

IN THE WAITANGI TRIBUNAL **WAI 3060**

UNDER The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF The Justice System Kaupapa Inquiry (Wai
3060)

AND

IN THE MATTER OF A claim by Phillip Warner

MEMORANDUM OF COUNSEL

DATED 7 SEPTEMBER 2021



Te Mata Law Ltd
Barristers and Solicitors

PO Box 44331
Point Chevalier
AUCKLAND 1246

Tel: 0508-TEMATA (0508-836282)

Counsel Acting: David Stone | Catherine Leauga | Harry Clatworthy | Matthew Kennelly
David@tematalaw.co.nz | Catherine @tematalaw.co.nz | Harry@tematalaw.co.nz
Matthew@tematalaw.co.nz



MAY IT PLEASE THE TRIBUNAL

1. Please find attached and presented for filing a new statement of claim filed on behalf of Phillip Warner. The claim concerns the Justice System, in particular the New Zealand Police Force.
2. The claim alleges that the Police must not use excessive force on anyone, but they do. And they do so disproportionately on Māori compared to non-Māori. This is a breach not only of the law but the Treaty because as a partner to it, the Crown owe Māori particular duties, including the duty to treat them like other New Zealanders – but statistically they don't because they hit them, taser them and let their dogs bite them more than any other ethnicity in New Zealand and do so excessively. This excessive use of force would not be acceptable even if Māori were really, really ridiculously bad people, which they are not. It is even less acceptable under the law of New Zealand and the Treaty of Waitangi.
3. The claim then alleges that the mechanism used to hold the Police to account, namely the Independent Police Conduct Authority (“IPCA”) is not fit for purpose because:
 - a. It is not culturally or tikanga Māori compliant;
 - b. Māori mistrust it because they do not feel safe making a complaint to the Police or the IPCA;
 - c. The IPCA fails to follow up on Māori complaints; and
 - d. The IPCA fails to secure just outcomes for Māori.
4. Counsel respectfully asks that this claim be accepted for filing and heard as part of the Wai 3060 Justice System Kaupapa Inquiry.

DATED at Auckland this 7th Day of September



David Stone | Catherine Leauga | Harry Clatworthy | Matthew Kennelly

Counsel for the Claimant

To: The Registrar, Waitangi Tribunal and Crown Law Office, and those on the notification list for the Wai 3060 Justice System Kaupapa Inquiry.