



NGĀ PAE O TE  
MĀRAMATANGA

New Zealand's Māori Centre of Research Excellence

Tamariki and Whānau who come to the attention of

# Oranga Tamariki and the Family Court

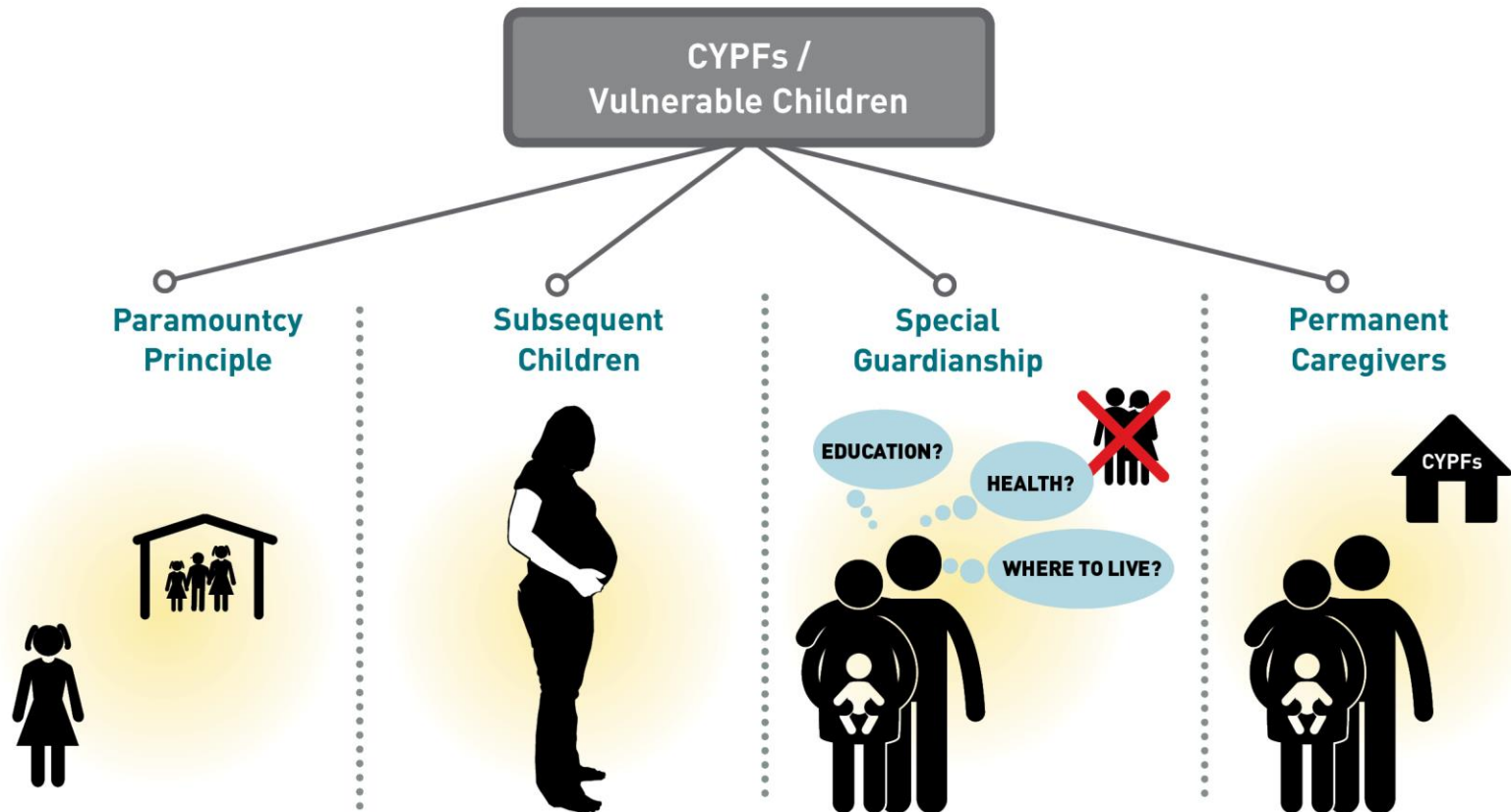
Presenters:

Professor Jacinta Ruru,  
Dr Heather Gifford,  
Horiana Irwin,  
Tania Williams Blyth

# Justice Pipeline



# CYPFs / Vulnerable Children



A RESEARCH PAPER

---

*Care & Protection of our  
Māori Children, our Future:*

# A Whānau Perspective

*Contributors:*

Whakauae Health Research Unit

Dr Amohia Boulton

Gill Potaka-Osborne

Mel Potaka-Osborne

Te Kōpū Legal

Tania Williams Blyth

# MOKOPUNA ORA



*Mokopuna Ora is a partnership between*

**WAIKATO  
TAINUI**

 **child, youth  
and family**  
tamaiti, te rangatahi,  
tae atu ki te whānau

# Children, Young Persons & Their Families (Oranga Tamariki) Legislation Bill



- Maori abuse their children
- Extended whanau re-victimise their mokopuna
- Maori are part of the problem
- Maori, its culture and values are not the solution



- Maori make up 15% of the NZ population
- Maori children make up 30% of the children in NZ
- 57% of the children seen by CYFs by the time they are 5 are Maori
- Maori children make up 60% of the children in care
- Anecdotal evidence of significant re-victimisation of children and young people in care

- 60% of children exiting care were Maori
- 23% of children who returned to their parents were re-abused
- 10% of children who were placed with extended whanau were re-abused within 18 months



MINISTRY OF SOCIAL  
DEVELOPMENT  
TE MANATU WHAKAHIAO ORA



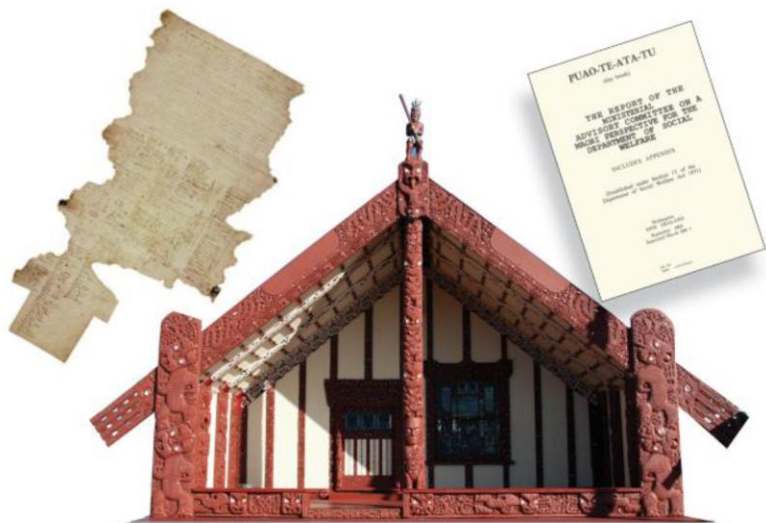


**CHILDREN, YOUNG PERSONS,  
AND THEIR FAMILIES  
(ORANGA TAMARIKI)  
LEGISLATION BILL  
(the Bill)**

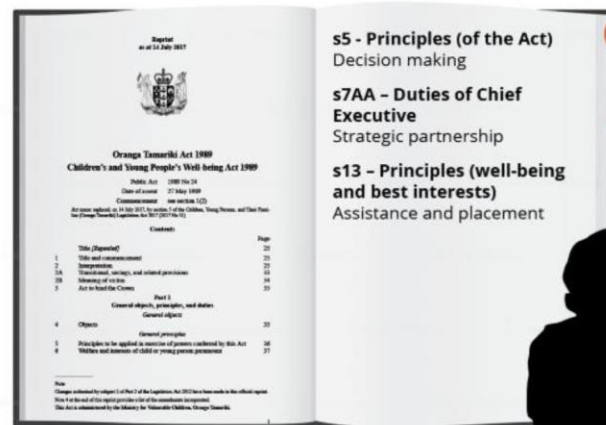
**SUBMISSION TO THE  
SELECT COMMITTEE  
ON SOCIAL SERVICES**

**IWI LEADERS GROUPS ON  
WHĀNAU ORA AND JUSTICE**

**CO-CHAIRS:      RAHUI PAPA  
                         NAIDA GLAVISH**



- Mana tamaiti (tamariki)
- In accordance with tikanga Māori
- Whakapapa
- Whanaungatanga



## SUBSEQUENT CHILDREN



## SPECIAL GUARDIANSHIP



"V"





# TE KORIMAKO

## Legal Education

A Māori initiative to educate and support whānau who come to the attention of Oranga Tamariki and the Family Court



THE WHĀNAU WAS, AND STILL IS, THE ESSENTIAL GLUE THAT HOLDS MĀORI CULTURE TOGETHER.

Justice Joseph Williams

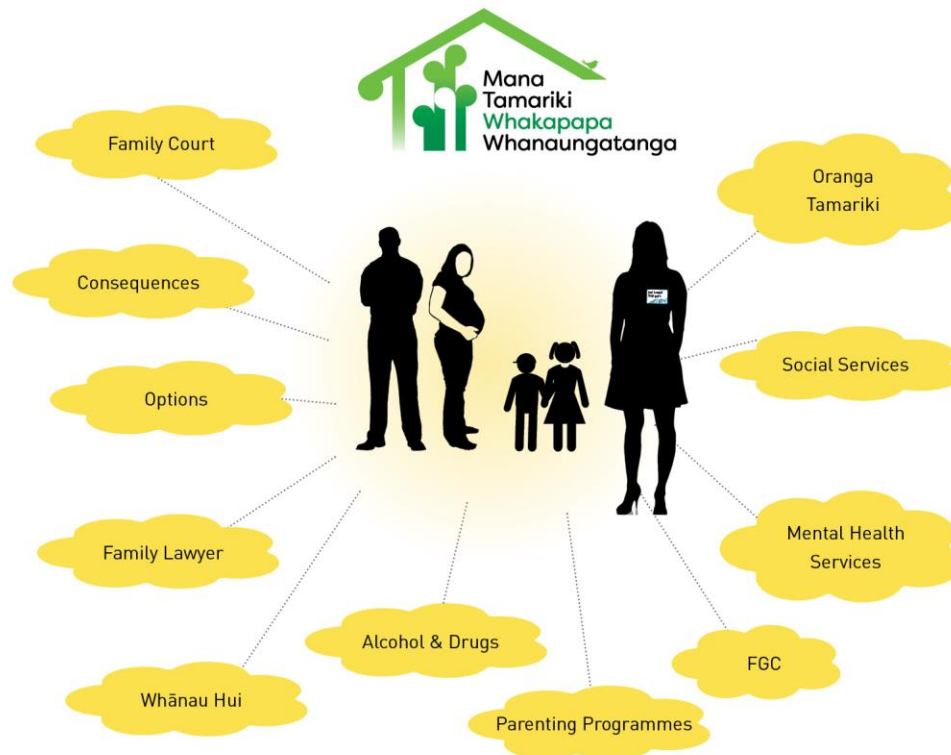
# Iwi Māori Legal Navigators

The role of legal navigator has been designed to support, educate and provide information to whānau who come to the attention of the department (Oranga Tamariki). The model is built around an Iwi Māori/Whānau partnership to support whānau to take back control.

Engagement with whānau is an opportunity to ensure that they fully informed of the care and protection process including the issues raised in the report of concern, the role of the social worker, the options available and the possible consequences of those options.

Whānau can also be assisted to resolve any issues prior to any involvement of the Family Court whether that is by whānau hui and/or the FGC. To support whānau to exercise/recapture what was once a natural ability to generate and implement solutions for the safe care of their children.

It is possible to extend that assistance to the Family Court by providing an explanation of the in-Court process, supporting whānau in Court and, if necessary, to put their plan forward.



# ORANGA TAMARIKI ACT 1989

**“... reducing disparities by setting measurable outcomes ...”**

***Section 7AA(1) - The duties of the chief executive are imposed in order to recognise and provide a practical commitment to the principles of Te Tiriti of Waitangi***

***Section 7AA(2) - The chief executive must ensure that –***

- ***(a)** the policies and practices of the department that impact on the well-being of children and young persons **have the objective of reducing disparities by setting measurable outcomes for Māori children and young persons** who come to the attention of the department:*
- ***(b)** the policies, practices, and services of the department **have regard to mana tamaiti (tamariki) and the whakapapa of Māori children and young persons and the whanaungatanga responsibilities of their whānau, hapū, and iwi:***

# ORANGA TAMARIKI ACT 1989

## “... reducing disparities...”

*Disparity*: Unequal treatment when comparing a racial or ethnic minority to a non-minority. This can be observed in many forms including decision points (e.g., reporting, investigation, substantiation, foster care placement, exit), treatment, services, or resources” (Hill, 2006).

- Between 2004 and 2017 the number of Māori children in care rose from 1,844 (39% of all children in care) to approximately 3,518 (62% of all children in care). This represents a 23% increase in the number of Māori children in care.
- Conversely the number of Pakeha children in care reduced from 2,251 (48 % of all children in care) to approximately 1538 (21% of all children in care).
- A simplistic view of the above numbers is that in 2004 there were 407 more Māori children in care than NZ Pakeha. In 2017 that disparity had increased to 1980 more Māori children in care than NZ Pakeha.
- However, making that comparison fails to take into account that Māori are only 15% of the population in New Zealand. Given the projected increases in the Māori population, the prognosis for the future well-being of our children is not currently a positive one.

# ORANGA TAMARIKI ACT 1989

## “... setting measurable outcomes ...”

- Identifying and measuring the disparities is assumed to be the first step in developing strategies to address the inequalities.
- Then setting measurable outcomes.
- Within the legal framework and the reality of whānau lives:
  - How do we know what the right questions to be asked are?
  - How do we maximise the interests of whānau?
  - What data do we need?
  - How do we respond more quickly to implement practices that are working for Māori and suspend/change/stop the ones that are not?
  - How will we know the difference?

# ORANGA TAMARIKI ACT 1989

## “... setting measurable outcomes ...”

### A. Section 7AA (5) – Chief Executive reporting on improving outcomes including;

- *Have the policies and practices of the department, by setting measurable targets, reduced the disparities for Māori children who came to their attention?*
- *Have the policies and practices, and services had regard to mana tamaiti(tamariki) and the whakapapa of Māori children and the whanaungatanga responsibilities of their whānau, hapū and iwi?*
- *Strategic partnerships*

# ORANGA TAMARIKI ACT 1989

## “... setting measurable outcomes ...”

### **B. Section 4 – Measuring disparity against the purposes of the purposes of the Act including;**

- *Have whānau, hapū and iwi been assisted to prevent their children from suffering harm or offending? If so, how? If not, why not?*
- *Have whānau, hapū and iwi been assisted at the earliest opportunity to fulfil their responsibility to meet the needs of their children?*
- *Have whānau, hapū and iwi been assisted and empowered to effectively engage and participate in proceedings that involve their children? If so, how? If not, why not?*
- *Has the implementation of the Act provided a practical commitment to the principles of the Te Tiriti o Waitangi?*
- *Has mana tamaiti (tamariki), whakapapa and the practice of whanaungatanga been recognised? If so, how? If not, why not?*

# ORANGA TAMARIKI ACT 1989

## “... setting measurable outcomes ...”

### **B. Section 4 – Measuring disparity against the purposes of the purposes of the Act including;**

- *Have Judges and other decision makers demonstrated that they understand the meaning of mana tamaiti (tamariki), whakapapa and the practice of whanaungatanga?*
- *Have the relationships for children with whānau, hapū and iwi been maintained and strengthened? If yes, how? If no, why not?*
- *Have the policies and practices of the department, by setting measurable targets, reduced the disparities for Māori children who came to their attention?*
- *Have the policies and practices, and services had regard to mana tamaiti(tamariki) and the whakapapa of Māori children and the whanaungatanga responsibilities of their whānau, hapū and iwi?*
- *Strategic partnerships*

# ORANGA TAMARIKI ACT 1989

## “... setting measurable outcomes ...”

**C. The decision-making timeline** - another approach may require an assessment of each point of the process including the way in which the child “came to the attention of the department” and every decision point thereafter including the Family Court process.

*Not the preferred approach.*

# Māori Capability, Capacity and Confidence

Setting targets and measuring outcomes on an annual basis provides a significant opportunity to build Māori whānau capability, capacity and confidence; an opportunity to identify what is working, what isn't and what needs to change.

**To achieve this, there must be a focus on engaging with whānau and asking the right questions.**

# FAMILY COURT

- Family Court Review (2011), Reform (2014) and recently announced review (April 2018)
- Two outcomes of the Family Court review in 2011 identified that:
  - Current court processes were complex, uncertain, and too slow;
  - There was a lack of focus on children and vulnerable people.
- The objectives, as assessed by the team at University of Otago, of the review were to:
  - To encourage faster and less adversarial resolution of family disputes;

# FAMILY COURT

- The objectives, as assessed by the team at University of Otago, of the review were to:
  - To make the Family Court more efficient and effective;
  - To mitigate the adversarial nature of court proceedings;
  - To improve the Court's response to victims of domestic violence;
  - To better target resources in the family justice system in order to ensure the system remains sustainable in the future and to enable the court to support those children and vulnerable people who most need protection; and
  - For disputes requiring a judicial decision the process should be “understandable, simple, transparent, timely, and proportionate to the dispute”.

# FAMILY COURT

*These objectives have yet to be achieved.*

*Long delays in the Family Court are now evident at every court in the country and the government can no longer ignore the problem, lawyers say.*

***Principal Family Court Judge L Ryan***

***20.10.16***

*What we are seeing now is incredible delays in the Family Court and particularly where children are concerned, that's not fair. They can't sit around for 12-15 months waiting for their parents to sort out their issues, that's too long a period of time for a child*

***Minister Little***

***10.04.18***

# FAMILY COURT

*... The current crisis in the Family Court is just causing so much harm for so many families.*

**Minister Little**

**10.04.18**

*As the second biggest division of the District Court, the Family Court is under enormous strain. It deals with the most basic rights to care, shelter and protection for our most vulnerable New Zealanders, be they mentally unwell, elderly, domestic violence victims, abused and neglected children or those families being torn apart by intractable contact and custody disputes.*

**Chief Judge Doogue**

**24.05.18**

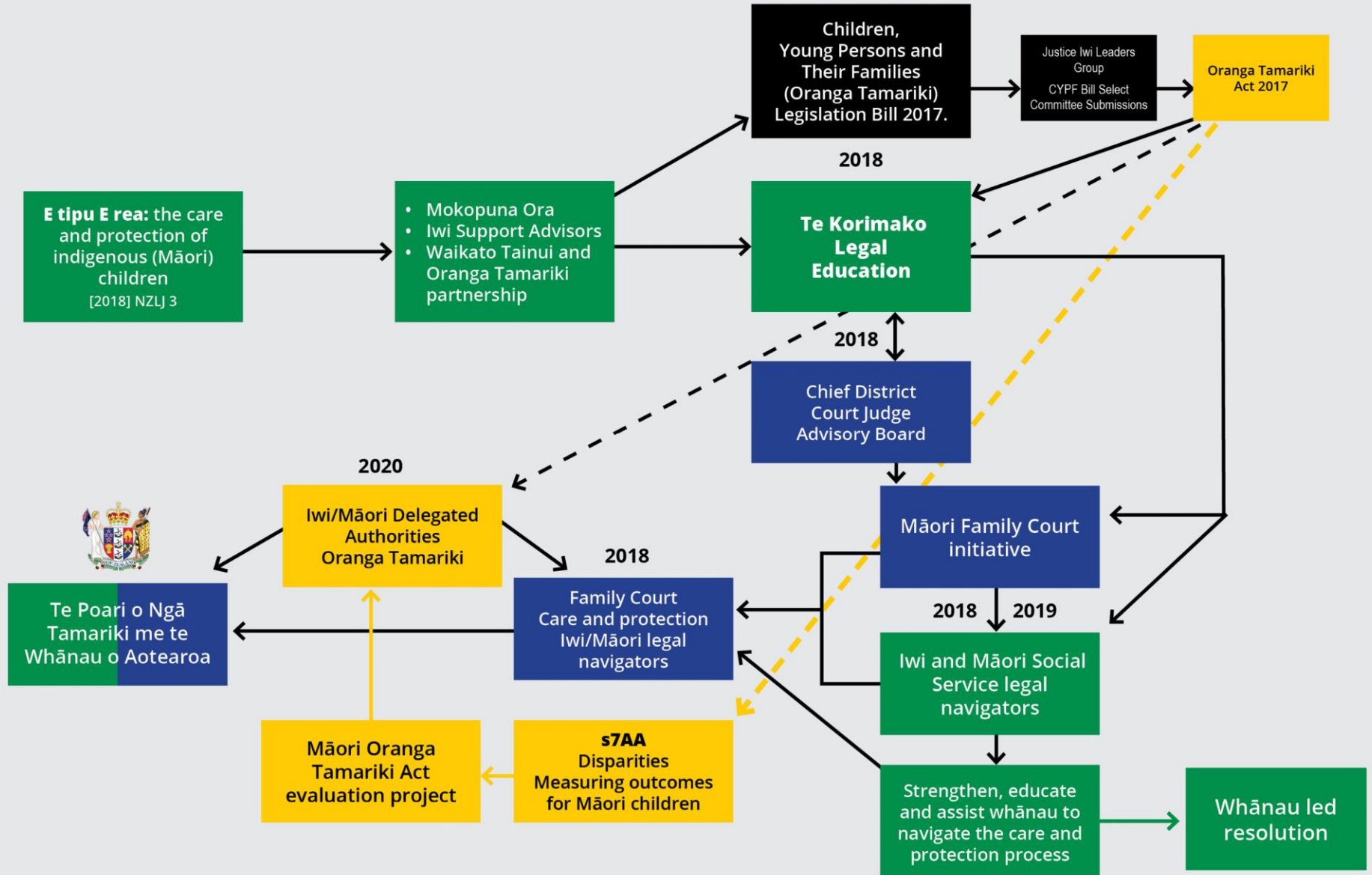
# HE HURAH! HOU

The Family Court is in crisis.

We think care and protection cases should be taken out of the Family Court.

A new model needs to be developed.

# Tetahi huarahi ki te oranga o Ngā Tamariki me te Whānau



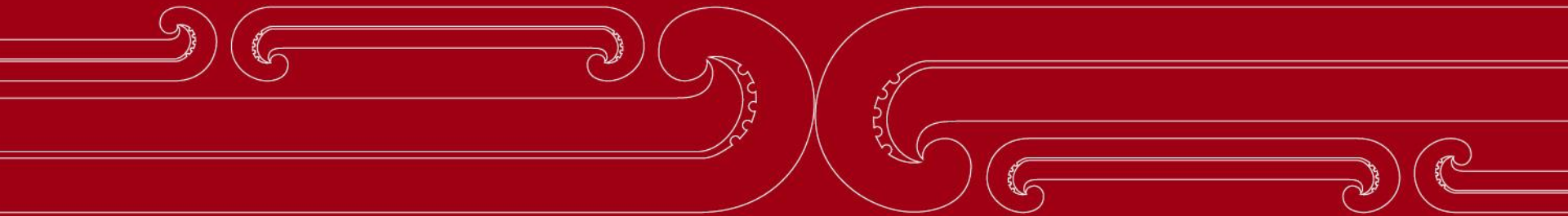


Te Poari o Ngā  
Tamariki me te  
Whānau o Aotearoa



NGĀ PAE O TE  
MĀRAMATANGA

[www.maramatanga.ac.nz](http://www.maramatanga.ac.nz)



TRANSFORMATION THROUGH RESEARCH EXCELLENCE