

IN THE WAITANGI TRIBUNAL

WAI 3060

WAI 3130

IN THE MATTER OF

the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

the Justice System Kaupapa Inquiry

AND

IN THE MATTER OF

a claim by **Patrick Halliday** on behalf
of himself and other Māori

Brief of Evidence of Rhonda Zielinski

Dated 4 June 2025



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Waitangi Tribunal

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Ministry of Justice
WELLINGTON

MAY IT PLEASE THE TRIBUNAL

1. My name is Rhonda Zielinski. I have worked in the primary health sector rehabilitation, addiction support, and justice reform for about 30 years. I work on the frontline with Māori men and women who are trying to break free from the justice system, but the reality is that it is very difficult to achieve that.
2. I am giving this evidence as I have observed first-hand how the justice system fails Māori. My experience in this area began when I commenced employment as a nurse at Ngawha Regional Correction facility.
3. Over time, I came to understand that the focus for those remanded in custody and those sentenced to a term of imprisonment was to do with keeping them under control or punishing sentenced prisoners for wrongdoing. The sentences were punitive. However, if there was any consideration of rehabilitation for sentenced prisoners that aspect of their sentencing was given minimal weight.
4. Sentenced prisoners serving their time would not even be allowed into rehabilitation programmes until a significant part of their sentence had been served. Those prisoners who are remand prisoners would generally not be eligible for rehabilitation programmes. A remand term can be any length of time for example a person could be on remand for over a year, so that would be over a year with no option or support to participate in rehabilitation programmes. That is why I say, it is not about rehabilitation, but rather it's about control.
5. From what I have witnessed of the release of Maori defendants to bail, or electronic monitored bail it is never an easy or straight forward process. For ordinary bail, or electronically monitored bail,

the Police, and the Courts all operate in ways that disadvantage Māori compared to non-Maori. WHAT DO YOU MEAN? HOW? In my opinion. Maori defendants face an uphill battle at every stage of the bail process.

6. I believe that the system is antiquated. It does not consider that many of our whanau, particularly in Northland, already suffer the impacts of colonisation and a lack of recognition of protected rights that stem from Te Tiriti. These rights are additional to rights that arise for all New Zealand citizens under the Bill of Rights Act 1990.
7. I accept that the Government writes strategies for the delivery of its election promises and goals. As an example, in the prison setting it has produced Hōkai Rangi which is a strategy designed to reduce Maori offending levels and recidivism.
8. While the strategy is quite visionary in its objectives and goals the implementation of the strategy in practice is woefully inadequate. Corrections and prison managers do not proactively implement these strategies which I believe are shelved to gather dust. The people who work in this space, people like me, who have a lot of knowledge about how reform and rehabilitation work in practise don't even get listened to.
9. We refer to our clients or those in our service, as “Whaiora” meaning those seeking change or improved wellbeing. One Judge sentenced one of our Whaiora to 24 months Home Detention acknowledging that he had a 9-year evidenced battle with meth addiction that was the underlying cause of all his offending. Sadly, the judge would not consider our Kaupapa Māori, community-based program to sentence him, it had to be a mainstream organisation for rehabilitation. Getting into those organisations such as Odyssey House is extremely drawn out and the Whaiora as being acknowledged as having major addiction issues and despite

having shown huge progress over the 3 months he was engaged at our organisation, he was placed back into prison until Odyssey House could take him. I reiterate, it's not what is best for the Whaiora which in turn benefits the whole community it is about punitive punishment and short sightedness. So many other options including that this Whaiora could have come back to us and then transitioned to Odyssey.

ELECTRONIC MONITORING AND POLICE RESOURCING FAILURES

10. The Police operate in such a way that it disadvantages the Maori defendant and the Courts place significant weight on the Police position before they will grant any form of bail.
11. The electronic monitoring bail system is antiquated, it is outdated and oppressive. I regularly speak to services such as Probation and EM Bail teams and many of these workers have the same feedback. It is supposed to support reintegration and minimise disruption while a defendant waits for their matter to be disposed of, yet it does the opposite. The way electronic monitored bail operates ensures that many Māori defendants on electronic bail get breached and they end up back in custody.
12. I have witnessed many Maori men doing everything right under electronic monitoring bail, but the system still finds ways to pull them back in. I am aware of something as small as a flat battery on an ankle bracelet, which resulted in five police cars turning up at a home. However, when I call the police about a domestic violence situation with a baby in the house, it has taken the Police two hours to respond. I am personally aware of multiple cases of real-life examples.
13. One of our Whaiora, Daniel Ngatai is now an apprentice peer support worker. Daniel has been on EM Bail for two years with no reoffending and yet was breached over a flat battery incident.

Daniel myself and others from the Hub attended a community event in Auckland which was about awareness for suicide prevention. We returned home within his curfew time and went to bed. While asleep his battery went flat. Within 24 hours 5 police cars arrived to arrest him and he was taken to jail before coming up in front of a Judge and then being released back to the hub.

14. Another Whaiora, Gus, is sitting in our programme on a Tuesday when 3 Police cars pull up to the back door and 2 Police cars pull up to the front door, multiple Police enter and disrupt the class demanding to see Gus and claiming that he has breached his bail. I ask them to come into the office and ask to see confirmation of the breach. They advise that Gus was at an address that he should not have been. I check our records and produce the approval confirmation for Gus to be at the address. A major disruption that effects everyone present, very triggering and quite traumatic.

15. Another Whaiora Toa, resident at our property was breached for being at a liquor store between 6am and 9am. I point out to the attending officer that Toa was with myself at the time of the alleged breach and that the liquor store was closed at the time. Then I point out that the approved absence was at the gym which is next door. The main officer present was extremely aggravated, rude and determined to find fault and when the other officers pointed out the obvious to her, she said "well you stopped at the New world". I had to call 111 over that incident and Toa was returned half an hour later, but the stress and upset was huge. I have so many examples. The Police are tasked to respond to a breach of bail but my experiences are that they are always over the top in regard to EM Bail and despite having powers of discretion rarely ever use them.

16. One of the problems with electronic bail is that the call centre handling electronic monitored bail is based in Wellington and is staffed by people who do not even know the demographics of rural

communities such as Kaikohe or how to pronounce Māori names properly, let alone understand what is happening on the ground. They read alerts literally, without context, and treat every situation as a breach. This leads to Māori men on electronic bail being arrested, and in many cases such action is an overkill response and is unnecessary.

17. The police always seem to choose the punitive option when Maori are involved. Police claim their hands are tied, but that is false. Police have significant discretion they can exercise in whether to arrest and take and place a person before the Court. In the case of an electronic bail situation the discretion may be narrower, but it is still there.

18. In my opinion Police who have discretion not to arrest people should exercise it more often which is what used to happen as a part of community Constabling in days gone by. Today, when it comes to Māori, the Polices first response is always incarceration. This could have been the response to the example I shared about Toa who I mentioned in paragraph 15 but instead common sense is irrelevant when the system gives authority to ignore it.

A SYSTEM DESIGNED TO KEEP MĀORI IN PRISON

19. The justice system is not about rehabilitation; it is about keeping Māori in the system.

20. The entire system, including security companies, electronic bail monitoring teams, and the police, profit from Māori incarceration. It keeps people in jobs but does nothing to help those caught in or trapped by a system that is so inflexible and indifferent to a person's inherent dignity it is disrespectful. In life the reality is that people make mistakes, errors of judgement, but in the overall

scheme of things those failings are relatively minor infringements. From an outside lens looking in, or from the lens of an EM Bail team and Police called to assist the EM-Bail team, those little slips are viewed as huge transgressions that must be dealt with using a heavy hand.

21. Under the Court system, once a charge is laid in Court, the Police Prosecutions focus and for that matter the Crown Prosecutions focus, seems to be directed toward getting a conviction. What is fair and reasonable which one should expect from a just justice system seems to be forgotten about.
22. Maori and those on bail are supposed to be innocent until proven guilty, in that the charges laid in Court are in fact only “alleged” charges, but they are not treated that way. From the moment those charges are laid, the people concerned are labelled as criminals.
23. I have sat in Court and watched as defendants are pressured and coerced into pleading guilty to the charges. Police frequently offer a lesser charge to entice the defendant to plead guilty. The closer a case gets to trial and if the Police evidence is light, the pushier prosecutors seem to get. It puts defendants, especially Maori defendants under unnecessary pressure. Many Māori defendants cannot afford time off work to attend the necessary Court appearances that are required or the time off work that a trial might take several days or even a week, so they fold and plead their matter out. Sometimes keeping your job, for the Maori defendant is more critical than getting a fair trial. Their matters before the Court stop being a case for them of ensuring they get a fair deal but instead turns to one about the Police prosecutors and the Courts processing people as fast as possible, getting convictions, and then moving to the next matter. In my opinion that is not how a fair justice system should work.

24. I have to say, that I don't blame the Police and the Police prosecutors entirely. The Government plays a big part in what is happening by underfunding operational costs and resourcing the Police and the Courts. That has a huge impact.
25. The Legal aid system is also inadequately funded. Many defendants are represented by legally aided lawyers. These lawyers do not get paid enough that would allow them time to properly gain a full understanding of the clients' position, what caused the offending, examine the evidence against the defendant to do a full and thorough job. They represent the client but to the extent and time that legal aid is prepared to pay for.
26. At Te Whaka Oranga Rehabilitation Recovery Services (The Hub) we provide and include advocacy support and we regularly see the difference that giving real time to hearing a person's full story makes.
27. Offending doesn't occur out of the blue, there is always a history to the event and in the case of Maori men and woman that history often entails those individuals being let down by a system that places little value in them as individuals.
28. The Police are not always trustworthy. I have personally been lied to by Police who assured me they would not arrest a young man if I convinced him to come out of hiding. The moment he stepped out, police officers put him in handcuffs. That young man will never trust me again and sadly experience has taught me not to trust the police at their word anymore either. Police wonder why Māori do not trust them and are weary of them. From my experience the mistrust Maori have in Police and the Court system is not without reason. There is a whakapapa to it.

PROPENSITY LAWS: A LIFE SENTENCE FOR MĀORI MEN

29. In more serious charges, the Crown becomes involved. It frequently uses and argues propensity to keep Māori in jail. Frequently even when there is no real evidence, Crown Prosecutor's (but Police Prosecutors do it as well and argue that because the defendant has previously offended, under similar circumstances, they must be guilty of the alleged charges before the Court. The Court who regularly favour the Police/Crown position becomes a party to such cynicism.

30. I worked with a young man, twenty-four years old, who has spent his life looking after his younger siblings because his parents were addicts. He stole food and committed burglaries not for himself but to keep his siblings alive. Instead of recognising his resilience and what drove him to offend (the mitigating factors, stealing to live) the Police and Courts labelled him as high risk and ultimately guilty, basically labelled a bad person and a criminal. No matter how much this defendant has changed, he is red-flagged. Yet, in my opinion, he was a natural leader, wise beyond his years, and had potential. The way defendants are dealt with never affords them the chance of a better future. Once labelled a criminal, Police/Crown prosecutors cannot see that person as anything else.

31. Another man I have worked with, his name is Daniel. He is in his thirties and has spent seventeen to twenty years of his life incarcerated. He was born into a gang family, had little access to an education, and never really got any chance of a life. For the past two years and working together with us he has stayed out of trouble. He worked on himself, but he is going back to jail because the Crown is arguing propensity and asserting, he must have done the alleged crime. Even if it goes to a hearing and the evidence is sketchy, I believe the Judge is going to favour the Police position and convict him. The threshold of found guilty beyond reasonable

doubt is a very high threshold., It is designed that way because it is supposed to protect citizens rights, but the reality is that many cases are decided in favour of the Police because the Judges themselves get caught up in the cynicism so prevalent in our Police and Crown prosecutors.

32. There must be so many more examples of how the law of Propensity is utilised. I believe that there is a great injustice in a system that only sees the “propensity to offend” but refuses to even minutely consider or see the propensity to do better. This highlights the injustice of our legal system. Such a system jars abruptly with a Maori World view of what Justice should entail.

THE IMPACT OF DISCONNECTION FROM WHAKAPAPA

33. I worked with so many men who can recite their PRN number (prison number) better than their whakapapa or pepeha. This is such a tragic inditement on our society. This is what happens to young Maori men when they are allowed to drift away from their culture. They end up losing their sense of identity and with that they lose themselves.

34. When these men come to us and engage in our services they have already been caught by the Justice and Court system, and it is a slow process. They start their journey of learning who they are and where they come from. Many start learning te reo Māori, and that is when real change happens. That is, they begin to identify as being Māori and learn that they belong to a race that has endured despite being treated as inferior, historically thought of as having low intellectual capacity, and that according to a European cultural world view, that they cannot progress unless they are fully assimilated into a European way of thinking.

35. These Maori defendants are not bad but have been indoctrinated into believing that they are bad by a system that has prejudicially decided to keep Maori under control and in a position of servitude.
36. The system Justice system has not recognised tikanga and that Māori value systems have an inherent worth for decades. That way of thinking is only just beginning to change. Considering how long te Tiriti has been in existence its quite appalling, but it is what it is.
37. These Maori men, these defendants go to Court, stand in front of a judge, and often none of the work they have done in the programmes they have completed seem to count for much or make a difference. It would seem to me that the Police/Crown Prosecution ethos is one where a person is convicted of a crime and labelled a criminal, then they will always be a criminal. I argue that every person no matter how many mistakes they have made can improve themselves, including using the errors they have made as a learning experience to better themselves in the future. In my opinion, to think this, condemns half the human race as a lost cause.

MENTAL HEALTH AND ADDICTION: THE MISSING PIECE

38. In my experience prisons are full of people who should not be there. Many are there because they have nowhere else to go, or no other more suitable facility to help them become better people and better citizens.
39. The Government has in the past shut down mental health facilities and institutions like Kingseat and Carrington but never replaced them with better alternatives. Many of those individuals who were housed in those institutions in the first instance probably should not have been there. Some therefore potentially benefitted from

the closures of Kingseat and Carrington, but for many of them, that is the really unwell, the task of helping them has been left to their families. That includes families who had already experienced significant trauma with many of these individuals and who never had the necessary expertise in the first instance to treat them or address the needs those individuals required. Nevertheless, the Crown took little or no responsibility. In fact, institutional racism through schools, religious teachings and inadequate Government policies in many cases caused these mental health issues for these individuals. The recently published report "Abuse in State Care" has highlighted as an example that the Crown had a duty to protect those not able to protect themselves, but for years it turned a blind eye and allowed people to be abused some of them for decades. It did nothing, and as a result, many of those individuals who were in public care facilities like Kingseat and Carrington ended up with long term mental health issues. Now even the Police leave people on the street until they have no choice but to arrest them when their vagrancy becomes too obvious, or the individuals begin making a public nuisance of themselves.

40. Drug addiction is also a serious burden on communities. I understand now that addiction is an illness that often leads to crime to support that addiction. Families begin breaking down leading to an escalation of violence against partners through frustrations and stress, and children of those relationships are suddenly no longer being properly cared for. Drug addiction brings out the worst in people. It is a problem that the whole community owns but the Government needs to be instrumental in leading the way forward to assist addicts to recover.
41. There is only one de-tox unit which is at Dargaville Hospital, this covers the whole of Te Taitokerau and has eight beds and a sixteen week waiting list. When someone needs de-tox, they need it

immediately, not to wait sixteen weeks for a place. In There are six rehab facilities in Te Tai Tokerau so the total across the whole of Te Taitokerau provide only 50 to 60 beds for live in drug and alcohol rehabilitation. This is not enough to meet the growing demand.

42. I am aware and have a personal knowledge of 79 Bail applications between 2022 and 2025 to access our service. Thirty-one of those were accepted which is close to 50%, and of those, 5 Whaiora ended up with community-based sentences. This is a huge deal. In my recent meeting at Ngawha Corrections I was told that it costs \$455 per day to keep a person in prison, this equates to \$3185 per week per person. Those 31 people attending our service would have been funded at \$3185 x 31 equals \$98735 per week if they had been in prison. Our service receives \$23 per day per person, or \$161 per week each, so those 31 people are funded for us to help them at \$4991 per week. There is a serious revaluation of worth to be done here. Based on our example of Prison at \$98735per week and Whakaoranga Recovery Hub at \$4991 per week.

43. My funding runs out in June. If we close, where do these people go? Who picks up the pieces?

THE SOLUTION: MĀORI-LED RESPONSES FOR MĀORI PEOPLE

44. The main thing that works for Māori is kaupapa Māori rehabilitation. We know how to work with our own people, but we do not have enough resources or government support to do all that is required.

45. The government continues funding policies that do not work, while kaupapa Māori services like ours are constantly under threat of having our funding withdrawn.

46. I am giving evidence because I want this Tribunal to listen to the people who know what is happening. The Crown needs to stop making decisions from Wellington and start listening to those of us who are working in the trenches and dealing with this crisis every day.

47. If we change one person, we change an entire whānau and a future generation. That is the investment that is needed.

DATED at Kaikohe this 4th day of June 2025



Rhonda Zielinski

This Brief of Evidence is filed by **DANIEL JOHN WATKINS**, Counsel for the Claimant, of **WATKINS LAW**, 2 Station Road, Kaikohe.

Documents for service on the above-named claimant may be left at the address for service above or may be:

- (a) Posted to PO Box 147, Kaikohe 0440; or
- (b) Transmitted by email to admin@watkinslaw.nz.