Further, while the Oranga Tamariki Act 1989 contains some safeguards for mokopuna in the youth justice system, there are no specific protections for mokopuna included in the Oranga Tamariki Act regarding the collection, use and retention of their personal information by Police.
43. We further note that the Oranga Tamariki Act contains a number of notable departures from New Zealand’s children’s rights duties and obligations, which the United Nations Committee on the Rights of the Child has issued its serious concerns and urgent recommendations about, as recently as in 2023.⁴⁷ This includes the following:
- a. *“The minimum age of criminal responsibility is below international standards and is offence-based rather than child-centred.”⁴⁸* The UN Committee urges New

⁴⁵ New Zealand Police (2025) “Regulatory Impact Statement: Amendments to the Policing Act 2008”, paras 79-80.

⁴⁶ New Zealand Police (2025) “Regulatory Impact Statement: Amendments to the Policing Act 2008”, paras 149.

⁴⁷ CRC/C/NZL/CO/6.

⁴⁸ CRC/C/NZL/CO/6, para 42(a).

Zealand to “raise the minimum age of criminal responsibility to 14 years for all children, regardless of offence category”.⁴⁹

- b. “The goal of separating children from adults in all places of detention is still not reached, and that children aged 14 to 17 can be remanded in police custody after their first court appearance in the youth justice system, for an indeterminate duration pending transfer to another facility.”⁵⁰ The UN Committee urges New Zealand to:
- i “...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”,⁵¹ and
 - ii “...for the few situations where deprivation of liberty is used as a measure of last resort, continue to strive for full compliance with the international requirement to detain children separately from adults, and ensure that detention conditions are compliant with international standards, including with regard to access to education and health services, and, for pretrial detention, to ensure that detention is reviewed on a regular basis with a view to its withdrawal.”⁵²
- c. “Although legislative changes have extended the youth justice system to most 17-year-olds, offenders charged with certain serious offences are automatically transferred to the adult criminal justice system, thereby depriving them of special protections for children.”⁵³ The UN Committee urges New Zealand to “end the automatic transfer of 17-year-olds who are accused of serious offences to be tried by the adult courts, and ensure that they are dealt with in the youth justice system.”⁵⁴
- d. “Māori children remain disproportionately represented in the youth justice system and are overrepresented among people who died by suicide in closed institutions.”⁵⁵ The UN Committee urges New Zealand to “develop an effective action plan towards eliminating the disparity in the rates of sentencing, incarceration and survival in detention of Māori children, by addressing the connections between offending and neurodisability, alienation from whanau

⁴⁹ CRC/C/NZL/CO/6, para 43(a).

⁵⁰ CRC/C/NZL/CO/6, para 42(b).

⁵¹ CRC/C/NZL/CO/6, para 43(b).

⁵² CRC/C/NZL/CO/6, para 43(c).

⁵³ CRC/C/NZL/CO/6, para 42(c).

⁵⁴ CRC/C/NZL/CO/6, para 43(d).

⁵⁵ CRC/C/NZL/CO/6, para 42(d).

*(family), school and community, substance abuse, family violence, removal into state care and intergenerational issues.*⁵⁶

Stronger prevention focus required in the care and protection and youth justice context

44. The RIS further states that *“identification of repeat offenders is important for intervention methods, wrap around support and crime prevention efforts”*,⁵⁷ suggesting the Bill will enable this. Mana Mokopuna agrees that timely wrap around support and crime prevention efforts are an integral part of upholding children’s rights. However, we are strongly of the view that the critical opportunities to exercise prevention efforts come long before mokopuna begin to exhibit offending behaviour, and long before they become *“repeat offenders”* as the RIS suggests. This is widely supported by peer reviewed evidence⁵⁸.
45. There are several points of intervention where resources and support should be channelled – all of these are much earlier than the point at which mokopuna are offending (or suspected of offending). For example, almost all mokopuna who offend (98% of children aged 10-13, and 88% of young people aged 14-17) have previously been the subject of a care and protection report of concern.⁵⁹ This significant crossover of mokopuna in the Oranga Tamariki system – that is contact with care and protection and later contact with youth justice – shows that currently we are systemically missing critical opportunities for early intervention and prevention, where significantly more resources should be channelled to wrap support around mokopuna and their families and whānau. The focus should be on supporting mokopuna and whānau to thrive, preventing offending from occurring in the first place.

Adequate powers already exist for other purposes

46. The RIS also states that the increased powers will help Police to collect information to protect children:

“For example, Police attendance at family harm incidents might identify genuine care and protection concerns, and information collected about any child/ren or young person/s at an incident can be used to help inform appropriate cross-agency responses”.⁶⁰

47. We don’t think such broadly framed powers as introduced by Part 1 of the Bill to collect personal information of mokopuna are needed in this respect. Police already

⁵⁶ CRC/C/NZL/CO/6, para 43(e).

⁵⁷ Eg, see New Zealand Police (2025) “Regulatory Impact Statement: Amendments to the Policing Act 2008”, para 107.

⁵⁸ Professor Ian Lambie, Dr Jerome Reil, Judge Andrew Becroft, Dr Ruth Allen (2022) “How we fail children who offend and what to do about it: ‘A breakdown across the whole system’ – Research and recommendations”, refer here: [Report: How we fail children who offend and what to do about it: ‘A breakdown across the whole syst...](#)

⁵⁹ Ministry of Justice (2026) “Youth Justice Indicators Summary Report”, p 20.

⁶⁰ New Zealand Police (2025) “Regulatory Impact Statement: Amendments to the Policing Act 2008”, para 109.

have statutory powers to enable information sharing to protect the safety of mokopuna.⁶¹

48. The OPC has also issued guidance entitled *Sharing information to protect the wellbeing and safety of children and young people*,⁶² which sends the clear message that “you can share personal information to keep children and young people safe” and “there is no legislative barrier to information sharing when there is a wellbeing or safety concern for a child or young person”. Expanding Police powers to collect, use and retain further personal information from or including mokopuna in the context of family harm is not necessary. Adequate statutory powers already exist.

Conclusion

49. The Bill proposes to expand Police powers in such a broad way as to raise significant risks to the rights, interests and well-being of mokopuna in Aotearoa New Zealand. From a children’s rights perspective, under both Te Tiriti o Waitangi and the Children’s Convention, these risks are unjustifiable.
50. The Bill as currently drafted fails to safeguard children’s rights and does not reflect the recommendations of the Joint Inquiry. As drafted, the Bill opens the door to the very real risk of the same mistakes that were highlighted in the Inquiry being repeated, in breach of the rights of mokopuna.
51. Mana Mokopuna urges the Justice Committee to implement our recommendations outlined at paragraphs 4-7 to ensure there are adequate and effective safeguards incorporated into the Bill, to protect the rights of mokopuna.
52. The Bill, if substantially strengthened, presents an opportunity to strengthen a children’s rights approach within our country’s justice system, something the UN Committee on the Rights of the Child has urgently recommended in its most recent Concluding Observations on New Zealand (in 2023)⁶³.
53. We urge the Justice Committee to recommend the Bill does not proceed as currently drafted, or to at least recommend changes to the Bill to safeguard mokopuna and their rights, in ways that are consistent with New Zealand’s duties and obligations as a States Party to the Children’s Convention and which reflect the joint recommendations of the Independent Police Conduct Authority and OPC Inquiry.

⁶¹ New Zealand Police (2024) “Family harm policy and procedures”, refer here: [family-harm-policy-and-procedures-160224.pdf](#).

⁶² [Office of the Privacy Commissioner | Sharing information to protect the wellbeing and safety of children and young people](#).

⁶³ CRC/C/NZL/CO/6, para 4.

