

Drivers of wāhine Māori hyper-incarceration

Ināia Tonu Nei, November 2025

Table of Contents

<i>Drivers of wāhine Māori hyper- incarceration</i>	1
<i>Introduction</i>	3
Hyper-incarceration of wāhine Māori	3
Limitations.....	5
<i>Structural drivers</i>	6
The dismantling of social foundations	7
The restructuring of the economy	8
The systematic undermining of wāhine Māori	9
The destruction of tikanga-based systems of justice	11
<i>Institutional drivers</i>	16
Apprehensions	17
Prosecution	18
Sentencing.....	19
Justice related legislation and policy	21
<i>Individual and interpersonal drivers</i>	25
Victimisation and trauma	25
Mental illness and addiction.....	27
Disability	27
Traumatic Brain Injuries	28
Economic deprivation	30
<i>Bibliography</i>	33
<i>Appendix</i>	37

Introduction

Wāhine Māori experience some of the most severe and persistent inequities across the justice system in Aotearoa and have the highest rates of incarceration - yet they remain largely invisible within justice research and data. Most studies focus broadly on Māori without disaggregating gender or treat men as the default subject of criminological research. As Tracey McIntosh observes, wāhine Māori in prison are “a socially submerged population, marginalised in literature and public consciousness,” despite imprisonment in Aotearoa becoming an increasingly “feminised experience.”¹

This invisibility reflects a wider pattern of erasure and marginalisation that is also evident internationally. Across settler-colonial countries, Indigenous women are disproportionately imprisoned for lower-level offences linked to deprivation, trauma, violence and structural disadvantage. These parallels indicate that hyper-criminalisation is shaped not by individual behaviour alone but through the combined effects of colonialism, patriarchy, racism, socio-economic exclusion and institutional bias. Without understanding these drivers, wāhine Māori continue to be framed as individual offenders rather than as women navigating the ongoing effects of colonisation, inequity and state harm.

This report examines how these forces operate in Aotearoa. It explores colonisation as a structural driver, inequities and bias across institutions such as policing, courts, corrections, health and social services, and the individual and interpersonal factors that arise from these contexts - including trauma, violence, mental distress and unmet needs.

In doing so, the report brings together and contextualises existing quantitative data on wāhine Māori who experience incarceration. Its purpose is to illuminate the pathways that draw wāhine Māori into the justice system, the structural and institutional conditions that sustain their over-representation.

Hyper-incarceration of wāhine Māori

This report adopts the term *hyper-incarceration*, as described in *Ngā Wero a te Mana Wāhine* (a Waitangi Tribunal-commissioned report), to refer to the “targeted and selective incarceration of specific social groups, particularly those marginalised by race, class and location, driven by structural forces such as capitalism, colonialism, and racism.”²

¹ Tracey McIntosh, “Marginalisation: A Case Study. Confinement,” in *Māori and Social Issues*, ed. Tracey McIntosh and Malcolm Mulholland (London: Huia Publishers, 2013), 45–62, accessed July 29, 2025, ProQuest Ebook Central, 45.

² Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024), https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf, 21.

This framing recognises that such groups are “not just disproportionately imprisoned, but are targeted by systemic practices.” As the report notes, “prison growth is finely targeted and concentrated among Māori,” reflecting not higher offending rates but deeper structural factors - systemic racism, deprivation, and historical marginalisation. These entrenched inequities contribute to harsher sentencing, limited access to culturally appropriate support, and ongoing cycles of exclusion.³

In 2023, wāhine Māori made up 72 percent of all incarcerated women (including those on remand or sentenced). This proportion has remained consistently high in recent years, with wāhine Māori representing 60 percent of the women’s prison population in 2022, 73 percent in 2021, and 70 percent in 2020.⁴

Wāhine Māori are significantly overrepresented across a wide spectrum of offence types within the women’s prison population (see appendix for data table). In 2023, the most common offences for imprisoned wāhine Māori related to theft and breaking and entering - 22 percent of wāhine Māori in prison were imprisoned with theft and 17 percent for breaking and entering. Strikingly, wāhine Māori accounted for 79 percent of all women imprisoned for theft, and 71 percent of all women imprisoned with breaking and entering.⁵

Acts intended to cause injury account for 16 percent of wāhine Māori prison sentences, and they represent 73 percent of women sentenced for this category. A further 10 percent were serving sentences for offences against justice procedures, again making up 71 percent of all women imprisoned for such offences.⁶

These patterns indicate that wāhine Māori imprisonment is concentrated in lower-level offences linked to socio-economic deprivation, marginalisation and survival behaviours – such as theft, fraud, traffic violations and breaches of justice procedures. This was also recognised in the *Ngā Wero a te Mana Wāhine* report that noted “contrary to previous analyses... wāhine Māori were not predominantly involved in severe violent crimes. Instead, wāhine Māori incarceration was primarily driven by offences, classified by the ANZSOC as moderate to minor offences.”⁷

Across a 24-year period (1998–2022), wāhine Māori remained more likely to be imprisoned and to serve shorter sentences than wāhine Pākehā, raising concerns about the fairness and integrity of the criminal justice system - particularly the discretionary

³ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024), https://forms.justice.govt.nz/search/Documents/WT/WT_DOC_219799626/Wai%202700%2C%20B008.pdf, 21.

⁴ StatsNZ. *Data set: Annual Sentenced Prisoner Population for the latest Calendar Years (ANZSOC)*.

⁵ StatsNZ. *Data set: Annual Sentenced Prisoner Population for the latest Calendar Years (ANZSOC)*.

⁶ StatsNZ. *Data set: Annual Sentenced Prisoner Population for the latest Calendar Years (ANZSOC)*.

⁷ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024), https://forms.justice.govt.nz/search/Documents/WT/WT_DOC_219799626/Wai%202700%2C%20B008.pdf, 65.

practices at the stages of arrest, prosecution, and sentencing.⁸ This data not only illustrates the scale of disproportionate contact with the criminal justice system but also highlight the need to examine the broader structural and institutional drivers of wāhine Māori incarceration.

Taken together, these findings underscore that hyper-incarceration cannot be understood through individual circumstances alone but must be examined within the wider structural and institutional systems that sustain these outcomes.

Limitations

This report focuses on selected structural, institutional, and individual drivers of wāhine Māori hyper-incarceration, but it does not capture **all** of the significant factors that shape wāhine Māori experiences with the justice system. There are critical areas that sit outside the scope of this work and remain unexamined in this report.

One of the most important omissions is the impact of the care system. Experiences of being in care, having whānau in care and heightened surveillance by the care system (specifically Oranga Tamariki, formerly CYFS) are known to contribute to pathways into the justice system. There is substantial literature on the care-to-prison pipeline, and further work is needed to understand how these dynamics specifically affect wāhine Māori.

The report also does not examine the wider institutional environments that strongly influence wāhine Māori lives. Systems such as health, education, housing, welfare, and the labour market shape the conditions in which wāhine Māori become vulnerable to criminalisation. These systems consistently fail to meet Māori needs, contributing to long-term patterns of poverty, unstable housing, limited access to healthcare, and inconsistent educational support, as well as reductions in social support and heightened state visibility.

Finally, it is important to acknowledge the limitations of the evidence base. There remains limited research that focuses specifically on wāhine Māori, and many available data sources do not adequately capture gendered experiences. We recognise these gaps limit the comprehensiveness of this report.

⁸ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024), https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf, 65.

Structural drivers

This chapter argues that colonisation is the central structural driver of wāhine Māori incarceration, and that the hyper-incarceration of wāhine Māori is one of the ways colonisation continues to manifest today. Colonisation is understood here not as a singular historical event, but as an ongoing structural process that has embedded settler systems of law, governance and social organisation into the foundations of Aotearoa, while marginalising Māori systems and authority.

As a structural driver, colonisation fundamentally altered the social, economic, cultural and political conditions within which Māori live. It dismantled tikanga-based systems of collective care, justice and governance, and replaced them with settler institutions grounded in individualism, patriarchy and punitive control.⁹ It has been described as a “radical force for institutional change” that reshaped power and authority,¹⁰ and as an “ongoing process of oppressing Indigenous peoples causing cumulative harm, while maintaining colonial white supremacy and its self-perpetuating systems of institutional harm.”¹¹

These patterns are not unique to Aotearoa. Indigenous women across settler-colonial countries such as Australia, Canada and the United States experience disproportionate criminalisation.¹² This reflects the broader logic of settler colonialism: the imposition of foreign legal systems, the dispossession of Indigenous land and resources, the consolidation of settler power and control over Indigenous peoples, and the attempted destruction of Indigenous cultural, social and governance structures.

In Aotearoa, these structural transformations laid the groundwork for the later criminalisation of Māori behaviour and identity. Wāhine Māori were affected in unique ways, as colonisation redefined gender roles, undermined traditional forms of leadership and collective support, and imposed patriarchal norms that continue to shape their lives, and the ways society and the justice system respond to them.

⁹ Patrick Wolfe, “Settler colonialism and the elimination of the native,” *Journal of Genocide Research* 8, no. 4 (2006): 387–409, <https://doi.org/10.1080/14623520601056240>, 1.; Te Maire Tau and Matthew Rout, “The Tribal Economy,” *Journal of New Zealand Studies*, no. NS27 (2018): 92–109, <https://doi.org/10.26686/jnzs.v0iNS27.5178>.

¹⁰ Te Maire Tau and Matthew Rout, “The Tribal Economy,” *Journal of New Zealand Studies*, no. NS27 (2018): 92–109, <https://doi.org/10.26686/jnzs.v0iNS27.5178>, 94.

¹¹ Leonie Pihama, Ngaropi Cameron, Rihi Te Nana, *Historical trauma and whānau violence*, Issues Paper 25 (New Zealand Family Violence Clearinghouse, 2019), 10.

¹² Australian Law Reform Commission, “Incidence,” in “11. Aboriginal and Torres Strait Islander Women,” *Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (ALRC Report 133)* (Sydney: Australian Law Reform Commission, 11 January 2018), para. 11.7. <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/11-aboriginal-and-torres-strait-islander-women/incidence/>; Scott Clark, Overrepresentation of Indigenous People in the Canadian Criminal Justice System: Causes and Responses (Ottawa: Research and Statistics Division, Department of Justice Canada, 2019), “Overrepresentation: The Nature and Extent of the Problem,” 1, <https://www.justice.gc.ca/eng/rp-pr/jr/oip-cjs/oip-cjs-en.pdf>; Prison Policy Initiative, *Native Incarceration in the U.S.*, “Native people are overrepresented in prisons and jails,” <https://www.prisonpolicy.org/profiles/native.html>

This chapter therefore examines how colonisation as a structure – including the dismantling of whānau, the loss of land and economic foundations, and the denigration of wāhine Māori - created the conditions that continue to shape justice outcomes today.

The dismantling of social foundations

Prior to European contact, Māori lived within organised systems of care, justice, education, economy and governance that were grounded in tikanga. Although expressions of tikanga differ across whānau, hapū and iwi, they are grounded in collective responsibility and the importance of maintaining balance - between communities and their environment, people and their atua, and between members of communities.¹³

Māori lived within whānau, hapū and iwi collectives that provided the foundation for social, emotional and spiritual wellbeing. The viability of these communities required that everyone work alongside one another, with mutual support and respect.¹⁴ As Ani Mikaere has recognised:¹⁵

“The very survival of the whole was absolutely dependent upon everyone who made it up, and therefore each and every person within the group had his or her own intrinsic value. They were all part of the collective; it was therefore a collective responsibility to see that their respective roles were valued and protected.”

Whānau and hapū were the crucial social structures that provided care, protection and accountability and sustained balance within communities and upheld the mana of all members.¹⁶ Within these collective structures, children were raised and cared for collectively by the wider whānau, and wāhine were rarely isolated in their roles.

The strength of these whānau and hapū structures made them a direct threat to colonial authority, which relied on individualisation and centralised state control. Successive governments actively pursued and implemented policies aimed at breaking them down, imposing settler norms and ideologies, and asserting government control over Māori land and resources.¹⁷

¹³ Ināia Tonu Nei, *Traditional Māori life and concepts related to justice* (Aotearoa: Ināia Tonu Nei, 2024), 4, https://cdn.prod.website-files.com/650d11250274a5a48eb49e13/66ac02ff7047cffe02e9aca8_Ina%CC%84iaTonuNei_Traditional%20Ma%CC%84oriLifeAndConceptsRelatedToJustice_20240611_V2c.pdf; Ani Mikaere, “Colonisation and the Imposition of Patriarchy: A Ngāti Raukawa Woman's Perspective,” in *Mana Wahine Reader: A Collection of Writings, 1999–2019, Volume II*, ed. Leonie Pihama, Linda Tuhiwai Smith, Naomi Simmonds, Joeline Seed-Pihama, and Kirsten Gabel (Ōtaki: Te Tākupu, Te Wānanga o Raukawa, 2022), 8–10.; Ani Mikaere, *The Balance Destroyed* (Ōtaki: Te Tākupu, 2017), 70–71.

¹⁴ Ani Mikaere, *The Balance Destroyed* (Ōtaki: Te Tākupu, 2017), 70–71.

¹⁵ Ani Mikaere, “Colonisation and the Imposition of Patriarchy: A Ngāti Raukawa Woman's Perspective,” in *Mana Wahine Reader: A Collection of Writings, 1999–2019, Volume II*, ed. Leonie Pihama, Linda Tuhiwai Smith, Naomi Simmonds, Joeline Seed-Pihama, and Kirsten Gabel (Ōtaki: Te Tākupu, Te Wānanga o Raukawa, 2022), 9.

¹⁶ Leonie Pihama, Ngaropi Cameron, Rihi Te Nana, *Historical trauma and whānau violence*, Issues Paper 25 (New Zealand Family Violence Clearinghouse, 2019), 1.

¹⁷ Royal Commission of Inquiry into Abuse in State Care, *He Purapura Ora, he Māra Tipu – From Redress to Puretumu Torowhānui* (Presented to the Governor General, 2021), p29.

The reconfiguration of whānau into nuclear families were an inherent part of the missionary agenda since their arrival and was considered essential in assimilating Māori into “ideal citizens”.¹⁸ Ani Mikaere observed that,¹⁹

“It was clear right from the outset that Māori collectivism was philosophically at odds with the settler ethic of individualism. As Māori had their cultural and economic base wrested from them and as they were ravaged by introduced diseases their social structures were inevitably undermined. The disruption of Māori social organisation was no mere by-product of colonisation, but an integral part of the process.”

She further highlights how individual title to land, introduced through the Native Land Court, destroyed collectivism, facilitated extensive land loss and forced whānau to break into nuclear units and move to towns and cities in search of work. These measures systematically dismantled the collective structures that had sustained Māori social life for generations.

As these systems were dismantled, colonisation simultaneously imposed new social foundations grounded in settler ideology. These included an emphasis on individualism over collectivism, the nuclear family over whānau, Christian moral codes over Māori relational ethics, and centralised state authority over distributed leadership across hapū and iwi.

These imported norms reshaped daily life, altering expectations around family structure, social responsibility and community organisation, and embedding a worldview in which social issues were interpreted as individual shortcomings rather than collective concerns. Together, these transformations created long-term social conditions that continue to shape Māori experiences of marginalisation, state intervention and vulnerability within the justice system today.

The restructuring of the economy

Māori economic life prior to colonisation was grounded in land, resources, and Māori authority over their use. Whānau and hapū governed access and distribution through tikanga, ensuring that cultivation, manufacturing, and trade remained embedded in relationships of reciprocity and collective responsibility, rather than profit accumulation. These systems sustained stability, resilience, and autonomy.²⁰

¹⁸ Ahuriri-Driscoll, A, Blake, D, Potter, H, McBreen, K & Mikaere, A, “A ‘forgotten’ whakapapa: historical narratives of Māori and closed adoption, New Zealand Journal of Social Sciences Online,” 18(2), (2023), p 136.

¹⁹ Ani Mikaere, “Colonisation and the Imposition of Patriarchy: A Ngāti Raukawa Woman's Perspective,” in *Mana Wahine Reader: A Collection of Writings, 1999–2019, Volume II*, ed. Leonie Pihama, Linda Tuhiwai Smith, Naomi Simmonds, Joellee Seed-Pihama, and Kirsten Gabel (Ōtaki: Te Tākupu, Te Wānanga o Raukawa, 2022), 12.

²⁰ Te Maire Tau and Matthew Rout, “The Tribal Economy,” *Journal of New Zealand Studies*, no. NS27 (2018): 92–109, <https://doi.org/10.26686/jnz.s.v0iNS27.5178>, 97

The imposed settler economy was deliberately constructed to facilitate the transfer of Māori land and wealth. The Māori economy was replaced by a capitalist system, where market growth took precedence over collective wellbeing.

The commodification of land required dismantling Māori political and cultural institutions, severing the connection between economy, land and community. As Tau and Rout describe, Māori were “conquered by contract” - drawn into markets, courts, and property systems that were designed to benefit settlers and remove Māori ability to regulate their own economic life or retain their own lands and resources.²¹ Even where Māori retained their own land or resources, the institutional framework of the settler state ensured economic control remained elsewhere.²²

This produced persistent economic “leakage”, as profits, taxes, rates, and infrastructure value flowed outward into settler institutions rather than circulating within Māori communities. Without control over the political-legal mechanisms that determine how economies grow, Māori were prevented from building capital or intergenerational wealth.

The result was long-term structural and intergenerational poverty, limited access to capital, insecure housing, and reduced community resources. This deprivation was not the result of cultural deficit, but of an economy “scripted to suit the needs of settlers.”²³ The alienation of Māori from decision-making and from the means of production created patterns of dependency that continue to shape socio-economic conditions today.

For wāhine Māori, these conditions translate into heightened exposure to the economic pressures - debt, income instability, survival crimes, reliance on unsafe relationships, vulnerability to exploitation - that society, and the criminal justice system, disproportionately punishes. The economic deprivation experienced by many wāhine Māori today is not an individual deficit, but the downstream result of historic institutional design choices that channelled Māori wealth into the settler economy.

The systematic undermining of wāhine Māori

The dismantling of social and economic foundations worked in tandem with the undermining of wāhine Māori, and the imposition of settler colonial patriarchy.

²¹ Te Maire Tau and Matthew Rout, “The Tribal Economy,” *Journal of New Zealand Studies*, no. NS27 (2018): 92–109, <https://doi.org/10.26686/jnzs.v0iNS27.5178>, 94.

²² For example:

- converting tribal land into Crown-regulated property titles;
- limiting or denying access to credit and technical support;
- placing high-value reserves under Crown trusteeship and imposing long, low-rent leases;
- diverting rental income and economic returns into settler town building; and
- creating legal forums (such as the Native Land Court) that consistently facilitated transfer of Māori assets into settler hands.

²³ Te Maire Tau and Matthew Rout, “The Tribal Economy,” *Journal of New Zealand Studies*, no. NS27 (2018): 92–109, <https://doi.org/10.26686/jnzs.v0iNS27.5178>, 106.

Prior to colonisation, wāhine Māori were not seen as secondary or subordinate, but as essential to the survival and wellbeing of the collective, as all people were.²⁴ Their roles were not confined to the domestic sphere, rather, pre-colonial Māori society recognised the authority, leadership, and mana of wāhine. Wāhine Māori exercised power, authority, and influence across various aspects of physical and spiritual life. In providing evidence to the Waitangi Tribunal's Mana Wāhine kaupapa inquiry, Paula Ormsby reflected:

*“Our Wāhine were expected to develop roles beyond being mothers. We were strategists, military leaders, mediators, gatherers and hunters, midwives, warriors, healers, composers, political, weavers, landowners, mediators, gardeners, and balanced all of this within their spiritual domains.”*²⁵

These roles reveal that wāhine Māori were not confined to domesticity, or suppressed, but were recognised as, and supported to be, integral leaders within the collective, central to maintaining the social and spiritual balance.

Colonisation systematically eroded this standing. The targeting of whānau and hapū structures worked hand in hand with the subordination of wāhine Māori: each was necessary for the other to take hold.

The imposition of the nuclear family introduced a patriarchal order in which women were expected to occupy the domestic sphere and submit to a male head of household. For this new social structure to function, wāhine Māori had to be repositioned as subordinate.

*“She had to prize highly her role of housewife and mother and believe it to be God’s will...the Māori female had to be domiciled very quickly to the values of the new regime that had arrived to civilise her.”*²⁶

*“In colonial mindsets, women were likened to land – something to be dominated and claimed... Racist, misogynist tropes became central to colonial societies... Colonial misogynist tropes erased Indigenous women from positions of governance by portraying them as passive, degraded, promiscuous and/or deceptive.”*²⁷

This repositioning and marginalisation had extensive impacts on wāhine Māori, and the deliberate destruction of whānau and hapū structures was “one of the most damaging

²⁴ Leonie Pihama, Ngaropi Cameron, Rihi Te Nana, *Historical trauma and whānau violence*, Issues Paper 25 (New Zealand Family Violence Clearinghouse, 2019), 1.

²⁵ Paula Ormsby, *Speaking Notes*, Mana Wāhine Kaupapa Inquiry, Wai 2700, #A55, presented to the Waitangi Tribunal, Wellington, 23 February 2021, 18, https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_172611598/Wai%202700%2C%20A055.pdf

²⁶ Ani Mikaere, “Colonisation and the Imposition of Patriarchy: A Ngāti Raukawa Woman's Perspective,” in *Mana Wahine Reader: A Collection of Writings, 1999–2019, Volume II*, ed. Leonie Pihama, Linda Tuhiwai Smith, Naomi Simmonds, Joeline Seed-Pihama, and Kirsten Gabel (Ōtaki: Te Tākupu, Te Wānanga o Raukawa, 2022), 12.

²⁷ Tina Ngata, *Brief of Evidence of Tina Ngata*, WAI 2700, WAI 381, WAI 2260, Mana Wāhine Kaupapa Inquiry, 20 May 2025. 12-13.

effects of colonisation for Māori women”, as it not only removed their standing, but separated them from their support systems, leaving them vulnerable in many ways.²⁸

The ‘civilisation’ and domestication of wāhine Māori was further enforced through assimilative policies, particularly through the colonial education system.

Colonisation has impacted wāhine Māori in unique and specific ways and significantly shape the lived realities of wāhine Māori today. Khylee Quince has noted that colonisation has,²⁹

“- imported Western notions of gender, including misogyny and sexism, that fundamentally affected the perception and treatment of Maori women by both Maori men and Pakeha men and women.”

These misogynist and racist narratives continue today, as wāhine Māori are often stereotyped as irresponsible, dangerous and morally deficient, and demonised as “bad mothers”, “criminals”, or “undeserving.” These narratives are not only directly violent, but limit opportunities and outcomes, and influence the way society, and the state, respond to them. As a result, wāhine Māori have been subjected to heightened surveillance, suspicion, discrimination, institutional control and punitive intervention.³⁰

These racialised and gendered forms of social policing create the very conditions that funnel wāhine Māori into contact with the justice system. They erode safety, autonomy and access to support, while increasing exposure to coercive state systems. In this way, the marginalisation and mischaracterisation of wāhine Māori not only cause harm in daily life, but actively contribute to their disproportionate criminalisation and over-representation within the criminal justice system.

The destruction of tikanga-based systems of justice

Tikanga, te reo and mātauranga Māori provide clear guidance for wellbeing and coherent systems for maintaining order, resolving conflict and restoring balance.³¹ These knowledge systems underpinned the way justice was understood and enacted prior to colonisation. Rather than rigid rules, tikanga relies on core principles for determining

²⁸ Ani Mikaere, “Colonisation and the Imposition of Patriarchy: A Ngāti Raukawa Woman's Perspective,” in *Mana Wāhine Reader: A Collection of Writings, 1999–2019, Volume II*, ed. Leonie Pihama, Linda Tuhiwai Smith, Naomi Simmonds, Joellee Seed-Pihama, and Kirsten Gabel (Ōtaki: Te Tākupu, Te Wānanga o Raukawa, 2022), 12.

²⁹ Khylee Quince, “The Bottom of the Heap? Why Maori Women are Over-Criminalised in New Zealand”, *Te Tai Haruru: Journal of Māori and Indigenous Issues* 2 (2010):99 - 128., 100.

³⁰ Tina Ngata, *Brief of Evidence of Tina Ngata*, WAI 2700, WAI 381, WAI 2260, Mana Wāhine Kaupapa Inquiry, 20 May 2025.; Cassandra Lewis, Adele N. Norris, Waimirirangi Heta-Cooper, and Juan Tauri, “Stigmatising Gang Narratives, Housing, and the Social Policing of Māori Women,” in *Neo-Colonial Injustice and the Mass Imprisonment of Indigenous Women*, ed. Lily George, Juan Tauri, and Antje Deckert (Cham, Switzerland: Palgrave Macmillan, 2020), 13–33.; Ahnya Martin, *Welfare and Single Māori Mothers in the Media: Symbolic Power and the Case of Metiria Turei* (MSc thesis, Massey University, 2020).; Irene Eva Farnham, “*Kia whakawāhine au i ahau*”: Redefining the ‘Angry Māori Woman’: Exploring the pūrākau of Wāhine Māori in Leadership (Master’s thesis, Unitec Institute of Technology, 2025).

³¹ Leonie Pihama, Ngaropi Cameron, Rihi Te Nana, *Historical trauma and whānau violence*, Issues Paper 25 (New Zealand Family Violence Clearinghouse, 2019), 1.

justice, including whakapapa, whanaungatanga, mana, tapu, rangatira, and processes like hara, utu, and muru to deal with dispute resolution.³²

Justice was not decided by a single authority figure, but collectively through whānau, hapū, or iwi, often led by kaumātua and rangatira. The focus was not on punishment or retribution, but on understanding the reasons behind the wrongdoing, restoring the mana of the person who was harmed, their whānau, and the whānau of the person who caused harm, and ensuring collective responsibility. Decisions were made, and accountability was taken, collectively.

The goal of justice was to restore balance and heal relationships, not to isolate or punish individuals. These tikanga-based systems reinforced social cohesion and ensured that justice processes upheld both the dignity of the person and the integrity of the collective – principles that stand in direct contrast to the punitive logics later imposed through colonisation.³³

As discussed in *Indigenous Criminology*, British colonialists viewed Indigenous law through an ethnocentric lens, judging it to be distinctly inferior, illegitimate and incoherent.³⁴ This delegitimisation was a crucial “part of the ‘civilising’ process designed to bring the superior political and legal institutions of the West to the native.”³⁵

The imposition of settler law has resulted in “the continued subjection of Indigenous peoples to legal processes that are systemically racist”,³⁶ and to the “equating [of] justice with the law of the colonising power – both in general public consciousness and sometimes within Indigenous communities themselves.”³⁷ In effect, settler law has redefined justice in its own image, even within communities it was never designed to serve. This shift entrenched a justice system grounded in hierarchy, individual blame and state punishment in place of relational accountability and collective repair.

The replacement of tikanga-based justice with the colonial criminal justice system was not incidental, but served a broader colonial project designed to contain, control and eliminate Indigenous peoples.³⁸

³² Ināia Tonu Nei, *Traditional Māori life and concepts related to justice* (Aotearoa: Ināia Tonu Nei, 2024), 4, https://cdn.prod.website-files.com/650d11250274a5a48eb49e13/66ac02ff7047cffe02e9aca8_Ina%CC%84iaTonuNei_Traditional%20Ma%CC%84oriLifeAndConceptsRelatedToJustice_20240611_V2c.pdf.

³³ Ināia Tonu Nei, *Traditional Māori life and concepts related to justice* (Aotearoa: Ināia Tonu Nei, 2024), 17, https://cdn.prod.website-files.com/650d11250274a5a48eb49e13/66ac02ff7047cffe02e9aca8_Ina%CC%84iaTonuNei_Traditional%20Ma%CC%84oriLifeAndConceptsRelatedToJustice_20240611_V2c.pdf.

³⁴ Chris Cunneen and Juan Tauri, *Indigenous Criminology* (Bristol: Policy Press, 2016), 50-51.

³⁵ Chris Cunneen and Juan Tauri, *Indigenous Criminology* (Bristol: Policy Press, 2016), 51.

³⁶ Chris Cunneen and Juan Tauri, *Indigenous Criminology* (Bristol: Policy Press, 2016), 51.

³⁷ Chris Cunneen and Juan Tauri, *Indigenous Criminology* (Bristol: Policy Press, 2016), 51.

³⁸ Juan Marcellus Tauri, “Criminal Justice as a Colonial Project in Contemporary Settler Colonialism,” *African Journal of Criminology and Justice Studies* 8, Special Issue 1 (2014): 20–21.

*“Criminalisation and punishment were central to the operation of the colonial state in its governance of Indigenous peoples, particularly when open warfare was replaced by more regulatory forms of control.”*³⁹

Tauri explains that colonial projects are formed by a complex web of ‘subjugating strategies’ and are underpinned by structural violence, all with the intent of ensuring the success of settler colonies and disenfranchising Indigenous inhabitants.⁴⁰ He argues the criminal justice system is built around this web, across the macro, meso and micro levels of settler colonial society and government:

- At the macro level, this is reflected in how society and government view the over-representation of Māori in the justice system as a social problem and threat requiring significant intervention, with the assumption that Māori are themselves ‘full of crime’, resulting in various forms of over-surveillance by institutions of social control, and political attention.
- At the meso-level of criminal justice, it is reflected in over-policing, racial profiling, punitive policies and targeting of Indigenous individuals and communities.
- At the micro-level, the structural violence of colonisation is then operationalised and delivered on the ground through the everyday discretionary decisions made by individual officers and officials.⁴¹

He demonstrates that criminal justice is deeply entangled with the broader settler-colonial goal of subjugating and dispossessing Indigenous peoples, with prisons and courts operating as contemporary extensions of earlier assimilationist institutions such as residential schools. Prisons are especially viewed as key projects of structural violence and as sites of isolation from one’s culture. These practices illustrate the continuity of colonial domination in more insidious ways, a form of “doing Imperialism quietly”.⁴²

Tauri describes this as a shift from overt violence to bureaucratic violence, where Indigenous cultural practices are suppressed, Indigenous identities pathologised, and Western programmes and interventions imposed in the name of rehabilitation. This ‘quiet imperialism’ masks the enduring structural role of criminal justice as a tool of social control.⁴³

“In other words, the killing times are over, but epistemic and structural violence are still essential colonial projects in the on-going, contested process of settler

³⁹ Chris Cunneen and Juan Tauri, *Indigenous Criminology* (Bristol: Policy Press, 2016), 52.

⁴⁰ Juan Marcellus Tauri, “Criminal Justice as a Colonial Project in Contemporary Settler Colonialism,” *African Journal of Criminology and Justice Studies* 8, Special Issue 1 (2014): 24-25.

⁴¹ Juan Marcellus Tauri, “Criminal Justice as a Colonial Project in Contemporary Settler Colonialism,” *African Journal of Criminology and Justice Studies* 8, Special Issue 1 (2014): 24-25.

⁴² Juan Marcellus Tauri, “Criminal Justice as a Colonial Project in Contemporary Settler Colonialism,” *African Journal of Criminology and Justice Studies* 8, Special Issue 1 (2014): 26-29.

⁴³ Juan Marcellus Tauri, “Criminal Justice as a Colonial Project in Contemporary Settler Colonialism,” *African Journal of Criminology and Justice Studies* 8, Special Issue 1 (2014): 29.

*colonization, and its form, more often than not, manifests through the application of crime control policies, legislation and practices.*⁴⁴

The significance of Tauri's analysis for understanding wāhine Māori incarceration becomes clear when read alongside the ways in which wāhine Māori have been systematically undermined and redefined, as explained earlier in the chapter.

Within this context, the macro, meso, and micro processes Tauri identifies do not operate on Māori as a homogenous group. They are shaped by both racialised and gendered assumptions. Colonial ideas about women – including misogyny, surveillance, and the pathologising of Indigenous womanhood – have become embedded within criminal justice structures.

- At the macro level, dominant discourses about Māori criminality intersect with colonial narratives that cast wāhine Māori as morally suspect, socially failing, or deficient as mothers. These narratives reproduce the patriarchal values introduced through colonisation and help justify intensified state intervention in their lives.
- At the meso level, institutions such as Oranga Tamariki, the courts, and police apply these narratives in ways that heighten scrutiny of wāhine Māori. Their contact with these systems is shaped by the legacies of imposed gender roles: expectations of obedience, domestic responsibility, and conformity to Pākehā norms of womanhood. These dynamics, inherited from the colonial reorganisation of whānau and the domestication of wāhine Māori, contribute to punitive and intrusive institutional responses.
- At the micro level, frontline decisions are influenced by everyday assumptions that are both racist and sexist. These discretionary judgements accumulate across processes such as charging, bail decisions, child protection involvement, and sentencing, increasing the likelihood that wāhine Māori will be drawn more deeply into the system.

A study that illustrates the interaction of these gendered and racialised assumptions is Antje Deckert's 2020 analysis of media representations of Māori women who offend. Deckert examined two years of newspaper reporting and found that coverage systematically distorted public understandings of who is most affected by the criminal justice system and what crimes Māori and Pākehā women typically commit. Stories about Pākehā women were more likely to adopt a favourable tone (56.5%), while stories about Māori women were overwhelmingly negative (83.3%). Motherhood was also

⁴⁴ Juan Marcellus Tauri, "Criminal Justice as a Colonial Project in Contemporary Settler Colonialism," *African Journal of Criminology and Justice Studies* 8, Special Issue 1 (2014): 25.

invoked nearly twice as often for Māori women, framing them not only as offenders but as failed or deficient mothers.⁴⁵

This study demonstrates how punitive, gendered, and racialised narratives circulate beyond the state and into social discourse, reinforcing the same stereotypes that shape institutional practice. Media representations function as a form of social policing, legitimising heightened scrutiny of wāhine Māori and building public consent for punitive state responses.

Taken together, these patterns show that the disproportionate imprisonment of wāhine Māori is not simply an outcome of being Māori within a colonial justice system, but of being both Māori, and being women, within a system built on patriarchal as well as colonial foundations.

⁴⁵ Antje Deckert. "Indigeneity Matters: Portrayal of Women Offenders in New Zealand Newspapers." *Crime, Media, Culture* 16, no. 3 (12, 2020): 337-357.

Institutional drivers

This chapter examines the institutional drivers of wāhine Māori incarceration: the policies, practices, norms and decision-making processes within state institutions that shape how wāhine Māori are seen, treated and responded to. It builds on the previous chapter, which outlined how colonisation created the wider structural conditions for harm, inequality and state control.

Contemporary institutions continue to reproduce these conditions through discretionary decision-making, system design, legislative settings, and organisational culture. Although these processes often appear neutral, they operate within frameworks where Western legal, social, and cultural norms remain embedded in the state's core functions. These settings influence who is scrutinised, who is supported, and who is punished.

Research consistently shows that institutions across Aotearoa over-scrutinise, under-support, and disproportionately punish Māori, reflecting both historical prejudice and contemporary bias. For wāhine Māori, these inequities are intensified by both gendered and racist stereotypes.

Evidence from the Ministry of Justice reveal that wāhine Māori were more likely to be sentenced to prison for moderate to minor offences compared to wāhine Pākehā. As such, wāhine Māori received shorter prison sentences, approximately 10.9 months compared to 14.6 months for wāhine Pākehā, which suggests inconsistencies in the application of justice.⁴⁶

This chapter examines disparities in policing, prosecution and sentencing, and touches on key legislation and policies that impact wāhine Māori in particular.

The availability of comprehensive data on the operation of bias within the justice system remains limited, especially in relation to wāhine Māori. As a result, the scope of this chapter reflects the constraints of the current evidence base. The analysis in this chapter draws heavily on two key sources: the 2025 *He punga i mau ai: Exploring the sentencing of wāhine Māori in the criminal courts of Aotearoa New Zealand* report by JustSpeak, and the 2024 *Ngā Wero a te Mana Wāhine* report commissioned by the Waitangi Tribunal.

A number of institutional factors that influence wāhine Māori hyper-incarceration sit outside what is covered in this chapter. Within the justice system, this chapter does not examine several critical areas, including access to legal representation, bail and warning decisions, or the barriers wāhine Māori face when navigating court processes. These factors are significant but fall outside the scope of this report due to time constraints and the focus of the available evidence.

⁴⁶ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024), https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf . 44 – 45.

We also acknowledge that institutional inequities extend well beyond justice-sector agencies. Systems such as health, education, housing, welfare and the labour market shape the conditions in which wāhine Māori become vulnerable to criminalisation. These systems frequently fail to meet the needs of Māori, contributing to long-term patterns of poverty, unstable housing, limited access to healthcare, and inconsistent educational support. Reductions in social support, increased welfare conditionality, and limited access to primary and mental-health services heighten stress, insecurity, and state visibility within already marginalised communities.⁴⁷

For wāhine Māori - who experience disproportionately high rates of poverty, trauma, chronic illness, mental distress and child-protection involvement - these pressures accumulate over time. They create environments marked by instability and surveillance, increasing the likelihood that distress, harm and unmet need are met with coercive or punitive responses rather than preventative or culturally grounded support.

Taken together, these wider institutional inequities form the context within which justice-specific drivers operate. They shape who becomes visible to the justice system, how wāhine Māori are responded to at each stage of the process, and why disparities compound over time. Understanding this broader institutional landscape is essential to explaining the hyper-incarceration of wāhine Māori.

Apprehensions

The police are the earliest and most consequential points at which institutional bias becomes visible in the justice system. Police exercise wide discretionary power, including who is stopped, questioned, warned, charged, diverted or referred to support. These everyday decisions are shaped by organisational culture, risk frameworks, and assumptions about who is ‘risky’, ‘non-compliant’ or ‘offending’.

When examining national data, policing outcomes for Māori as a whole show consistent and significant disparities that reveal how institutional practices produce unequal entry points into the justice system.

The 2024 *Understanding Policing Delivery* report - endorsed by former Police Commissioner Andrew Coster - found that “being Māori increased the likelihood of prosecution by 11 percent compared to NZ Europeans when all other variables remained constant.”⁴⁸ Of all Police proceedings, 56 percent resulted in Māori being prosecuted.⁴⁹ Māori who have had no prior contact with the justice system have a greater risk of a Police proceeding and are more likely to be charged by Police, than Europeans.⁵⁰

⁴⁷ Kim Workman, Tracey McIntosh, “Chapter 8: Crime, imprisonment and poverty”, in *Inequality: A New Zealand Crisis*, ed. Max Rashbrooke (Bridget Williams Books, 2013), 131.

⁴⁸ Understanding Policing Delivery. 2024. *Understanding Policing Delivery – Executive Summary*, p 15.

⁴⁹ Understanding Policing Delivery. 2024. *Understanding Policing Delivery – Summary factsheet*, p 5.

⁵⁰ JustSpeak. (2020, February). *JustSpeak IDI Research – A Justice System for Everyone*.

For wāhine Māori, this risk was most pronounced in their late teens to early 20s, when they were more than twice as likely to receive a police court proceeding than a European woman. For Māori men, the highest risk occurs in their late 30s to early 40s, when they are more than twice as likely to receive a police court proceeding than a European man. Age is also a risk factor for Māori, who have a greater risk of receiving charges when they are young. For under 25 year olds, Māori are four times more likely than Europeans to be charged.

The *Ngā Wero a te Mana Wāhine* report observed a clear and persistent pattern of higher apprehension of wāhine Māori compared to wāhine Pākehā over a twenty-year period (1994 to 2014). When population size is taken into account, apprehension rates for wāhine Māori have remained higher than for wāhine Pākehā since the late 1990s, with the gap widening significantly from 2009 onwards. From this point, wāhine Māori were apprehended at approximately 1.4 times the rate of wāhine Pākehā.⁵¹

The report acknowledged that while higher offending levels or the younger age structure of the Māori population are often used to explain these disparities, that those explanations are unsubstantiated.⁵²

The study was unable to access detailed offence-level data for apprehensions, limiting the ability to determine whether offence type explains the disparity. However, available information shows that wāhine Māori have consistently been less likely to receive warnings or cautions and more likely to be prosecuted, suggesting that differential discretion, unequal access to alternatives to prosecution, and systemic bias may contribute to the persistently higher apprehension rates.

Taken together, this evidence suggests policing is a key institutional driver of wāhine Māori hyper-incarceration, as discretionary decision-making at the front-end compounds structural disadvantage, funnels wāhine Māori into the justice system at higher rates and younger ages and sets the trajectory for the disparities that intensify across prosecution, sentencing and imprisonment.

Prosecution

Prosecution is the next key point at which institutional factors shape justice outcomes for wāhine Māori. While apprehension determines who enters the system, prosecution determines who progresses deeper into it. Decisions about whether to charge, divert,

[Published report]. <https://www.justspeak.org.nz/ourwork/justspeak-idi-research-a-justice-system-for-everyone>

⁵¹ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024),

https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf . 39 – 41.

⁵² Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024),

https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf . 39 – 41.

warn, or pursue formal legal action are influenced by organisational culture, perceived seriousness, availability of diversion, and assumptions about compliance and culpability. These processes appear neutral but consistently produce unequal outcomes, with wāhine Māori more likely to be prosecuted and less likely to access alternatives.

Across the twenty-year period examined in *Ngā Wero a te Mana Wāhine* (1994–2014), prosecutions of wāhine Māori increased sharply, peaking in 2008 before declining modestly.⁵³ By contrast, prosecutions of wāhine Pākehā largely declined or remained steady over the same period, with slight surges in 2000 and 2003.⁵⁴

The trend resulted reveal a widening disparity. In 1994, wāhine Māori were slightly less likely than wāhine Pākehā to be prosecuted (0.062 times), but by 2014 they were 0.525 times more likely to face prosecution. Despite declines in prosecutions for both groups by 2014, wāhine Māori had significantly higher rates than wāhine Pākehā.

Sentencing

Once cases enter the courts, disparities deepen further. Sentencing is often framed as the most formal and neutral part of the justice process, yet research shows that judicial outcomes reflect both systemic inequalities and the discretionary nature of sentencing practice.

*“It is very difficult to conclusively prove the existence and impact of racial bias, in sentencing practice, both in Aotearoa New Zealand and internationally, and many studies are tentative in their findings. Nonetheless, qualitative studies argue strongly, and unsurprisingly, in recognition of sentencing bias against Māori.”*⁵⁵

Department of Corrections data highlights stark disparities in sentencing and remand outcomes. Māori were seven-and-a-half times more likely than non-Māori to receive a custodial sentence, and 11 times more likely to be remanded in custody while awaiting trial. Between 2004 and 2005, Māori were also granted monetary penalties at significantly lower rates than Pākehā and other population groups, and a smaller proportion of Māori were granted Parole Board hearings.⁵⁶

⁵³ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024), https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf ., 43.

⁵⁴ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024), https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf ., 44.

⁵⁵ Maia Keepa, Laura Johnstone, and Kate Tarawhiti, *He Punga i Mau Ai | An Anchor That Holds the Canoe: Exploring the Sentencing of Wāhine Māori in the Criminal Courts of Aotearoa New Zealand* (Wellington: JustSpeak, October 2025), 14.

⁵⁶ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024), https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf ., 47.

While these patterns demonstrate the depth of sentencing inequality for Māori overall, they do not capture the gendered dimensions of that inequality.

Evidence from Aotearoa and comparable jurisdictions shows that women are often treated more leniently than men, yet wāhine Māori do not benefit from this trend. Limited but consistent research demonstrates that wāhine Māori are more harshly punished than wāhine Pākehā and even tāne Māori in some contexts. Māori are substantially more likely to receive custodial sentences upon conviction, and for wāhine Māori, this pattern is further intensified as they may be up to ten times more likely to receive a custodial sentence than European women.⁵⁷

The most comprehensive recent analysis, *Ngā Wero a te Mana Wāhine*, confirms that sentencing disparities between wāhine Māori and wāhine Pākehā are substantial and persistent. Across all age groups, wāhine Māori were significantly more likely to be sentenced to imprisonment, the following is a direct quote from the report:⁵⁸

- Aged 20 – 24, in the years 2005 and 2010
 - In 2005, wāhine Māori were 8.91 times more likely to be sentenced to prison compared to wāhine Pākehā. That trend persisted in 2010, wāhine Māori were 8.47 times more likely to be incarcerated. By 2015, the gap widened slightly, wāhine Māori were 9.75 times, more likely to be incarcerated compared to wāhine Pākehā, in the same age group.
- Aged 25 – 29, in the year, 2015
 - Wāhine Māori were 9.74 times more likely to be incarcerated, compared to wāhine Pākehā.
- Aged 30 - 39, in the year, 2015
 - Similarly, in the age group of 30 to 39 in 2015, the incarceration disparity was even more pronounced, with wāhine Māori being 11.56 times more likely to be incarcerated, compared to wāhine Pākehā.

These findings indicate that sentencing is a critical point at which gendered and racialised bias becomes materially consequential. Taken together, the evidence demonstrates that sentencing functions not as a neutral endpoint but as a stage where cumulative inequities are crystallised. Earlier disparities in apprehension and prosecution reduce access to diversion and bail, while judicial discretion and legislative constraints shape harsher custodial outcomes. For wāhine Māori, sentencing reflects the compounded effects of ethnicity, gender, and coloniality - making it one of the most powerful institutional drivers of hyper-incarceration.

⁵⁷ Maia Keepa, Laura Johnstone, and Kate Tarawhiti, *He Punga i Mau Ai | An Anchor That Holds the Canoe: Exploring the Sentencing of Wāhine Māori in the Criminal Courts of Aotearoa New Zealand* (Wellington: JustSpeak, October 2025), <https://www.justspeak.org.nz/s/He-punga-i-mau-ai-An-anchor-that-holds-the-canoe-FINAL.pdf>, 15.

⁵⁸ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024), https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf., 59.

Justice related legislation and policy

Legislation and policy shape the overall architecture of the criminal justice system, influencing how people are policed, charged, sentenced and managed. For wāhine Māori, these settings have frequently operated in ways that intensify contact with the system, limit access to alternatives and reinforce structural disadvantage. While there have been policies and laws that have targeted reduction in prison population, and succeeded, this did not yield the same results for Māori.⁵⁹

A number of legislative changes over the past two decades have directly contributed to these patterns and are discussed more comprehensively in the *Ngā Wero a te Mana Wāhine* report, where they identified and assessed three acts that were seen to impact wāhine Māori significantly including the Bail Act 2000, the Sentencing Act 2002 and Corrections (Mothers with Babies) Amendment Act 2008. These are briefly discussed as follows.

The Bail Act 2000

The Bail Act 2000 was introduced to provide clearer procedures for pre-trial decision-making and to support fairness by allowing courts to impose conditions, consider cultural context and offer alternatives to remand such as electronic monitoring. In principle, the Act promoted equity, enabled wāhine Māori to maintain whānau connections while awaiting trial, and created pathways intended to reduce unnecessary pre-trial detention.

However, its practical application fell short of these aims, as wāhine Māori were found to have a lower chance of being granted bail than others. Structural factors such as unstable housing, socio-economic constraints and limited access to legal representation shaped bail decisions and contributed to higher rates of pre-trial detention for wāhine Māori. Because remand reduces eligibility for community-based sentences and reinforces perceptions of instability, these patterns had cumulative downstream effects on sentencing and imprisonment. It was also acknowledged that remand in prison not only impacted the lives of the wāhine Māori, but it affected their whānau and communities, which further perpetuated disadvantage. Overall, although the Act was designed to improve fairness, systemic barriers meant wāhine Māori experienced its benefits unevenly and its burdens more acutely.⁶⁰

⁵⁹ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024),

https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf ., 93.

⁶⁰ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024),

https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf ., 95 – 96.

Sentencing Act 2002

The Sentencing Act 2002 was introduced to provide clearer guidance, improve consistency and offer more rehabilitative alternatives within sentencing. Section 8(i) explicitly directed judges to consider an offender's personal, whānau, community and cultural background, signalling an intent to promote fairer and more proportionate outcomes. In principle, these provisions created opportunities for courts to recognise the structural factors that shape offending and to impose the least restrictive sentence appropriate.

However, despite these intentions, the Act did little to reduce existing disparities. *Ngā Wero* highlights that the legislation contains no explicit commitment to addressing Māori over-representation, and that the broad judicial discretion it preserves means sentencing outcomes remain heavily shaped by individual interpretation, underlying attitudes and systemic bias. Without specific requirements to consider Māori disparity or to address 'systemic Māori deprivation', the Act's potential to mitigate inequality has not translated into practice.

As a result, Māori, including wāhine Māori, have continued to receive harsher penalties, are less likely to access community-based sentences, and remain disproportionately sentenced to imprisonment. The Sentencing Act's rehabilitative aims have therefore been applied unevenly, with structural and political constraints limiting its ability to shift long-standing sentencing inequities.⁶¹

Corrections (Mothers with Babies) Amendment Act 2008

The Corrections (Mothers with Babies) Amendment Act 2008 aimed to improve the wellbeing of infants and their mothers in custody by extending the age at which children could reside with their mothers in prison. The Act recognised the importance of preserving early whānau bonds, acknowledging that maintaining these relationships during incarceration may support the emotional wellbeing of both mother and child. Some literature cited in *Ngā Wero a te Mana Wāhine* suggests that supporting mothers to care for their babies during imprisonment may also contribute to rehabilitation and reduce the likelihood of reoffending, but this has not been evaluated.

Following the Act's passage, Corrections established dedicated Mothers with Babies units, enabling infants up to 24 months to remain with their mothers. However, *Ngā Wero* identifies significant implementation gaps. A specific database designed to monitor the

⁶¹ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024), https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf., 97–98.

units was rarely accessed and poorly understood by staff, resulting in limited data and almost no evaluation of the Act's impact.

Ngā Wero a te Mana Wāhine situates these issues within broader systemic concerns. The Law Commission has highlighted persistent shortcomings in justice-sector policies for wāhine Māori, and the United Nations Committee Against Torture has expressed concern about the disproportionately high imprisonment of Māori women and the lack of culturally appropriate legal services. The Mothers with Babies Amendment Act demonstrates that legislation can prioritise whānau wellbeing, but without robust monitoring and wider structural reform, its potential benefits for wāhine Māori remain largely unrealised.⁶²

Across the three Acts examined, legislation and policy emerge as influential structural conditions shaping wāhine Māori's justice outcomes. The Bail Act 2000 and Sentencing Act 2002, while designed with fairness, clarity and rehabilitative intent, operated within wider social and institutional constraints that meant wāhine Māori did not experience their benefits to the same extent as others. In contrast, the Corrections (Mothers with Babies) Amendment Act 2008 offered a more positive, whānau-centred approach; however, limited data and evaluation make it difficult to assess its impact for wāhine Māori.

This overall pattern aligns with insights highlighted in *Ngā Wero a te Mana Wāhine*, including Len Cook's analysis that:

“- whānau Māori often found themselves outside the norm, when it came to public policies and institutional practices, which were based on Western standards. While laws and institutional practices, were shaped by politics and attitudes of the time, their impact on Māori had largely been determined, by the ongoing changes in Māori demographics. Unfortunately, the negative effects of these policies on Māori were overlooked, despite being foreseeable.”⁶³

Taken together, these examples show that legislation can significantly alter justice outcomes - sometimes widening disparity, sometimes creating opportunities for more supportive responses. However, legislative intent alone does not determine impact. Where laws are applied within systems already shaped by structural disadvantage, or where they fail to explicitly respond to Māori disparity, their effects for wāhine Māori are often limited, inconsistent or unevenly realised. As such, legislation and policy function as key institutional drivers: they can either disrupt or reproduce inequity depending on

⁶² Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024),

https://forms.justice.govt.nz/search/Documents/WT/WT_DOC_219799626/Wai%202700%2C%20B008.pdf ., 99 – 100.

⁶³ Helena Rattray-Te Mana, *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8) (Wellington: Waitangi Tribunal, 2024), https://forms.justice.govt.nz/search/Documents/WT/WT_DOC_219799626/Wai%202700%2C%20B008.pdf ., 96.

how they are designed, interpreted and implemented within the broader structural context.

Individual and interpersonal drivers

Women's pathways to offending and incarceration are often shaped by a complex interplay of underlying individual and interpersonal drivers such as trauma, violence and abuse, unmet mental health needs, parenting challenges, substance dependence, lack of support and economic deprivation.⁶⁴ These experiences do not occur in isolation, rather they act as cumulative stressors that can influence decision-making and increase vulnerability to criminalisation.

As discussed throughout this report, for wāhine Māori, these drivers are deeply rooted in the process of colonisation, which influences both the individual conditions that lead to offending and the punitive responses of the justice system – often in ways that perpetuate cycles of harm and incarceration.

Victimisation and trauma

While experiencing victimisation does not necessarily lead to offending, and vice versa, the link between victimisation and the perpetration of crime is well established in research and is known as the victim-offender overlap. This relationship reflects how repeated exposure to trauma and violence can increase vulnerability to criminalisation, particularly when support systems fail to respond. A 2012 study found that victims of violence are 55 percent more likely than nonvictims to commit a violent crime, illustrating the strength of this correlation.⁶⁵ This overlap is relevant to incarcerated women, especially wāhine Māori, who experience disproportionately high rates of victimisation and trauma.

A 2021 Department of Corrections report found that three quarters of women in prison had experienced family violence, rape and/or sexual assault.⁶⁶ Māori women are disproportionately affected and experience higher rates of victimisation than non-Māori woman overall – a disparity that is also pronounced among those who have been incarcerated.

Wider population-level research supports these findings. A 2023 study found that in the general population, 58 percent of Māori women reported experiencing physical and/or sexual intimate partner violence, compared to 34 percent of New Zealand

⁶⁴ New Zealand Department of Corrections, *Wāhine – E rere ana ki te pae hou: Women's Strategy 2021–2025 – An oranga-focused framework for restoration and reclamation* (Wellington: Department of Corrections, 2021), PDF, https://www.corrections.govt.nz/_data/assets/pdf_file/0004/44644/Corrections_Wahine_-_E_rere_ana_ki_te_pae_hou_2021_-_2025.pdf

⁶⁵ Cynthia Godsoe, *The Victim/Offender Overlap and Criminal System Reform*, Brooklyn Law School Legal Studies Research Paper No. 743 (June 2023), <https://ssrn.com/abstract=4494558>.

⁶⁶ New Zealand Department of Corrections, *Wāhine – E rere ana ki te pae hou: Women's Strategy 2021–2025 – An oranga-focused framework for restoration and reclamation* (Wellington: Department of Corrections, 2021), PDF, https://www.corrections.govt.nz/_data/assets/pdf_file/0004/44644/Corrections_Wahine_-_E_rere_ana_ki_te_pae_hou_2021_-_2025.pdf, 6

European/other women.⁶⁷ Notably, the researchers emphasised that this stark disparity could not be explained solely by differences in economic status. Instead, the authors identified structural inequities and the ongoing impacts of colonisation as key contributors. These include the introduction of patriarchal societal structures that “disrupted the traditional balance in Māori society” and the erosion of collective childrearing practices – both of which increase the risk of exposure to violence in childhood, a known precursor to intimate partner violence.⁶⁸ The study concluded that such layered and cumulative forms of violence have profound effects on health and wellbeing, and that,⁶⁹

“The structural inequities that create these disparities can have tragic consequences; Māori women are at a three-times greater risk of intimate partner homicide than non-Māori women.”

These overlapping forms of violence – interpersonal, structural and historical – shape many women’s pathways into offending. Beth E. Richie’s gender-entrapment theory explains how gender, race and violence interact to draw women into patterns of abuse and criminalisation.⁷⁰ Based on the experiences of African American women who have been both incarcerated and subjected to intimate partner violence, Richie shows how private subordination through coercion and abuse, and public subordination through welfare systems, policing and social control, leave women vulnerable to participating in illegal activities as a means of survival.⁷¹ Women’s resistance or coping strategies are frequently misunderstood or punished, reinforcing cycles of harm and incarceration. Although developed in the U.S., the theory offers valuable insight into how structural and interpersonal violence intersect in the lives of wāhine Māori and could be extended to include the impacts of indigeneity and colonisation.

Similar patterns appear across Indigenous contexts. A 2023 Queensland Treasury study found that 39 percent of Indigenous women were both victims and offenders, compared to 15 percent of non-Indigenous women.⁷² While these figures cannot be directly applied to Aotearoa, they underline that the relationship between victimisation and offending

⁶⁷ Janet Fanslow et al., “Juxtaposing Beliefs and Reality: Prevalence Rates of Intimate Partner Violence and Attitudes to Violence and Gender Roles Reported by New Zealand Women,” *Violence Against Women* 16, no. 7 (2010): 812–831, as cited in Janet Fanslow, Brianne Mellar, Pauline Gulliver, and Tracey McIntosh, “Ethnic-Specific Prevalence Rates of Intimate Partner Violence against Women in New Zealand,” *Australian and New Zealand Journal of Public Health* 47, no. 1 (2023): 17–24.

⁶⁸ Janet Fanslow, Brianne Mellar, Pauline Gulliver, and Tracey McIntosh, “Ethnic-Specific Prevalence Rates of Intimate Partner Violence against Women in New Zealand,” *Australian and New Zealand Journal of Public Health* 47, no. 1 (2023): 17–24, <https://doi.org/10.1016/j.anzjph.2022.100029>.

⁶⁹ Janet Fanslow, Brianne Mellar, Pauline Gulliver, and Tracey McIntosh, “Ethnic-Specific Prevalence Rates of Intimate Partner Violence against Women in New Zealand,” *Australian and New Zealand Journal of Public Health* 47, no. 1 (2023): 17–24, <https://doi.org/10.1016/j.anzjph.2022.100029>.

⁷⁰ Beth E. Richie, *Compelled to Crime: The Gender Entrapment of Battered Black Women* (New York: Routledge, 1996), 4.

⁷¹ Beth E. Richie, *Compelled to Crime: The Gender Entrapment of Battered Black Women* (New York: Routledge, 1996), 4.

⁷² Queensland Government Statistician’s Office, *The Overlap between Offending and Victimisation in Queensland: Crime Research Report* (Brisbane: The State of Queensland, 2023), <https://www.qgso.qld.gov.au/issues/12146/overlap-between-offending-victimisation-qld.pdf>, iii.

among Indigenous women reflects shared exposure to structural violence, social disadvantage, and state control.

For wāhine Māori, these conditions - rooted in colonisation and compounded by gendered inequities - help explain why patterns of harm and criminalisation remain so closely intertwined.

Mental illness and addiction

The cumulative impacts of trauma and violence are reflected in high rates of mental distress and substance use among women in prison. These are not isolated issues but interrelated consequences of prolonged exposure to harm and the absence of adequate support. High levels of trauma, mental illness and substance dependence often coexist, each reinforcing the other.

A 2021 Department of Corrections report found 62 percent of women in prison have had both mental health and substance use disorders, 52 percent have suffered from post-traumatic stress disorder, 46 percent have lifetime alcohol dependence, 66 percent have experienced drug dependence, and 75 percent have had a diagnosed mental health condition in the last 12 months.⁷³

These disparities are mirrored in the general population. A 2014 study found that Māori women are twice as likely as non-Māori women to experience a diagnosable mental disorder and tend to present with a greater severity of symptoms. Depression, in particular, is more prevalent among Māori woman than their non-Māori counterparts.⁷⁴ The Government inquiry into Mental Health and Addiction found that Māori experience significantly higher rates of mental illness, higher rates of suicide and greater prevalence of addictions. The prevalence of mental distress among Māori is almost 50 percent higher than among non-Māori, yet Māori are 30 percent more likely than other ethnic groups to have their mental illness undiagnosed.⁷⁵

Disability

Māori also have disproportionate rates of disability compared to non-Māori. The 2013 NZ disability survey found that speaking, vision, intellectual, and learning impairments were

⁷³ New Zealand Department of Corrections, *Wāhine – E rere ana ki te pae hou: Women's Strategy 2021–2025 – An oranga-focused framework for restoration and reclamation* (Wellington: Department of Corrections, 2021), PDF, https://www.corrections.govt.nz/_data/assets/pdf_file/0004/44644/Corrections_Wahine_-_E_rere_ana_ki_te_pae_hou_2021_-_2025.pdf, 7

⁷⁴ Gemma Tricklebank, "Māori Women's Experiences of Mental Health Services in New Zealand: A Qualitative Interview Study," *Psychology Aotearoa* 6, no. 1 (May 2014): 45–48, <https://www.psychology.org.nz/journal-archive/M%C4%81ori-women%E2%80%99s-experiences-of-mental-health-services-in-New-Zealand-A-qualitative-interview-study.pdf>.

⁷⁵ New Zealand Government, *He Ara Oranga: Report of the Government Inquiry into Mental Health and Addiction* (Wellington: Government Inquiry into Mental Health and Addiction, 2018), https://mentalhealth.inquiry.govt.nz/_data/assets/pdf_file/0024/20868/he-ara-oranga.pdf, 70.

more common amongst Māori than non-Māori.⁷⁶ Māori also have the highest incidence of Traumatic Brain Injuries (TBI) among the general population.⁷⁷

Traumatic Brain Injuries

Traumatic Brain Injury (TBI) is a significant but under-examined factor in the pathways of women into prison. While most research has focused on male offenders, research shows that female offenders are likely to be at higher risk of TBI, experience different risk factors, and are more likely to have multiple head injuries than men. There is also a growing understanding of the connection between TBI, intimate partner violence and women's incarceration, and the acknowledgement that women with TBI have different support and management needs - yet these remain largely unexamined.⁷⁸

Research consistently shows that TBI is significantly more common among people in the justice system than in the general population. New Zealand studies have found that 64 percent of male offenders have sustained a TBI in their lifetime, 33 percent of whom have experienced multiple injuries. Rates also increase at each stage of the justice pipeline - 34 percent of people facing police proceedings and 46 percent of those imprisoned have experienced a TBI, this is compared to 13 percent of the general public. These figures are acknowledged to be underestimations, and Māori experience higher prevalence.⁷⁹

These patterns are significant because TBI has wide-ranging and long-term impacts that can shape behaviour, decision-making and life outcomes in ways directly relevant to criminalisation. Evidence from a 2018 Department of Corrections article recognised that sustaining a TBI as a child increases the likelihood of imprisonment in adulthood. It is also associated with higher rates of violence, earlier onset of offending and a greater risk of re-offending. Long-term effects include impaired memory, attention, concentration and learning ability - all of which affect education and employment. These can also contribute to a prisoner being perceived as defiant and unwilling to comply with instructions.⁸⁰ The article did not report whether these impacts present the same in wāhine.

⁷⁶ Ian Lambie, *What were they thinking? a discussion paper on brain and behaviour in relation to the justice system in New Zealand* (Wellington: Office of the Prime Minister's Chief Science Advisor, 2020), 13.

⁷⁷ Ian Lambie, *What were they thinking? a discussion paper on brain and behaviour in relation to the justice system in New Zealand* (Wellington: Office of the Prime Minister's Chief Science Advisor, 2020), 16.

⁷⁸ Stephen Haines, *Traumatic Brain Injury: Impact on Offending and Management of Offenders in Prison* (Wellington: Department of Corrections: Office of the Chief Psychologist, 2016), 4.

⁷⁹ New Zealand Department of Corrections, "Practice note: Identifying and managing the effects of traumatic brain injury," *Practice: The New Zealand Corrections Journal* 6, no.1 (2018).

https://www.corrections.govt.nz/resources/research/journal/volume_6_issue_1_july_2018/practice_note_identifying_and_managing_the_effects_of_traumatic_brain_injury

⁸⁰ New Zealand Department of Corrections, "Practice note: Identifying and managing the effects of traumatic brain injury," *Practice: The New Zealand Corrections Journal* 6, no.1 (2018).

https://www.corrections.govt.nz/resources/research/journal/volume_6_issue_1_july_2018/practice_note_identifying_and_managing_the_effects_of_traumatic_brain_injury

Research has also shown that offenders with a TBI were more likely to have a conviction for a violent or sexual offence than other types of offending, and more likely to reoffend. These were acknowledged to be underestimations.⁸¹

Understanding the gendered dimensions of TBI is crucial, as emerging research shows meaningful differences in how men and women experience and externalise the effects of head injury. Research from Aotearoa found that while there were no significant differences in offending rates between genders, men were more likely to show externalising behaviours (assault, substance abuse, disorderly conduct), while women showed more internalising symptoms (anxiety, depression).⁸²

These findings become even more significant when placed alongside research showing a strong relationship between TBI and intimate partner violence (IPV)—a form of harm that disproportionately affects incarcerated women and wāhine Māori. A study cited in the 2020 Chief Science Advisor report found that 95 percent of the 38 women incarcerated in Christchurch had a history with TBI, with 83 percent reporting multiple injuries. Their TBIs were caused by falls, motor crashes and fights, but over a quarter (26 percent) had had at least one TBI as a direct result of being assaulted by a parent or partner.⁸³

This aligns with broader research showing a significant connection between IPV and TBI. A connection that is important to understand for wāhine Māori in prison as they have higher rates of both. In 2025 Women's Refuge released a report on *Traumatic Brain Injury and Intimate Partner Violence in Aotearoa*, following an earlier 2024 report that spoke to victims of Intimate Partner Violence (IPV), 10 percent of whom (138 participants) had reported having a known TBI caused by their partners' violence. Women's refuge also acknowledged IPV inflicted TBI is often undiagnosed, and the actual prevalence among the original group is likely far higher.⁸⁴

The 2025 report explored the impacts of TBI on victims of IPV, compared to the overall cohort. Nearly 80 percent of victims with TBI reported being in constant fear for their safety, compared to under 60 percent of overall respondents. They were also more likely to report poor physical health, daily pain, fatigue, headaches, difficulties with memory and concentration, and changes in appetite and energy levels. Given the physical

⁸¹ Ian Lambie, *What were they thinking? a discussion paper on brain and behaviour in relation to the justice system in New Zealand* (Wellington: Office of the Prime Minister's Chief Science Advisor, 2020), 19.

⁸² Ian Lambie, *What were they thinking? a discussion paper on brain and behaviour in relation to the justice system in New Zealand* (Wellington: Office of the Prime Minister's Chief Science Advisor, 2020), 19.

⁸³ Ian Lambie, *What were they thinking? a discussion paper on brain and behaviour in relation to the justice system in New Zealand* (Wellington: Office of the Prime Minister's Chief Science Advisor, 2020), 18-19.

⁸⁴ Natalie Thorburn, Cleo Arathoon, Sophie Beaumont, Ang Jury, *Safer When, Safer How? Traumatic Brain Injury and Intimate Partner Violence in Aotearoa* (Wellington: National Collective of Independent Women's Refuges Ngā Whare Whakaruruhau o Aotearoa, 2025).

symptoms associated with TBI, and the fatigue and mental difficulties, this difference was unsurprising to the authors.⁸⁵

The report also highlighted significant challenges related to daily functioning and bureaucratic tasks, such as attending appointments, filling out forms, driving, and managing online accounts. These difficulties had cumulative effects, impacting access to housing, income, food, employment, support services and affecting their ability to parent. Respondents with TBI reported these issues at higher rates than others, illustrating how TBI can entrench disadvantage and instability.⁸⁶

Existing research shows there is a need to better understand how TBI plays a role in women's pathways, and especially wāhine Māori pathways, into prison as well as their needs. This is especially important given the connection between intimate partner violence and TBI, and the fact that women in prison have higher rates of victimisation. This research gap reinforces the need to move beyond narrow behavioural or individual explanations of offending and instead recognise the cumulative and often intergenerational impacts of violence, neglect and institutional failure. Future research, policy and service responses should consider how TBI may contribute to offending and how that differs across gender and ethnicity.

Economic deprivation

Economic deprivation is one of the most widely recognised individual and interpersonal risk factors linked to criminal offending. Research consistently shows a strong association between poverty, daily survival pressures and exposure to harm. The Ministry of Justice has acknowledged that economic factors can influence criminal behaviour, with wealth disparity particularly linked to violent.⁸⁷ Longitudinal evidence from a Dunedin study - which tracked the lives of over 1,000 New Zealanders - shows that people from low socio-economic backgrounds are three times more likely to commit crime than those from wealthy families.⁸⁸ These findings indicate that economic strain can function as an everyday constraint on decision-making, wellbeing and family stability.

For many wāhine Māori who come into contact with the justice system, economic deprivation is a persistent feature of their lives. As discussed in the institutional drivers chapter, wāhine Māori consistently lived on lower income levels compared to other

⁸⁵ Natalie Thorburn, Cleo Arathoon, Sophie Beaumont, Ang Jury, *Safer When, Safer How? Traumatic Brain Injury and Intimate Partner Violence in Aotearoa* (Wellington: National Collective of Independent Women's Refuges Ngā Whare Whakaruruhau o Aotearoa, 2025), 7 - 8.

⁸⁶ Natalie Thorburn, Cleo Arathoon, Sophie Beaumont, Ang Jury, *Safer When, Safer How? Traumatic Brain Injury and Intimate Partner Violence in Aotearoa* (Wellington: National Collective of Independent Women's Refuges Ngā Whare Whakaruruhau o Aotearoa, 2025), 11 - 12.

⁸⁷ New Zealand Ministry of Justice, *Strategic Policy Brief: Social risk factors for involvement in crime*, (Wellington: Ministry of Justice, 2009), 2.

⁸⁸ Kim Workman, Tracey McIntosh, "Chapter 8: Crime, imprisonment and poverty", in *Inequality: A New Zealand Crisis*, ed. Max Rashbrooke (Bridget Williams Books, 2013), 131.

groups, a disparity compounded by limited access to education and employment opportunities.⁸⁹ These economic pressures shape the environments within which decisions are made, often narrowing available choices and increasing vulnerability to harm.

Economic hardship commonly intersects with caregiving responsibilities, relationship instability and experiences of violence, which together create complex interpersonal pressures. Financial insecurity may increase dependence on partners or whānau members, including those who may be unsafe, intensifying coercion, conflict or instability within relationships. These dynamics directly shape the interpersonal contexts in which offending-related behaviours emerge.

Parenting responsibilities, particularly when carried out with limited support, can further intensify these pressures. Although being a solo or primary caregiver is not in itself a driver of offending, research shows that most women in prison are solo parents and caregivers.⁹⁰ Many experience compounding disadvantage, including poverty, trauma, gendered violence, and prior involvement with state agencies. Many had their first child as teenagers, and a significant proportion have had Oranga Tamariki involvement. Most are solo mothers and primary caregivers, often raising children outside of stable partnerships.

Despite facing multiple marginalisations, these mothers are generally imprisoned for offences that do not pose a risk to others.⁹¹ For wāhine Māori, who are disproportionately represented among imprisoned mothers, unsupported caregiving responsibilities can intensify financial strain, stress and exposure to harm, shaping pathways into the justice system long before any offending occurs.

Economic pressure also contributes to the types of offences for which wāhine Māori are most often criminalised. Many of the offences wāhine Māori are incarcerated for, are linked to socio-economic deprivation, marginalisation and survival behaviours – such as theft, fraud, traffic violations and breaches of justice procedures. Survival-based offending is more likely in contexts where income is precarious, housing is insecure and support options are limited. Economic deprivation therefore does not simply correlate with offending but shapes the daily realities that give rise to it, including intensified exposure to coercion, conflict and substance use.

⁸⁹ Dr Tania Haerekiterā Wolfgramm, *Socio-Economic Status of Wāhine Māori, 1991–2020* (WAI 2700, #B7) (Wellington: Waitangi Tribunal, 2024), 1, https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799625/Wai%202700%2C%20B007.pdf.

⁹⁰ Jennifer Loughnan, *Volunteer Perspectives on Working with Imprisoned Mothers in Aotearoa* (Master of Arts thesis, Massey University, 2022), 6.

⁹¹ Jennifer Loughnan, *Volunteer Perspectives on Working with Imprisoned Mothers in Aotearoa* (Master of Arts thesis, Massey University, 2022), 20 – 21.

For wāhine Māori who have been incarcerated, economic pressures are often compounded following release, which in turn increases the risk for reoffending and reincarceration.

These pressures frequently intensify following release from prison. Without reliable income, women report heightened instability, increased stress and reduced ability to comply with conditions or access support, all of which increase the risk of reoffending. Economic deprivation therefore operates as a significant individual and interpersonal driver of wāhine Māori's justice system involvement. It shapes daily survival strategies, increases exposure to interpersonal harm and coercion, constrains choices, and undermines post-release stability. For many wāhine Māori, offending occurs within contexts of acute financial strain rather than in isolation from the economic pressures that structure everyday life.

Bibliography

Australian Law Reform Commission. *Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (ALRC Report 133). Sydney, NSW: Australian Law Reform Commission, 2017.

<https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/>

Clark, Scott. *Overrepresentation of Indigenous People in the Canadian Criminal Justice System: Causes and Responses*. Ottawa: Research and Statistics Division, Department of Justice Canada, 2019. <https://www.justice.gc.ca/eng/rp-pr/jr/oip-cjs/oip-cjs-en.pdf>

Cunneen, Chris, and Juan Tauri. *Indigenous Criminology*. New Horizons in Criminology. Bristol: Policy Press, 2016.

Deckert, Antje. "Indigeneity Matters: Portrayal of Women Offenders in New Zealand Newspapers." *Crime, Media, Culture* 16, no. 3 (12, 2020): 337-357.
doi:<https://doi.org/10.1177/1741659019873771>. <https://www.proquest.com/scholarly-journals/indigeneity-matters-portrayal-women-offenders-new/docview/2440642253/se-2>

Fanslow, Janet, Brianne Mellar, Pauline Gulliver, and Tracey McIntosh. "Ethnic-Specific Prevalence Rates of Intimate Partner Violence against Women in New Zealand." *Australian and New Zealand Journal of Public Health* 47, no. 1 (2023): 17–24.
<https://doi.org/10.1016/j.anzjph.2022.100029>.

Farnham, Irene Eva. "*Kia whakawāhine au i ahau*": *Redefining the 'Angry Māori Woman': Exploring the pūrākau of Wāhine Māori in Leadership*. Master's thesis, Unitec Institute of Technology, 2025.

Godsoe, Cynthia. *The Victim/Offender Overlap and Criminal System Reform*. Brooklyn Law School Legal Studies Research Paper No. 743. June 2023.
<https://ssrn.com/abstract=4494558>.

Haines, Stephen, *Traumatic Brain Injury: Impact on Offending and Management of Offenders in Prison* (Wellington: Department of Corrections: Office of the Chief Psychologist, 2016).
https://www.corrections.govt.nz/_data/assets/pdf_file/0019/50635/C159346_-_Appendix_One_-_Requesting_information_about_traumatic_brain_injuries_TBI..pdf

Ināia Tonu Nei, *Background Paper: Traditional Māori life and concepts related to justice*. Aotearoa: Ināia Tonu Nei, 2024. https://cdn.prod.website-files.com/650d11250274a5a48eb49e13/66ac02ff7047cffe02e9aca8_Ina%CC%84iaTo

Keepa, Maia, Laura Johnstone, and Kate Tarawhiti. *He Punga i Mau Ai | An Anchor That Holds the Canoe: Exploring the Sentencing of Wāhine Māori in the Criminal Courts of Aotearoa New Zealand*. Wellington: JustSpeak, October 2025.

Lambie, Ian, *What were they thinking? a discussion paper on brain and behaviour in relation to the justice system in New Zealand* (Wellington: Office of the Prime Minister's Chief Science Advisor, 2020). <https://bpb-ap-se2.wpmucdn.com/blogs.auckland.ac.nz/dist/f/688/files/2020/02/What-were-they-thinking-A-discussion-paper-on-brain-and-behaviour-in-relation-to-the-justice-system-in-New-Zealand-updated.pdf>

Lewis, Cassandra, Adele N. Norris, Waimirangi Heta-Cooper, and Juan Tauri. "Stigmatising Gang Narratives, Housing, and the Social Policing of Māori Women." In *Neo-Colonial Injustice and the Mass Imprisonment of Indigenous Women*, edited by Lily George, Juan Tauri, and Antje Deckert, 13–33. Cham, Switzerland: Palgrave Macmillan, 2020.

Loughnan, Jennifer. *Volunteer Perspectives on Working With Imprisoned Mothers in Aotearoa*. Master of Arts thesis, Massey University, 2022.

Martin, Ahnya. *Welfare and Single Māori Mothers in the Media: Symbolic Power and the Case of Metiria Turei*. MSc thesis, Massey University, 2020.

Martin, Jessica. "White Cultural Imperialism and the New Zealand Criminal Justice System: Importance of Insider Voices." *New Zealand Sociology* 38, no. 2 (2023): 50-61. <https://www.proquest.com/scholarly-journals/white-cultural-imperialism-new-zealand-criminal/docview/3156616858/se-2>

Mikaere, Ani. "Colonisation and the Imposition of Patriarchy: A Ngāti Raukawa Woman's Perspective." In *Mana Wahine Reader: A Collection of Writings, 1999–2019, Volume II*, edited by Leonie Pihama, Linda Tuhiwai Smith, Naomi Simmonds, Joeline Seed-Pihama, and Kirsten Gabel, 5–26. Ōtaki: Te Tākupu, Te Wānanga o Raukawa, 2022.

Mikaere, Ani. *The Balance Destroyed*. Ōtaki: Te Tākupu, 2017.

Ministry of Social Development, *Poipoia te kākano kia puawai: Family structure, family change and the wellbeing of tamariki Māori*. Wellington, 2020

Ngata, Tina. *Brief of Evidence of Tina Ngata*. WAI 2700, WAI 381, WAI 2260, Mana Wāhine Kaupapa Inquiry. 20 May 2025.

New Zealand Government. *He Ara Oranga: Report of the Government Inquiry into Mental Health and Addiction*. Wellington: Government Inquiry into Mental Health and Addiction, 2018.

https://mentalhealth.inquiry.govt.nz/_data/assets/pdf_file/0024/20868/he-ara-oranga.pdf.

New Zealand Department of Corrections, "Practice note: Identifying and managing the effects of traumatic brain injury," *Practice: The New Zealand Corrections Journal* 6, no.1(2018).

https://www.corrections.govt.nz/resources/research/journal/volume_6_issue_1_july_2018/practice_note_identifying_and_managing_the_effects_of_traumatic_brain_injury

New Zealand Department of Corrections. *Wāhine – E rere ana ki te pae hou: Women's Strategy 2021–2025 – An oranga-focused framework for restoration and reclamation*. Wellington: Department of Corrections, 2021.

[https://www.corrections.govt.nz/_data/assets/pdf_file/0004/44644/Corrections_Wahine - E rere ana ki te pae hou 2021 - 2025.pdf](https://www.corrections.govt.nz/_data/assets/pdf_file/0004/44644/Corrections_Wahine_-_E_rere_ana_ki_te_pae_hou_2021_-_2025.pdf)

New Zealand Ministry of Justice, *Strategic Policy Brief: Social risk factors for involvement in crime*. Wellington: Ministry of Justice, 2009.

<https://www.beehive.govt.nz/sites/default/files/Social%20Risk%20Factors.pdf>

Ormsby, Paula. *Speaking Notes*. Mana Wāhine Kaupapa Inquiry, Wai 2700, #A55. Presented to the Waitangi Tribunal, Wellington, 23 February 2021.

https://forms.justice.govt.nz/search/Documents/WT/WT_DOC_172611598/Wai%202700%2C%20A055.pdf

Pihama, Leonie, Ngaropi Cameron, and Rihi Te Nana. *Historical Trauma and Whānau Violence*. Issues Paper 15. New Zealand Family Violence Clearinghouse, 2019.

Prison Policy Initiative. *Native Incarceration in the U.S.* "Native people are overrepresented in prisons and jails." Accessed 3 November 2025.

<https://www.prisonpolicy.org/profiles/native.html>

Queensland Government Statistician's Office, Queensland Treasury. *The Overlap between Offending and Victimisation in Queensland: Crime Research Report*. Brisbane: The State of Queensland, 2023. <https://www.qgso.qld.gov.au/issues/12146/overlap-between-offending-victimisation-qlld.pdf>.

Quince, Khylee. "The Bottom of the Heap? Why Māori Women are Over-Criminalised in New Zealand." *Te Tai Haruru: Journal of Māori and Indigenous Issues* 3 (2010): 99–128.

Rattray-Te Mana, Helena. *Ngā Wero a te Mana Wāhine: Wāhine Māori Justice and Equity Wellbeing, 1990–2020* (WAI 2700, #B8). Wellington: Waitangi Tribunal, 2024.

https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799626/Wai%202700%2C%20B008.pdf

Richie, Beth E. *Compelled to Crime: The Gender Entrapment of Battered Black Women*. New York: Routledge, 1996.

Royal Commission of Inquiry into Abuse in Care. *Whanaketia – Through Pain and Trauma, From Darkness to Light*. Wellington: Royal Commission of Inquiry into Abuse in Care, June 2024.

Tau, Te Maire, and Matthew Rout. “The Tribal Economy.” *Journal of New Zealand Studies*, no. NS27 (2018): 92–109. <https://doi.org/10.26686/jnzs.v0iNS27.5178>

Tauri, Juan Marcellus. “Criminal Justice as a Colonial Project in Contemporary Settler Colonialism.” *African Journal of Criminology and Justice Studies* 8, Special Issue 1 (2014): 20–37.

Thorburn, Natalie, Cleo Arathoon, Sophie Beaumont, *Ang Jury, Safer When, Safer How? Traumatic Brain Injury and Intimate Partner Violence in Aotearoa* (Wellington: National Collective of Independent Women’s Refuges Ngā Whare Whakaruruhau o Aotearoa, 2025). <https://womensrefuge.org.nz/wp-content/uploads/2025/03/SWSH-TBI-and-IPV-research-p1.pdf>

Tricklebank, Gemma. “Māori Women’s Experiences of Mental Health Services in New Zealand: A Qualitative Interview Study.” *Psychology Aotearoa* 6, no. 1 (May 2014): 45–48. <https://www.psychology.org.nz/journal-archive/M%C4%81ori-women%E2%80%99s-experiences-of-mental-health-services-in-New-Zealand-A-qualitative-interview-study.pdf>.

Wolfe, Patrick. “Settler Colonialism and the Elimination of the Native.” *Journal of Genocide Research* 8, no. 4 (2006): 387–409. <https://doi.org/10.1080/14623520601056240>

Wolfgramm, Tania Haerekiterā. *Socio-Economic Status of Wāhine Māori, 1991–2020* (WAI 2700, #B7). Wellington: Waitangi Tribunal, 2024. https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_219799625/Wai%202700%2C%20B007.pdf

Workman, Kim, Tracey McIntosh, “Chapter 8: Crime, imprisonment and poverty”, in *Inequality: A New Zealand Crisis*, ed. Max Rashbrooke. Bridget Williams Books, 2013.

Appendix

Annual Sentenced Prisoner Population
for the latest Calendar Years (ANZSOC)

Sex: Female

Duration: Total Sentences

Age: Total Age

Calendar year		1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Ethnicity																											
Offence: Total Offences																											
Total Ethnicity		507	495	612	549	576	756	999	960	933	897	669	807	876	783	741	690	681	738	921	915	816	678	603	447	399	495
· European		144	141	192	180	204	258	342	315	309	273	207	249	282	231	222	210	186	204	258	225	204	162	150	96	96	102
· Māori		303	300	351	312	321	414	564	534	537	540	396	504	510	510	462	426	441	480	588	612	543	459	423	327	276	354
· Pacific		15	27	36	39	24	51	48	63	45	54	39	36	39	27	36	33	36	33	48	33	42	39	21	15	15	27
· Other			6	6	3	12	12	15	27	24	12	18	9	30	15	21	12	15	15	21	18	21	15	9	6	9	6
· Unknown		48	24	27	12	15	18	30	21	21	15	3	9	15	3	6	9	6	9	12	21	9	6		3	6	6
Offence: Homicide and related offences																											
Total Ethnicity		12	9	12	9	12		12	9	6	9	9	15	12	3	9	12	9	6	6	15	9	9	6	6	9	9
· European		3	6	6				6	6		3	3	6			3	3	6	3	3	6	3	3			3	
· Māori		6	3	6	3	9	3	6	3	3	6	6	9	9	6	6	6	3		3	6	3	3	3	6	3	6
· Pacific		3	3		3						3						3				3	3					
· Other																3				3	3				3		
· Unknown																	3		3				3	3			3
Offence: Acts intended to cause injury																											
Total Ethnicity		39	54	66	63	45	66	81	81	81	93	66	96	105	108	96	90	90	93	108	111	114	78	72	78	69	78
· European		9	12	9	12	12	18	12	21	18	24	12	27	27	36	15	18	18	21	24	21	27	18	15	12	15	15
· Māori		21	39	48	45	30	36	57	48	51	60	45	57	69	72	72	69	63	69	75	87	78	60	51	57	48	57
· Pacific		3		3	6	3	12	12	12	9	9	6	9	6		6	6	6	3	3	3	6	3	3	3	3	3
· Other						3				3				3	3	3			3	3		3			3		3
· Unknown		6		3			3	3				3	3	3							3						
Offence: Sexual assault and related offences																											

Total Ethnicity		6	3	3		3	6	3	9	3	6	6		3	6	6	6		9	3	3		3	3	3	3	3
· European				3			3	3	3	3	3	3			3	3		3	3	3		3		3	3	3	3
· Māori		3			3		3	3	3					3		3	3		6	3			3	3	3		
· Pacific			3								3												3	3			
· Other											3																
Offence: Dangerous or negligent acts endangering persons																											
Total Ethnicity		3	12	12	12	12	9	12	15	18	15	9	15	18	9	9	12	15	6	15	12	12	12	6	3	9	9
· European		3	3	3	3	6	3	3	9	6	3		6	6	6	3	6	3		3	6	3	3			3	
· Māori		3	3	6	6	9	6	9	3	12	12	6	9	6	3	9	6	9	6	9	3	6	6	3	3	6	6
· Pacific				3		3					3		3	3	3	3	3										
· Other									3											3							
· Unknown		3					3		3																	3	
Offence: Abduction, harassment and other related offences against a person																											
Total Ethnicity		9	6	3	3	3	9	12	6	6	6	6	15	6	6	6	12	9	9	15	12	21	9	6	6	15	15
· European			3	3	3		6	6		3		6	9	6		6	9		3	3	6	6		3		3	6
· Māori		6	3			3	3	3	3	3		3	12	3	6	3		9	6	6	6	15	3	3	3	9	9
· Pacific																				3		3	3				
· Other										3														3			
· Unknown		3																					3				
Offence: Robbery, extortion and related offences																											
Total Ethnicity		36	30	30	15	18	27	42	42	39	39	27	36	33	27	24	27	30	24	33	33	42	36	24	15	18	21
· European		6	6	6	3	3	6	9	9	12	9	9	9	6	3	3	6	6	12	12	12	6	6	6	6	3	3
· Māori		24	18	15	12	9	18	27	24	21	33	18	27	24	21	18	18	18	12	18	21	24	21	18	9	15	15
· Pacific		3	6	6		3	3	3	9	3		3	3	3			3	6	3	3	3	12	6				3
· Other							3		3		3																
· Unknown				3						3	3			3								3					
Offence: Unlawful entry with intent/burglary, break and enter																											
Total Ethnicity		42	36	51	45	48	57	87	81	90	57	66	78	69	66	69	57	57	75	90	78	72	78	75	57	42	84
· European		12	3	15	12	9	18	39	21	18	12	15	18	18	18	18	6	9	21	18	15	18	15	18	9	12	18

· Māori		30	33	30	27	36	36	48	54	72	45	48	54	48	45	45	48	48	48	66	60	51	60	57	48	30	60
· Pacific		3	3	3	6	3	3	3	3	3	3		3					3		3			3	3			6
· Other														3		3					3						
· Unknown		3		3		3			3		3			3						3							
Offence: Theft and related offences																											
Total Ethnicity		75	63	78	57	51	69	96	96	105	111	87	87	129	93	114	105	114	126	159	177	138	132	129	93	66	99
· European		15	15	24	24	12	24	39	24	42	36	27	30	39	18	27	24	30	21	33	36	27	33	27	9	12	15
· Māori		48	39	48	27	33	42	57	66	60	72	57	51	78	69	81	75	81	99	123	132	105	87	96	78	51	78
· Pacific			3				3	3	6		6	3	6	6	6	9	3	3	6	9	9	3	9	9	6	3	6
· Other							3		3					6	3	3					3						3
· Unknown		9	9	3															3			3					
Offence: Fraud, deception and related offences																											
Total Ethnicity		93	84	105	123	132	174	204	222	168	171	81	99	105	81	84	78	87	69	126	90	69	66	51	39	30	33
· European		39	27	33	42	57	69	84	99	69	72	33	39	42	27	30	36	36	21	42	27	9	24	18	15	9	15
· Māori		39	45	63	60	57	66	84	87	66	63	33	51	45	45	45	30	39	42	66	51	57	36	33	21	18	18
· Pacific		6	9	9	18	12	27	21	24	18	27	12	6	3	3	3	3	6	3	6	3		3		3		
· Other			3		3	6	6	6	3	6	3	6	3	6	3	6	3			3			3	3	3	3	
· Unknown		6	3	3		6	6	9	12	9	9	3	3		3	3	3		3	6	3	3					
Offence: Illicit drug offences																											
Total Ethnicity		54	51	87	69	93	120	153	129	102	102	72	75	96	78	84	84	72	87	87	102	105	69	63	36	45	33
· European		21	24	45	27	45	48	63	63	42	42	27	24	39	33	39	36	27	42	36	39	45	18	33	15	9	6
· Māori		24	24	36	36	39	66	78	57	54	54	33	39	45	39	33	39	33	36	42	51	42	42	30	18	33	24
· Pacific				3			3	3	6	3	3	3	3		3	3	3	3			3	6	6	3		3	
· Other							3	3	6		6	6	6	9	6	9	3	6	9	6	6	12	6	3	3	3	3
· Unknown		6	3		6	6	3	6	3	3		3	3								3						
Offence: Prohibited and regulated weapons and explosives offences																											
Total Ethnicity				3	3	6	6	3	3	15	6	6	6	6	6	6	6	3	6	15	15	12	12	12	12	9	6
· European								3		9	3			3	3	3		3	3	3	6		3	6	3		
· Māori		3			3	6	6	3		6		3	6	3	3	3	6	3	3	9	6	9	9	9	6	6	6
· Pacific									3											3			3				

Offence: Property damage and environmental pollution																												
Total Ethnicity			12	9	9	12	15	18	15	6	15	9	12	21	9	12	15	15	6	6	12	6	6	15	6	9	9	9
· European			6	6	9	6	9	6	6	3	6	6	6	6	3	9	6	3	6	6			6	3	3	3	6	
· Māori			3	6	3	3	6	9	6	3	3		3	9	6	6	3	6	3	6	3	3	6	3	3	6	3	
· Pacific			3		3	3					3		3							3			3			3		
· Unknown			3						3																			
Offence: Public order offences																												
Total Ethnicity				3		3	3	6	3	6	9	3		3	3	6	6	3	6	3	3	9	3	3	3	6	6	9
· European						3	3	3	3	6	3	3	3			6	3			3						3	3	3
· Māori				3				6	3	3	6	3		3	3	3	3		6	3		9		3		3	3	9
· Unknown													3															
Offence: Traffic and vehicle regulatory offences																												
Total Ethnicity			87	93	99	90	93	123	168	138	153	129	111	117	114	108	72	72	60	54	78	78	69	45	45	33	21	33
· European			18	24	21	30	24	36	45	30	39	30	30	24	33	27	12	24	18	15	24	24	15	15	12	9	6	6
· Māori			57	60	66	57	69	78	117	108	108	93	75	90	69	75	54	42	39	36	48	51	51	33	30	24	12	24
· Pacific				3	3		3	3	3	3	3	3	3	3	6	3	6	3	3	6		3	3					3
· Other											3					3					3		3		3			
· Unknown			12	6	9	3		3			3	3														3	3	
Offence: Offences against justice procedures, government security and government operations																												
Total Ethnicity			45	42	45	48	42	57	105	105	123	138	105	144	168	180	141	114	117	165	171	177	141	105	99	57	45	51
· European			12	12	12	15	15	12	27	24	39	39	39	51	54	54	45	30	27	36	45	30	33	18	15	12	12	6
· Māori			30	24	24	27	24	39	63	69	66	90	60	90	99	114	87	81	90	114	108	129	99	81	75	42	33	36
· Pacific					3	3			3			3	6	3	12	3	3	3		9	12	12	6	3	3	6		6
· Other				3	3				6	9	12	3	3		3	6	3	3		3	3	3	3	3				3
· Unknown																												
Offence: Miscellaneous offences																												
Total Ethnicity							3	3	3	6	6				3		3	3						3			3	
· European								3			3							3									3	

· Māori											3	3																
· Other						3				3															3		3	
· Unknown						3				3				3														
Offence: Inadequate data available																												
Total Ethnicity							3	3					3															
· Māori							3																					
· Unknown								3																				