

'Should be banned': 14-year-old spends two nights in police cells

Edward Gay

March 09, 2024 - 05:00am

➔ Share



Bed shortage leads to child spending time in prison

VIDEO CREDIT: STUFF

- **A 14-year-old spent two nights in police cells after Oranga Tamariki failed to find him a bed.**
- **He was eventually flown to Christchurch where he is being held, away from his parents and support network.**
- **Young people can be held in police cells but the United Nations, the Children's Commissioner and some youth advocates spoken to by Stuff want to see an end to the practice.**

A 14-year-old spent two nights in police cells in West Auckland because Oranga Tamariki failed to find him a bed.

It took 48 hours for the Government department in charge of caring for the country's most vulnerable children to find him a place in a youth justice facility.

But the bed was in Christchurch, isolating the teenager from his parents and support network.

Teenagers between 14 and 17 years old can be remanded in custody if there is a fear that the young person will be violent or go on the run.



A room at Korowai Manaaki, an Oranga Tamariki youth justice facility in South Auckland.

CHRIS MCKEEN/STUFF

But if Oranga Tamariki can't find them a bed at a youth justice residence, the young person will be remanded to a police cell. It is only ever meant to be a last resort.

There's a good reason for that, said veteran youth advocate Helen Bowen.

"Either one of two things happen. Either they think: 'This is quite exciting, I'll do this again' or 'This is terrifying.'"

She said neither resulted in a positive outcome.

Bowen was the duty youth advocate on one of the days the teenager appeared at Waitākere Youth Court.

"He's very small, he looks 9 or 10."

The teenager had been charged with breaking into cars, dangerous driving and failing to stop for police.

ADVERTISEMENT

He sobbed in the dock throughout the hearing, Bowen said.



The Waitakere District Court.
ABIGAIL DOUGHERTY / STUFF

Both parents took time off work to be in court but his application for bail was declined.

Bowen said sending the teenager to Christchurch had cut him off from his family.

“It just puts everything on hold, it’s not a good solution. It’s not a sustainable one.”

Sometimes young people were sent to motels with 24-hour trackers instead of being housed in cells, but that did not appear to be an available option in the case heard in February.

Bowen said all Government departments had been directed to cut expenditure and that may have led to Oranga Tamariki remanding young people in police cells.

She said the issue had been ongoing for years and nothing had been done.

ADVERTISEMENT

“There will be a suicide in a cell.”

Bowen said that a tragic event might be the only thing that created real change.

“I hope it isn’t, but maybe that’s what it will take.”



Principal Youth Court judge Ida Malosi
SUPPLIED

Judge Ida Malosi spent 20 years on the bench in the Manukau Youth Court before being appointed Principal Youth Court judge.

She said holding young people in police cells had always been a concern.

“If you talk to the police, they will say we don’t want them because we’re not set up to have them.”

Oranga Tamariki staff were also unhappy with the practice, she said.

ADVERTISEMENT

ADVERTISE WITH STUFF

“It doesn’t take a rocket scientist to know Oranga Tamariki has issues in recruitment and retention around Youth Justice. They’re working really hard on it.”

Judge Malosi said judges were not told when there were no Oranga Tamariki beds available.

“Ideally I would not necessarily want to know that. My consideration is: ‘Should they be remanded in custody?’... [my] concern is: ‘Are the legal grounds made out?’”

Every morning senior police and Oranga Tamariki staff met with her clerk and she received a report on each young person in police custody.

She said the young person was brought back to court every day they were in police custody and were seen by a judge. Police custody staff would report any issues to prosecutors and that would also be passed on to the judge.

“There are lots of eyes. If a young person is distressed, they’re not shy about telling you.”

She said police officers had told her the young people reverted to being children in the cells.

“They’re sad, they’re crying, they’re not the tough guy that’s just done a ram raid. They just want their mum.”

ADVERTISEMENT

ADVERTISE WITH STUFF

That can also be apparent in the courtroom. Judge Malosi recalled one young man who came into court and stood and faced the wall while his grandmother watched on from the public gallery.

“He could not face his grandmother. He turned around and wept... and she sobbed.”

Asked if remanding young people in police custody took a toll on judges, Judge Malosi said it would be disingenuous to deny that.

“But the mark of a good judge is to always retain your humanity, justice and mercy. They go hand in hand. Exercising our judgment is core to our role and we do that without fear or favour but we should never do that without feeling and humanity.

“For me personally, the day I stop feeling will be the day to go gardening... And I hate gardening.”



Chief Children's Commissioner Dr Claire Achmad. (File photo)
DAVID UNWIN / THE POST

Children's Commissioner Claire Achmad said locking children in police cells contravened the United Nations Convention on the Rights of the Child.

ADVERTISEMENT

[A UN review of New Zealand's compliance with the convention,](#)
published in February 2023, called on the Government to end the
practice of locking children up in police cells.

Like her predecessor, Judge Andrew Becroft, Achmad said she wanted to see the practice banned.

"I'm very clear, children should not be held in police cells. Police cells are no place for children to be."

She planned to raise a possible law change with the Minister for Children, Karen Chhour.

"The other concern I have is there's no time limit that children can be held."

Anecdotally, Achmad had heard of cases where a young person had been held in police cells for up to four days.

She said her team regularly spoke to children being held in Youth Justice facilities.

"Something that is coming through is that part of that journey includes time held in a police cell.

"If we think about what that is like, the environment is pretty rough, isolating and distressing for children."

ADVERTISEMENT

She said police cells were often unhygienic, there's a lack of support and they caused distress and trauma which could increase the risk of physical, emotional and self-harm.

"It is clearly out of step of where we want to be with how we treat children. As a small and relatively rich country, we do have the capacity to uphold children's rights."

MORE FROM
EDWARD GAY - SENIOR REPORTER

edward.gay@stuff.co.nz

The media is prevented from reporting Youth Court cases, without the express permission of a Youth Court judge.

Stuff's application to report the case was opposed by Oranga Tamariki, however Judge Pippa Sinclair allowed reporting, subject to statutory suppressions that protect the identity of the young person.

Stuff asked Oranga Tamariki why a 14-year-old was held in police cells and if it was acceptable.

"Oranga Tamariki is working to build its capacity in the workforce within its residences and community homes following the rapid review," the deputy chief executive of Youth Justice, Tusha Penny, said in a statement.

Penny said the youth justice facilities were running at "maximum safe operating capacity".

ADVERTISEMENT

ADVERTISE WITH STUFF

The number of young people being held in Oranga Tamariki custody had been steadily increasing, aside from a blip during the Covid lockdowns.

An Oranga Tamariki report, titled Youth Justice Trends, published in July 2023, shows "custodial remands" have contributed to that rise.

"Custody numbers will have to flatten out eventually if maximum capacity is reached, and this could have negative consequences, such as an increase in young people detained in police custody."



Superintendent Phil Taikato.
CHRISTEL YARDLEY/STUFF

The director of prevention partnerships, Superintendent Phil Taikato, said a 14-year-old was held in police custody only when “all other custody options have been exhausted”.

He said the young person’s remand in police custody must be reviewed by the Youth Court every 24 hours and they did not mix with anyone over 18.

Taikato said the young person was checked five times every hour and visits were encouraged.

“Police recognise that placing young people in the care of police, in a cell, comes with risk, and in most circumstances is not a suitable facility to hold young people for long periods of time.”

- Stuff

➔ [Share](#)