

# TE KŌTI RANGATAHI THE RANGATAHI COURT



*Visitors welcomed onto Te Poho o Rawiri Marae in Gisborne for the first ever Rangatahi Court sitting – 30 May 2008*

**He kōrero whakamārama i te kaupapa  
me ngā tikanga**

**Background and Operating Protocols**

Reproduced with kind permission of Judge Heemi Taumaunu

**As at 1 July 2015**



*Visitors welcomed onto Manurewa Marae at the launch of the Manurewa Rangatahi Court – 23 September 2009*

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## Te Kōti Rangatahi – He Kōrero Whakamārama i te Kaupapa: The Rangatahi Court – Background Paper

The purpose of this document is to define what Rangatahi Courts are (“the Rangatahi Courts”) and to explain how they work. It is intended that this is a “living document” which will be updated as required in order to keep all concerned informed about the Rangatahi Courts and their operation. This version is as at 1 June 2015.



*Visitors welcomed onto Wairaka Marae in Whakatane at the launch of the Mātaatua Rangatahi Court – 11 June 2011*

### Rangatahi Court: Overview and Goals

1. Rangatahi Courts operate within the jurisdiction of the Youth Court of New Zealand. The Youth Court is itself a division of the District Courts of New Zealand. All Rangatahi Court Judges are District Court Judges who have also been designated as Youth Court Judges.
2. Rangatahi Courts are not a separate system of youth justice. Neither does the Rangatahi Court process remove the Youth Court’s business to the marae on a wholesale basis. Rangatahi Courts operate after a young person has appeared in the Youth Court, admitted the charge (or has denied a charge which has subsequently been proved), after a Family Group Conference (“FGC”) has taken place (as is required by statute in every case) and after an FGC plan has been formulated. The FGC plan will record any agreement that the plan be monitored at the Rangatahi Court. In essence, Rangatahi Courts monitor the performance of FGC plans and, when appropriate, will apply sentencing options available to the Youth Court.
3. Rangatahi Courts apply the objects and principles in the Children, Young Persons and Their Families Act 1989 (“CYPF Act”). Rangatahi Courts are primarily designed to target and deal

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with young Māori offenders. However, all young offenders, regardless of race, ethnicity or gender are eligible for entry.

4. Rangatahi Courts are a judicially-led initiative primarily established to provide a more culturally responsive and appropriate process. The overall vision was to promote better engagement with, confidence in, and respect for the youth justice process. Rangatahi Courts provide an opportunity to draw upon the resources of local marae communities and, in this way, operate consistently with the objects and principles of the CYPF Act.
5. The focus of the Rangatahi Courts is to develop a more culturally appropriate process and to increase respect for the rule of law. This is properly within the Court's mandate to deliver on. The primary goal is not to reduce reoffending, which will largely depend on the quality of the FGC plan and the resources enlisted. While reducing reoffending remains of paramount importance to the wider criminal justice system, it is beyond the function and responsibility of the court process alone.
6. The goals of the Rangatahi Court are designed so that young offenders, whānau, hapū, iwi, victims, stakeholders and local communities who engage with the Rangatahi Court:
  - a. Have confidence in and respect for the Rangatahi Court and the rule of law;
  - b. Understand Court processes, what is expected of them and what they can expect;
  - c. Are respected as individuals while engaged with the Rangatahi Court;
  - d. Have access to a more culturally appropriate process of dealing with young offenders.
7. The specific goals of the Rangatahi Court are to:
  - a. Honour and apply the objects and principles in the Children, Young Persons and Their Families Act 1989;
  - b. Hold the young person accountable and ensure victim interests are addressed;
  - c. Address the underlying causes of the offending behaviour;
  - d. Use te reo Māori, tikanga and kawa (Māori language, culture and protocols) as part of the Court process;
  - e. Increase the involvement of whānau, hapū and iwi in the Court process;
  - f. To assist young Māori offenders to learn about their Māoritanga (cultural identity), and to develop a sense of identity and belonging as a member of a whānau, hapū and iwi, through the provision of tikanga wānanga
8. Rangatahi Courts sit at marae (traditional Māori venues). The Rangatahi Court process incorporates the use of Māori language, rituals and protocols. The Rangatahi Court process

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encourages the involvement of respected elders who sit alongside the presiding judge and provide valuable insights and advice from a traditional Māori perspective to the young person and his or her whānau (extended family). Rangatahi Courts encourage young Māori offenders to learn and deliver a pepehā (a traditional Māori greeting). This requires them to explore three central issues related to self-identity from a Māori tribal perspective:

- a. Ko wai koe? (Who are you?);
  - b. No hea koe? (Where are you from?); and
  - c. Nā te aha koe? (What is your purpose?).
9. Those responsible for the establishment of Rangatahi Courts consider that offending by many Māori youth is related, in part, to a lack of self-esteem, a confused sense of self-identity, a strong sense of resentment and cultural dislocation. Addressing these issues is a key aim of Rangatahi Courts – through the reconnection and engagement of young Māori offenders with their self-identity as Māori. Indeed, these are some of the factors which must be addressed when the Youth Court is discharging its statutory duty to “... address the causes underlying the child’s or young person’s offending” (s 208(f) CYPF Act). In a broader context, when addressing these issues, the Rangatahi Courts acknowledge that the structural, political and cultural marginalisation experienced by many modern Māori communities is firmly linked to an inherited history of colonial trauma, alienation and dislocation from land, culture, customs and language.
10. Rangatahi Courts were designed to provide, and foster the development of, a comprehensive suite of culturally appropriate programmes to be accessed by the FGC forum and run in conjunction with the court. Such a suite of programmes will need to perform a combination of tasks: provide accountability and responsibility components; deal with alcohol and drug issues, anger management issues, anti-social attitudes, personal therapy issues; provide educational or training opportunities; provide support to the young person, whānau and community to deal with the underlying causes of the offending; and provide successful transitions for the young person when the programme is completed.
11. From the outset, it was always the vision that tikanga wānanga (cultural programmes) must be available at every Rangatahi Court, to provide specialist kaupapa Māori interventions and opportunities for young offenders, including te reo Māori, tikanga, kapa haka, waka ama, taiaha wānanga, noho marae and the like. Programme providers could work with the whānau and community of the young person at the same time as working with the young person individually. This is because the underlying causes of the offending will often involve dynamics within the whānau and community. The underlying causes are rarely confined to the young person individually. These tikanga programmes could be accessed by all young offenders in the area where appropriate, not just those who were monitored by the Rangatahi Court. Without those attending a Rangatahi Court being able to access a tikanga wānanga the Rangatahi Court model is incomplete.





*The launch of the Huntly Rangatahi Court at Wāhi Pā - 26 March 2014*

### **Rangatahi Court: Process Summary**

12. All youth offenders must make their first appearance in the Youth Court. If the young person does not deny the charge, or if the charge is denied and subsequently proved, the court must order an FGC in every case. If the offending is too serious to be dealt with by an FGC plan, a formal Youth Court order will be imposed at the Youth Court.
13. At an FGC, if the charge is admitted, a comprehensive plan is formulated. Part of the plan may include provision for regular and consistent monitoring of the plan's progress at a Rangatahi Court. Successive hearings may be held at the marae as directed by the Rangatahi Court Judge. After an FGC has been held, a Youth Court Judge is able to direct that the monitoring of an FGC plan be conducted at a Rangatahi Court. The Rangatahi Court then monitors the completion of the FGC plan and sentences the young person at the conclusion of the plan. If the FGC plan breaks down, or new charges are laid as a result of fresh offending, the matter may be referred back to the Youth Court.



*Visitors welcomed onto Te Ohaaki Marae in Huntly at the launch of the Kirikiriroa Rangatahi Court – 7 August 2010*

### **Rangatahi Court: Origins of the Court**

14. In the decade preceding the establishment of the Rangatahi Courts a number of Judges, at the prompting of the late Chief District Court Judge Russell Johnson, became increasingly concerned with the significant disproportion of young Māori in the Youth Court. At this time, up to half of all young people appearing in the Youth Court were Māori. It was felt

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that the vision enshrined in the CYPF Act regarding Māori young offenders, their whānau and communities was not being delivered upon. The Youth Court had been launched in 1989 with this founding vision, originally contained in the *Puao te Ata Tu* report, and profound expectations for a youth justice process that would be qualitatively better for the Māori communities it had previously failed.

15. Against this background, Judge Heemi Taumaunu was commissioned by Chief Judge Johnson and Principal Youth Court Judge Andrew Becroft to visit Koori Courts in Perth and Victoria to investigate how the Australian jurisdiction adjusted its Court processes for aboriginal youth offenders. It became clear that New Zealand's specific cultural context and legislation provided an opportunity to conduct appropriate proceedings on the marae on a strict case by case, and hearing by hearing, basis. Judge Taumuanu was then approved to proceed with considerations for the use of marae for some Youth Court proceedings.

### **First Rangatahi Court: Gisborne**

16. The first Rangatahi Court was established in 2008 at Poho-o-Rāwiri Marae in Gisborne under the leadership of Judge Heemi Taumaunu.
17. In January 2008, the Gisborne Youth Court held a stakeholders meeting. At that meeting, experienced youth justice professionals expressed concern that they had witnessed successive generations of Māori defendants make their way through the Youth Court to the District Court and then to prison. It was agreed at that meeting that the Youth Court should adopt a new approach and the idea of the Youth Court sitting at a local marae was mooted.
18. Between January 2008 and May 2008, numerous meetings were held with local iwi and local iwi leaders to discuss whether there was any support for the idea of the Youth Court sitting at a local marae. It became evident that there was strong local iwi support for the Youth Court to sit at Te Poho-o-Rāwiri marae. Subsequent meetings were held with local iwi and hapū leaders, including the late Sir Henare Ngata, the late Dr Apirana Mahuika, Mr Temepara Isaacs, Mrs Olive Isaacs, Mr Bill Aston, the late Mrs Rawinia Te Kani, and Mr Hone Taumaunu, to discuss how te reo Māori, tīkanga Māori, and marae kawa (ceremonial rituals), could be incorporated in an appropriate manner with the criminal legal processes applicable to young people appearing in the Youth Court. These discussions shaped the processes adopted by the Rangatahi Court at Te Poho-o-Rāwiri marae. During these discussions it was agreed that the underlying philosophy of the Rangatahi Courts would be informed by Sir Apirana Ngata's famous saying:

***“E Tipu e Rea, mō ngā rā o tōu ao. Ko ō ringa ki ngā rākau a te Pākehā, hei oranga mō tō tinana. Ko tō ngākau ki ngā taonga a ō mātua tipuna, hei tikitiki mō tō mahunga. Ko tō wairua ki te Atua. Nāna nei ngā mea katoa.”***

***“Grow up, young tender shoot, in the times of your generation. Utilise modern technology and knowledge as sustenance for your physical needs. Holdfast***

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*and retain the treasures handed down by your ancestors, and display them with pride. Give your soul to the Higher Being, the Creator of all things.”*

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*Judge Louis Bidois presiding over the Te Arawa Rangatahi Court*

### **Subsequent Rangatahi Courts**

19. The Rangatahi Court at Te Poho-o-Rāwiri marae in Gisborne was launched on 30 May 2008 in Gisborne with Judge Heemi Taumaunu presiding. Since that time, 12 other Rangatahi Courts have been established throughout Aotearoa:
- a. Manurewa Rangatahi Court was launched on 23 September 2009 in South Auckland with Judge Greg Hikaka presiding;
  - b. Hoani Waititi Rangatahi Court was launched on 10 March 2010 in West Auckland with Judge Heemi Taumaunu presiding;
  - c. Ōrakei Rangatahi Court was launched on 22 June 2010 in Central Auckland with Judge Eddie Paul presiding;
  - d. Ōwae Rangatahi Court was launched on 26 June 2010 in Taranaki with Judge Hikaka presiding;
  - e. Kirikiriroa Rangatahi Court was launched on 7 August 2010 at Te Ohaki Marae in Huntly with Judge Denise Clark presiding;



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- f. Mātaatua Rangatahi Court was launched on 11 June 2011 at Wairaka Marae in Whakatāne with Judge Louis Bidois presiding;
  - g. Pukekohe Rangatahi Court was launched on 30 September 2011 with Judge Hikaka presiding;
  - h. Papakura Rangatahi Court was launched on 1 October 2011 with Judge Frances Eivers presiding;
  - i. Te Arawa Rangatahi Court was launched on 2 December 2011 with Judge Bidois presiding;
  - j. Ōtautahi Rangatahi Court at Ngā Hau e Whā Marae in Christchurch was launched on 22 March 2014 with Judge Heemi Taumaunu presiding;
  - k. Rāhui Pōkeka Rangatahi Court was launched on 26 March 2014 in Huntly with Judge Clark presiding; and
  - l. Tauranga Moana Rangatahi Court was launched on 14 March 2015 in Tauranga with Judge Louis Bidois presiding;
  - m. Tūwharetoa Rangatahi Court was launched on 5 December 2015 in Taupō with Judge Alayne Wills presiding.
20. Although Rangatahi Courts are a judicially-led initiative, strong support has been given to the Judges involved in the Rangatahi Courts by the Ministry of Justice operations team within the District Court, led by Mr Tony Fisher, General Manager, District Courts of New Zealand. Each Rangatahi Court is supported by, and resourced from, the local District Court. A number of individual Court staff have made significant and innovative contributions to the evolution of the Rangatahi Courts, together with local CYF staff, Police Youth Aid officers, Youth Advocates, Ministry of health staff, Ministry of Education staff, Lay advocates and, perhaps most importantly, local marae communities.



*Visitors welcomed onto Orakei Marae in Auckland City at the launch of the Orakei Rangatahi Court – 22 June 2010*

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### **Rangatahi Court: Statutory Jurisdiction**

21. Section 4(4) of the District Courts Act 1947 provides that “a Judge may hold or direct the holding of a particular sitting of a court at any place he deems convenient”. Under this provision, the Judge has a broad discretion to direct that a Youth Court sitting is to be held on a marae for the purposes of monitoring an FGC plan.



*The launch of the Rangatahi Court at Papakura - 1 October 2011*

### **Rangatahi Court: Evaluation**

22. Given that the goals of the Rangatahi Courts stem from a commitment to providing more culturally appropriate Court-based processes, the primary scope of any Rangatahi Court evaluation must be qualitative. Evaluation should focus on whether the Court process has delivered qualitatively better engagement and involvement of young people, their families and wider Māori community. While quantitative outcomes might form a part of subsequent research, reoffending rates must not be the primary or sole focus of any evaluation.
23. In 2012, the Ministry of Justice commissioned a qualitative evaluation of the Rangatahi Courts, independently undertaken by Kaipuke Consultants. The evaluation report, entitled “Evaluation of the Early Outcomes of Ngā Kooti Rangatahi” was published on 19 December 2012. The report found that:
- a. Operational processes guiding the implementation of Ngā Kooti Rangatahi are being delivered consistently across the five sites (with some courts implementing additional strategies considered by the evaluators to be good practice);
  - b. Rangatahi have experienced positive early outcomes, both expected and unexpected. These include, for example, high levels of attendance, feeling welcome and respected, understanding the court process, forming positive relationships with youth justice officials and the marae community, showed improved positive attitudes, established connections with the marae and took on leadership and mentoring roles; and

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- c. Whānau, agencies and marae communities have experienced positive early outcomes including whānau feeling respected and welcomed at Court, understanding the Court process, being supported in their parenting role, developing networks between agencies and families, and feeling that the Court process validates the mana of the young people and their whānau, while still holding them accountable and responsible.

24. In 2014, the Ministry of Justice undertook a preliminary quantitative analysis of uptake and reoffending rates in the Rangatahi Courts. Rangatahi Court Judges have expressed concern with the undertaking of solely quantitative research on reoffending rates. The 2012 qualitative evaluation of the Rangatahi Courts used a number of other indicators to assess the successful implementation of the courts, in addition to the reduction in reoffending. There were also a number of limitations to the 2014 quantitative analysis regarding the availability of appropriate data sets, the absence of a control group, that Rangatahi Courts are still developing and refining new processes, and that tikanga wānanga were not firmly established at each Rangatahi Court location, which is an essential part of the Rangatahi Court model.

25. In any event, the 2014 quantitative evaluation estimated that young people that appeared in the Rangatahi Court were 11% less likely to reoffend.

### **Rangatahi Court: International framework**

26. There are also a number of key international instruments that are particularly important, given the disproportionate number of young Māori in the youth justice system, and which provide principles that support the Rangatahi Court model.

27. The United Nations Declaration on the Rights of Indigenous Peoples was ratified by New Zealand in April 2010. The Declaration sets out the international community's recognition of the special status of indigenous peoples and their right to self-determination. The Preamble states:

Indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, the right to development in accordance with their own needs and interests.

28. Article 5 of the Declaration provides:

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

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29. On 6 May 2015, the United Nations Committee Against Torture published its *Concluding observations on the sixth periodic report of New Zealand* evaluating New Zealand's compliance with the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which New Zealand ratified in December 1989.
30. In this report, the United Nations Committee criticised New Zealand's disproportionately high rate of Māori imprisonment, stating:
- "[New Zealand] should increase its efforts to address the overrepresentation of indigenous people in prisons and to reduce recidivism, in particular its underlying causes, by fully implementing the Turning of the Tide Prevention Strategy through the overall judicial system and by intensifying and strengthening community-based approaches with the involvement of all relevant stakeholders and increased participation of Māori civil society organizations."
31. The Rangatahi Court model attempts to promote the rights set out in Article 5 of the Declaration. The Rangatahi Court process attempts to address the underlying causes of offending and encourage the participation of young Māori offenders, their whānau, kaumātua, kuia and local marae communities.

### **Rangatahi Court: Name**

32. At its genesis, the Rangatahi Court was referred to as the Marae-Based Family Group Conference Plan Monitoring Youth Court. Judge Taumuanu was later asked by Principal Youth Court Judge Becroft to suggest an appropriate Māori name for the Court.
33. After 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.
34. 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 proverb, "Ka pū te rūhā, 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 the Rangatahi 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.
35. 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 for, 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.

36. A waiata for the Rangatahi Court was composed for the judiciary and stakeholders and is performed on ceremonial occasions.

**Karakia**

E te Atua  
E te Ariki  
Tukua mai te kaha me te māramatanga  
Ki te hāpai  
Te Kōti Rangatahi e

**Blessing**

Our God  
Our Lord  
Give us your strength and enlightenment  
And uplift  
Our Rangatahi Court

**Whakatauki**

Ko te whakatauki e kōrero nei  
Ka pū te ruha  
Ka hao te rangatahi

**Proverb**

The well known saying goes  
The old worn out net is cast aside  
The new net goes fishing

**Waiata**

Tēnei mātou  
Te whakatipuranga  
O tēnei ao  
Te nui o  
Ngā rangatahi Māori  
E raru nei

**Song**

Here we are  
This generation  
Living in today's world  
(Alas) the great number  
Of our Māori youth  
Who are in trouble (with the law)

E whai nei mātou  
I te ara tutuki pai  
Aratika  
Mō ngā tamariki  
Mokopuna e raru nei  
Kia ora ai

We are seeking  
The pathway to achieve success  
The right path  
For our children  
And grandchildren who are in trouble (with the law)  
To secure their well-being (for the future)

Ko te anga whakamua nei  
Kia whakahoki tātou e  
Ki te Reo me ōna Tikanga  
Kia mōhio mai  
Ko wai? Nō whea?  
A tātou rangatahi e

The vision for the future  
Is for us to return  
To our Māori language, its customs and protocols  
So that our Māori youth will know  
Who they are, and where they are from

Te Kōti Rangatahi  
(E) whakahoki nga taiohi  
Ki te marae  
Ka pū te ruha  
Ka hao te rangatahi  
Te kaupapa

The Rangatahi Court  
Returns the young persons  
To the marae  
On the basis that  
The old worn out net is cast aside  
And the new net goes fishing

Ko te anga whakamua nei  
Kia whakahoki tātou e  
Ki te Reo me ōna Tikanga  
Kia mōhio mai  
Ko wai? Nō whea?  
A tātou rangatahi e

The vision for the future  
Is for us to return  
To our Māori language, its customs and protocols  
So that our Māori youth will know  
Who they are, and where they are from



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Kia mohio mai  
Ko wai? Nō whea?  
A tātou rangatahi e

**Whakamutunga**

Tūturu whakamaui kia tina  
Tina! Hui e, Taiki e!

So that our Māori youth will know  
Who they are, and where they are from

**Conclusion**

Make it secure, make it tangible!  
Join together and be united!

Composed by: Judge Heemi Taumaunu

Collaborators: Music and Lyrics: Anaru Grant, Wayne Panapa, Ngarue (Kim) Ratapu, Judge Lisa Tremewan, David Parker, Judge Philip Recordon, Riri (Liz) Motu, Jake Kake, Harley Hoani, Karaitiana Taumaunu, Wiremu (Hone) Elliott, Matutaera Ihaka

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## **Te Kōti Rangatahi – He Kōrero Whakamārama i ngā Tikanga**

### **The Rangatahi Court – Operating Protocols**

Best practice for Rangatahi Courts is constantly evolving and it is appropriate that there is some regional variation and nuance. The operating protocols below represent what has been agreed to as general best practice.

#### **Rangatahi Court: Referral Process**

37. When a young person appears in the Youth Court and does not deny the charge, or denies the charge and it is subsequently proved;

- a. the presiding Youth Court Judge must direct that an FGC be convened and held;
- b. the FGC will confirm that the young person admits the charge/s and will formulate a plan to hold the young person accountable and to address the apparent underlying causes of offending;
- c. the Registrar, as a matter of best practice, should appoint a Lay Advocate for the young person. The Registrar must endeavour to match the culture of the young person with that of the Lay Advocate. The Registrar must endeavour to assign Lay Advocates for Māori youth offenders:
  - i. who are competent in the Māori language; and
  - ii. who have a sound knowledge of Māori protocols, Māori history, tribal pepehā, and tribal whakapapa (genealogy).

38. The Lay Advocate is expected to:

- a. report to the Rangatahi Court about the young person's cultural background, and his or her level of knowledge of the Māori language and protocols;
- b. assist the young person reconnect with his or her sense of self-identity as Māori;
- c. assist the young person learn his or her pepehā; and
- d. represent the interests of the young person's whānau, hapū and iwi.

39. The young person will be remanded to the next sitting of the Youth Court for the FGC plan to be considered.

40. If the FGC agrees that monitoring of the FGC plan should be conducted at a Rangatahi Court, the FGC Co-ordinator may apply to the Youth Court for a judicial direction that the next hearing be held at the Rangatahi Court for FGC plan approval and monitoring.

41. If there is no agreement at the FGC that monitoring of the FGC plan should be conducted at a Rangatahi Court, the Youth Court Judge must determine whether the monitoring of the performance of the FGC plan should be conducted at a Rangatahi Court. The ultimate

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decision to refer a young person to a Rangatahi Court is an exercise of judicial discretion based on relevant factors. These factors include:

- a. Consideration of the recommendations of the Family Group Conference;
- b. The wishes of the young person and his or her whānau;
- c. The victim's views;
- d. Submissions made on behalf of Police or the Crown, and Child Youth and Family; and
- e. The level of support in the community that can be provided for the young person and his or her whānau by local marae and iwi providers.
- f. Other factors that may be relevant on a case by case basis.

42. A conditional referral to the Rangatahi Court may be made in order to encourage a young person and his or her whānau to attend the Rangatahi Court. For many Māori rangatahi, it may seem easier to remain in the Youth Court than opt into the Rangatahi Court. The fear of the unknown is a powerful disincentive to seek referral to the Rangatahi Court for many Māori rangatahi who appear in the Youth Court, because:

- a. Most of the young people who make their first appearance in a Rangatahi Court do not know how to speak Māori and do not know much about tikanga Māori. Some have never been to a marae. Many have never been to their own marae. However, all are aware that they are Māori, and when spoken to about the topic, most have a keen desire to learn about who they are and where they are from. Although it is an unfortunate reality in modern day Aotearoa, the Rangatahi Court in many cases, presents the first opportunity for a young person to learn about his or her identity as a member of a whānau, hapū and iwi.
- b. Many of the young people who are eligible to be referred to the Rangatahi Court are fearful of the expectation that they will be required to recite a pepeha or mihi during their Rangatahi Court appearance. This is completely understandable but is probably misunderstood to a certain extent. The vast majority of young people who appear in Rangatahi Court on their first appearance are unable to recite a pepeha or mihi. This is accepted by the Rangatahi Court as a starting point.

43. A conditional referral will include:

- a. An explanation that the young person and his or her whānau will be referred to the Rangatahi Court on the understanding that if there is a desire to return to the Youth Court at any time, then the presiding Rangatahi Court judge will direct a transfer back to the Youth Court.

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- b. Provided that this proviso is clearly understood by all involved, and is adhered to on a case by case basis, the fear of the unknown should be capable of being managed in a sensible and appropriate manner.

44. Ultimately, a referral to the Rangatahi Court will not be made without consent from the young person and the victim/s.
45. If the presiding Youth Court Judge makes a referral to the Rangatahi Court, the young person will be remanded on appropriate bail terms to re-appear on a Rangatahi Court day and thereafter as directed (fortnightly in most cases). The frequency of appearances is to be determined depending on the circumstances of each particular case.
46. If the FGC plan breaks down, or new charges are laid as a result of fresh offending, the matter will be referred back to the Youth Court.



*A Rangatahi Court hearing at Christchurch Rangatahi Court*



*The launch of the Tauranga Rangatahi Court at Hairini Marae on 14 March 2015*

### **Rangatahi Court: Hearing Process**

47. Most Rangatahi Courts sit once every two weeks and commence at 9.30am with a pōwhiri (traditional welcome ceremony). All young people, their whānau, youth advocates, lay advocates, social workers and supporters who are due to attend a morning session of a Rangatahi Court are required to attend the pōwhiri at 9.30am. All young people, their whānau, youth advocates, lay advocates, social workers and supporters who are due to attend an afternoon session of a Rangatahi Court are required to attend the pōwhiri at 1.30pm.
48. The presiding Judge, Registrar, police, social workers, support workers, young people and their whānau are all welcomed onto the marae as part of the pōwhiri process. The pōwhiri commences with an exchange of karanga (traditional calls of welcome) by respected female elders. A karakia (traditional prayer) is usually recited by a respected elder, and then formal speeches of welcome and reply are exchanged between the tangata whenua (people of the marae) and the manuhiri (group of visitors). After the pōwhiri, a whakawhanaungatanga (round of introductions) is conducted, followed by a handshake, a hongi (pressing of noses) and a morning tea break.
49. Each young person is allocated 30 minutes for his or her Rangatahi Court appearance. The Rangatahi Court Registrar sets the order of hearings for the day and will notify the young person of their hearing time in advance.
50. The Rangatahi Court bench is set up in a horseshoe shape inside the wharenui (meeting house). Respected elders sit alongside the presiding Judge. Court officers representing the Police and the Child Youth and Family Service are seated adjacent to the presiding Judge. A seat is set aside for any victim who attends next to the police representative. The young



person and his or her whānau and supporters sit directly opposite the presiding Judge and respected elders.

51. The Registrar calls individual young people accompanied by their whānau (extended family), youth advocates, lay advocates, support workers and social workers. Victims are welcome to attend the Rangatahi Court and, if present, are invited by the Registrar to attend both the pōwhiri and the relevant individual hearing.
52. Each young person's hearing is commenced by a respected elder reciting a mihi whakatau (a brief speech of greeting). The young person is then expected to stand and recite his or her pepehā. Following this, the young person is then expected to sing a waiata (song of support) with his or her whānau. The young person is then asked to introduce all of the people who have come with him or her. The Police Court Officer will introduce the victim to the Rangatahi Court.
53. The Rangatahi Court will hear from the young person and those present in support of the young person who wish to speak. If present, the victim will be asked whether he or she wishes to speak. The presiding Judge will then give further directions based on what has been discussed. The respected elders are then asked whether they wish to address the young person and his or her whānau. Once the respected elders have finished speaking, the young person and his or her whānau and other supporters are invited to come forward for a farewell handshake and hongi with the officers of the Rangatahi Court, the presiding Judge and the respected elders.
54. If, while having an FGC plan monitored in the Rangatahi Court, a young person is charged with new offending, the young person must make his or her first appearance on the new charge at the Youth Court. The Youth Court Judge will then give case specific directions.
55. Once a young person has completed his or her FGC plan, the Rangatahi Court will dispose of the charges, usually in accordance with the FGC plan recommendations.
56. Interpretation will be provided for any te reo Māori that is used so that everyone present is able to understand what is being said during the hearing.

### **Rangatahi Court: Whakawhanaungatanga**

57. It is now an integral part of the Rangatahi Court process for a whakawhanaungatanga (round of introductions) to be conducted after the pōwhiri. There is an expectation during the whakawhanaungatanga session that all participants present will stand and recite their pepeha.
58. The whakawhanaungatanga session is conducted by participants arranging their seats in a wide circle. Each participant then stands to address the gathering, including the young people and their whānau, and all of the stakeholders. The presiding Judge will also participate. The Judge will outline the rules contained in s 438 of the CYPF Act regarding

confidentiality of names of those young people who are appearing on that day and restrictions on publication of names and photographs etc.

59. The whakawhanaungatanga session presents an opportunity for those young people who are more advanced in learning and reciting their pepeha to act as role models for those in the beginning stages. The same dynamic applies with stakeholders.

### **Rangatahi Court: Pepeha**

60. During the time that the young person's performance of the FGC plan is monitored by the Rangatahi Court, it is expected that the young person will work on his or her pepeha with the assistance of a Lay Advocate, and will further his or her cultural knowledge by attending tikanga wānanga (or a similar learning programme).

### **Rangatahi Court: Tikanga Wānanga**

61. Every Rangatahi Court should have a tikanga wānanga available for young people to attend as part of their FGC plan. The tikanga wānanga may or may not be held at the marae.
62. Tikanga wānanga are designed for Māori young offenders generally to assist them to learn their pepehā, to learn about their culture, and to develop a sense of identity and belonging as a member of a whānau, hapū and iwi.
63. An appropriate tikanga wānanga must be in place before the operation of any Rangatahi Court is launched. Each region should strive to develop their own wānanga utilising the skills and knowledge of the local people in each area.
64. In most cases, the young person will commit his or her pepeha to memory and will develop confidence to stand and recite it at the Rangatahi Court, both during the whakawhanaungatanga and at the beginning of his or her case.



*Kapahaka performance at the launch of the Pukekohe Rangatahi Court – 30 September 2011*

### **Rangatahi Court: Victim Attendance at Rangatahi Court**

65. Victims are entitled to attend Youth Court hearings pursuant to s 329(ja) of the CYPF Act.
66. Victims of offending are entitled to attend Rangatahi Courts to observe the hearing of a young person who has offended against them. Victims are welcome to attend the pōwhiri, and are welcome to observe and participate in the hearing of the individual young person.
67. It is the responsibility of Police, Victims Advisors, Victim Support, and Youth Justice Coordinators, to make victims aware of their right to attend Rangatahi Court sittings and to encourage and support their attendance. Proper management of a victim's attendance and participation in a Rangatahi Court is vital.

### **Rangatahi Court: Stakeholders**

68. The Rangatahi Court Registrar sets the order of hearings for the Rangatahi Court. A list of young people whose case is to be called in the Rangatahi Court will be sent to the Rangatahi Court stakeholders by midday of the day preceding the Rangatahi Court date.
69. The Rangatahi Court stakeholders are:
- a. Youth Advocates;
  - b. Lay Advocates;
  - c. Kaumātua and kuia (respected elders) assisting the Rangatahi Court;
  - d. Police Youth Aid Prosecutors, Police Youth Aid Officers and Crown Solicitors;
  - e. Child Youth and Family Court Officer and Social Workers;
  - f. Youth justice Coordinator(s);
  - g. Iwi / NGO service provider representatives;
  - h. Youth Forensics representative;
  - i. Ministry of Education Officer;



*Visitors welcomed onto Hoani Waititi Marae in West Auckland at the launch of the Hoani Waititi Rangatahi Court – 10 March 2010*

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### Rangatahi Court: Sitting Times

70. Morning sessions for Rangatahi Courts start with a pōwhiri at 9.30am. The pōwhiri, whakawhanaungatanga and morning tea will be completed within 45 minutes. Individual hearings commence at 10.15am.
71. A maximum of six young people shall be set down for a morning session. This allows an allocation of 20-30 minutes per young person for each hearing (total 3 hours).
72. The Rangatahi Court adjourns for lunch between 1pm and 1.30pm.
73. Afternoon sessions for the Rangatahi Court start with a pōwhiri at 1.30pm. The pōwhiri, whakawhanaungatanga and afternoon tea will be completed within 45 minutes. Individual hearings commence at 2.15pm.
74. A maximum of six young people shall be set down for an afternoon session. This allows an allocation of 20-30 minutes per young person for each hearing (total 3 hours).



*Judge Becroft inviting all those involved in the Owae Rangatahi Court in Taranaki to stand – 26 June 2010*