Strengthening the Criminal Justice System for Victims

Workshop Playback Report

Chief Victims Advisor to Government

AUGUST 2019

Hāpaitia te Oranga Tangata
Safe and Effective Justice

Contents

Whakataūkī

Kō te pae tawhiti whāia kia tata
Kō te pae whakamaua kia tīna*

Seek out distant horizons and cherish those that are attained.

*The approach of the first navigators was to pay attention to and to concentrate only on knowing as much as they could about the nature of their immediate environment, the sky, the sea and the air, trusting that their skill at successfully navigating the now, would result in the land they sought coming to them rather than the other way around.

Foreword by Dr Kim McGregor, Chief Victims Advisor to Government

Tēnā koutou katoa

Thank you to everyone who contributed to the 'Strengthening the Criminal Justice System for Victims[1] workshop held on 4-5th March 2019 in Wellington.

I'm truly grateful to the approximately 160 Māori and tauiwi victims, victim advocates, academics, Police, court staff, lawyers, members of the judiciary, Department of Corrections staff, members of the Parole Board, and government officials who attended. These dedicated people spent two days together focussing on how to improve the criminal justice system for victims and developing a shared vision of a safer and more effective Aotearoa New Zealand criminal justice system. I would particularly like to thank my expert bi-cultural steering group of victim advocates and academics who guided and advised me from the start on the design and content of this workshop.

The motivation of people who attended the two-day workshop, most of whom I would describe as victims' champions, was to assist me in my advice to the Minister of Justice, the Hon Andrew Little, on how to improve the justice system for victims.

The Minister of Justice announced the reform of our criminal justice system under the Hāpaitia te Oranga Tangata, Safe and Effective Justice programme. At the Criminal Justice Summit in August 2019 he stated that the needs of victims must be at the heart of any such reform and asked me to hold a victims workshop.

This report begins with a brief summary of the online victims' survey that I held in February 2019, to hear about victims' experiences in the criminal justice system and inform the workshop. The survey highlighted that the current adversarial system is not victim-focussed, does not provide justice to Māori, fails to keep victims safe and fails to listen to victims' views, concerns and needs. The system does not communicate well with victims and, with some shining exceptions, the criminal justice workforce generally needs to do better for victims.

Following the survey summary, we include a few key comments from some of the academics who opened the first day of the workshop.

Within the workshop, having worked on identifying the gaps and solutions to improving the current system for victims, participants were asked to prioritise their solutions. Each group's top three solutions are listed in the Prioritising Solutions section of this report.

Participants in the workshop worked for a half day to develop their values and visions essential to building a new Aotearoa New Zealand criminal justice system. The words and concepts participants used are included in this report. We asked them to be ambitious. Key values identified were: fairness, equality, accountability, restoration and repair, honesty, whakapapa (relationships), mana motuhake (self-determination) and safety. The groups were consistent in their views that everyone involved in the justice system should be treated with respect and dignity and the key theme that emerged was that Aotearoa New Zealand needs a criminal justice system that 'enhances the mana of everyone'.

The bulk of this report provides the comments from each of the 15 tables at the workshop that covered a range of areas of the justice system that my team[2] had identified to be particularly challenging for victims. Each table was asked to identify the gaps in the system from their perspective and to offer their advice and ideas for dealing with them.

1 We acknowledge that the term 'victim' is problematic. Some people who have experienced crime dislike being referred to as a 'victim'; some feel the term accurately conveys their experience of harm; some prefer to be referred to as 'survivors'; and some, including many Māori, wish for no label at all. Within this report, while not wishing to offend anyone, we have used the term 'victim'. This is mainly for consistency with the legislation (for example the 'Victim's Rights Act 2002') and because most criminal justice agency personnel recognised the term. It may be that through future consultation with those who have been victimised we can find a better solution to recognise and respect the sensibilities of all people who have been harmed by crime.

2 The team that helped design the workshop included the bi-cultural steering group of Māori and tauiwi victim advocates and academics, the two officials in my Chief Victim Advisor office, several other Ministry of Justice officials and the facilitator Marcus Akuhata-Brown.

Participants have spoken frankly about their criticisms of the current system and they have also shared their ideas and enthusiasm for the many solutions they offer. In this report we have done our best to use the words and convey the meanings given to us from each of the expert groups. This report may make uncomfortable reading for some. It is important to remember therefore that any criticisms about gaps in the current system are about 'the system' and not of 'individuals in the system'.

This report along with the Survey Report will contribute to the recommendations of ways to improve the criminal justice system for victims that I will provide to the Minister later this year.

Key Issues

In their keynote speeches some of the academics focussed on:

- the limitations of the adversarial system from a victim's perspective
- the challenges for Māori being entangled in a criminal justice system which is not borne of their own tikanga, and does not reflect their principles and practice of whakapapa, whanaungatanga or aroha – any justice system that works for Māori must allow for whānau, hāpu and iwi voice and engagement
- the harm that is sometimes caused to victims through the criminal justice system
- the wider applicability of restorative processes for victims and the need for greater public awareness of these alternative processes
- the concern that the criminal justice system has become a 'catch-all' for those who should have been provided with support from other social services so that they did not have to enter into the criminal justice system.

Some of the areas covered by experts in the workshop included key processes within the system such as communication and support, listening to victims, preparation for trial, legal representation and restorative processes.

Other challenges discussed were issues for victims of particular crimes such as homicide, family violence, sexual violence, assaults, burglary, motor vehicle crashes, financial offences and issues for victims of mental health patients.

Gaps in legislation were also raised including the limitations of the Victims Rights Act 2002 and ideas for improving it, as well as the need to improve processes such as victims being listed on the Victim Notification Registers.

Particular challenges for different victim communities were discussed such as difficulties for Māori especially in the absence of Te Tiriti o Waitangi in the criminal justice system, the lack of awareness of positive processes for Pacific peoples, as well as the lack of awareness and tailored support for a number of communities including male victims, children, those from a range of ethnic and migrant groups, those from the rainbow community, and those with disabilities.

Overall, participants called for navigator support and advocacy, specialisation, legal representation, legislative change, education, training, consistency of practice, cultural responsiveness, a whānau-centred approach, and partnership.

Ultimately victims want a system that listens to them, treats them as a key party in all processes, and responds to their needs for justice, healing and repair.

As a result of this workshop, the victims' survey and my many conversations with victims and victim advocates, I have learnt just how many victims feel let down and re-victimised by the current system that they find so difficult to navigate. I have come to believe that while we can do much better to meet the procedural justice needs of victims in the 'current' criminal justice system, we also need to *significantly* and *fundamentally* expand our justice system to include a wide range of tailored, victim-responsive services, and alternative processes to meet the needs of victims from all communities. In particular, we must prioritise meeting our Te Tiriti o Waitangi obligations to Māori by supporting the development of Māori designed and led systems. Victims also need a mechanism that ensures that the improvements they have called for are implemented.

Tēnei te mihi nui ki a koutou

Dr Kim McGregor
Chief Victims Advisor to Government

Summary of key themes in the Victims Survey

Between February to March 2019, 620 people responded to the Chief Victim Advisor's online survey of victims' experiences in the criminal justice system.

For each of the questions we asked, a majority of respondents reported a negative experience of the criminal justice system.

- **63%** of respondents reported that their **overall experience of the criminal justice system** was either **poor or very poor**.
- **83%** of respondents either **disagreed or strongly disagreed that the criminal justice system is safe for victims**.
- **77%** of respondents either **disagreed or strongly disagreed** that **victims' views, concerns and needs are listened to throughout the justice process**.
- **79%** of respondents either **disagreed or strongly disagreed** that **victims have enough information and support** (not including family and friends) throughout the justice process.

Key themes which emerged from the survey included:

1. The ideology of the criminal justice system is wrong

This theme covers the ideological failings of the current system, including the call for a paradigm shift from an offender-focussed system to one which is victim-focussed, the call for a shift from the adversarial system, and the values that victims envisioned for a future system. Also included in this theme is discussion about the system not working for Māori, not meeting the complex needs of victims, the call for a tougher approach on crime, and the call for a more rehabilitative approach.

2. The criminal justice system is failing to keep victims safe

This theme covers safety in a number of different ways, including physical safety, psychological safety, and financial safety. It highlights the call from victims that the system should keep victims safe throughout the court process, the system should keep victims safe beyond the court, the system should focus on supporting the victim, and the system should keep whānau and communities safe.

3. The criminal justice system fails to communicate with victims

This theme comprises the system failing to keep victims informed, and the system failing to listen to victims or enable their voice to be heard.

4. The workforce of the criminal justice system can do better

This theme reflects negative feedback that we received about the workforce of the criminal justice system, but also highlights shining examples in the dark: individuals and organisations that made a positive difference to victims' journeys through the criminal justice system.

Key messages we heard from some of our guest speakers about the limitations of the current criminal justice system:

Khylee Quince (Auckland University of Technology)

"A justice system that works for Māori is one that acknowledges, affirms and protects our tikanga, and makes way for whānau, hapū and iwi voice and engagement. It will have whakahoki mauri as its objective – the lifting of the spirit to enable victims to stand in their own mana, and to hou rongo – to make peace with what has happened to them. It will enable victims to make choices about their pathways, including whether they choose a legal response or not. It will encourage dialogic processes, and will provide trauma-informed care and decision-makers."

"There are significant difference in philosophy and practice at every stage between Māori and Pākehā justice. Whereas the cornerstone of modern Pākehā justice is arguably backwards-looking, retributive justice, a Maori approach is strongly forward-focussed, in terms of repairing disrupted relationships, and achieving mediated outcomes acceptable to all parties, including victims of wrongdoing."

"Te Tiriti o Waitangi is also absent in criminal justice discourse – despite the glaring evidence of disparities that speak to the unequal status of Māori in breach of the Article 3 promise of equal citizenship. The limited role ascribed for Māori as service providers to the side of the system is an inadequate articulation of rangatiratanga as affirmed in Article 2. These are not limitations of the criminal law, these are constitutional arrangements that we have continually overlooked in our system of defining and responding to harm in Aotearoa/New Zealand. The result of that myopia is that we are left with a system operating on a set of cultural norms, practices and objectives that are not our own."

Yvette Tinsley (Victoria University of Wellington)

"The main limitation is the nature of the criminal justice system itself."

"...a contest between individual accused and the State... Victims might know that it is THEIR case... but... they are not a party, and they do not have a lawyer... This model assumes that individuals and families will all want to be relieved of the burden the State takes on."

"...most of the rights we see in the Victims Rights Act 2002 and elsewhere focus on service and vulnerable victim rights, not on procedural or substantive rights that might affect the disposition of the case."

"There is a lack of cultural responsiveness built into a system that assumes that one size fits all..."

"...today we need to manage our expectations of what the current system can achieve because it was not designed for, and cannot accommodate, victims as parties or victims having a large say in decisions affecting disposition of the case."

"Some past reforms... did not do what the headlines suggested, because within the confines of the adversarial prosecution led model they cannot do more than make minor headway into the amount victims participate in the case."

"We have an opportunity to make real change: the State-run adversarial system seems well settled but is actually not long-lived in a historical sense, even in England & Wales – this gives us the opportunity to reimagine aspects of our system, how we view offending, who we make responsible and how we address harm."

Chris Marshall (Victoria University of Wellington)

> *"Restorative justice is a voluntary process that focuses on bringing victims and offenders together, in a safe and controlled environment, with skilled facilitators, to speak truthfully about what has happened and its impact on their lives, to clarify accountability for the harms that have occurred, and to resolve together what can be done – materially, morally, emotionally and spiritually – to promote repair and bring about as much restoration as possible. But there are still major gaps in the way of restorative justice operates in the current system."*

> *"...restorative justice referrals...[represent] a small proportion of the number of eligible cases."*

> *"...almost all funding for restorative justice conferencing is limited to the pre-sentence arena..."*

> *"...there is a huge need to increase public awareness of restorative justice and to dispel some of the common myths..."*

> *"...the need to diversify practice models, so that restorative interventions are better tailored to the complexities of the cases involved."*

> *"...the need to integrate restorative justice into a wider range of support services for victims... the justice system needs to be committed to the restoration of victim wellbeing and to funding, not just a few more restorative justice conferences, but an integrated suite of restorative measures to promote repair and recovery."*

> *"...[there] is a need to devolve more authority to local communities to pursue restorative justice in culturally appropriate ways."*

Paulette-Benton Greig (University of Waikato)

> *"...sexual victimisation today... is highly prevalent, deeply embedded and often hidden... has a devastating effect on many victims lives, and is poorly responded to by our social structures including the criminal justice system."*

> *"...mostly the criminal justice system fails victims of sexual violence... it fails to ensure their safety, it does not give them a sense of justice done or contribute to repairing the harm caused, and it is ineffective at holding people who cause harm to account and stopping them from harming others."*

> *"...core processes replicate the dynamics of sexual violence... prioritising the rights and needs of the person who harmed you over your own... it positions you as a nonperson – a mere witness...it extends the time in which you feel unsafe, have no control over what's happening and don't know how it's going to end – which replicates the terror of the moment... [the] attack on your credibility and character – which replicates society-wide victim blaming and the internal sense of shame and self doubt... question after question, after question, after question to relive your most terrifying moments – which replicates trauma."*

> *"So it's not safe. Or restorative. And it sure doesn't feel like justice."*

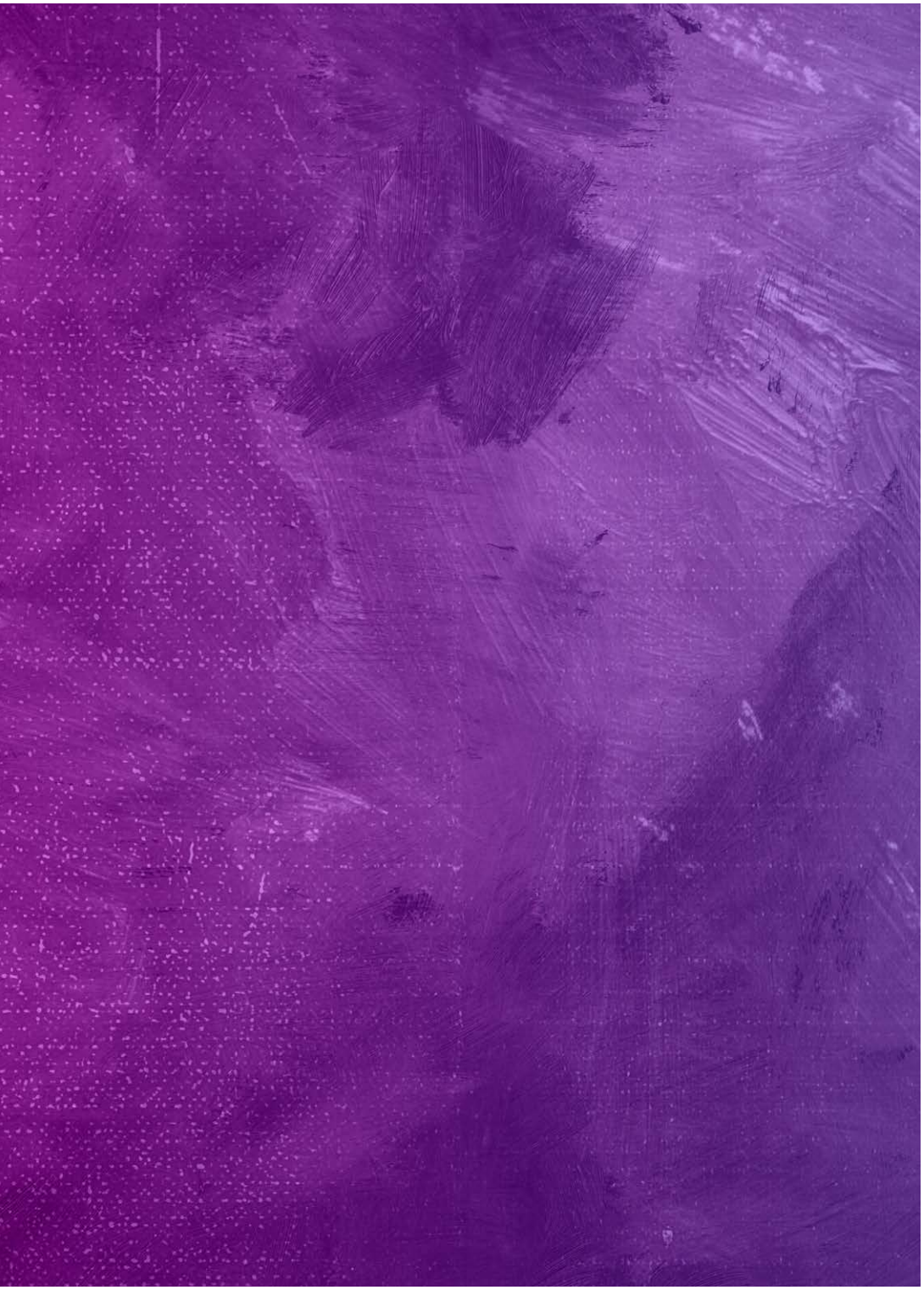
Judge Carolyn Henwood

> *"The Criminal Justice System receives large numbers of the mental health population and children who come over from care and protection. This means the system is capturing a number of cohorts who do not need to be there."*

> *"What we have now is a cumbersome system which is unclear and involves a number of different departments such as Police, [Department of] Corrections, Courts, the Judiciary, all operating within their own legislation and their own world view."*

> *"More clarity would be helpful for a system to say precisely what it is providing, precisely what it is resourcing and where is the accountability for systemic failures."*

> *"... everything seems to be escalated up towards imprisonment as a sentence and then lower down to home detention if it is possible. If there was a genuine robust and worthwhile community-based sentence, with a good accountability element in it, this would answer a need."*



Prioritising solutions

Participants at the workshop first identified solutions in key areas to address gaps in the criminal justice system for victims. We asked participants to then prioritise these solutions. The table below sets out the three priorities identified for reform in each key area. The colour coding used indicates where there was consensus for reform across different key areas.

- **N** **Navigator support and legal representation**
- **S** **Specialisation**
- **E** **Education**
- **L** **Legislation change**
- **C** **Consistency of practice**
- **R** **Cultural responsiveness**
- **W** **Being whānau-centred**
- **P** **Partnership**

Topic specialists identified and prioritised these solutions:

Issue/Topic	Priority 1	Priority 2	Priority 3
Māori	P Constitutional reform – **power sharing** for Rangatiratanga.	N **Legal representation** for victims.	Courtroom protections.
Family Violence & Māori	W **Whānau-centred approach** and systems.	L **A new justice system for Māori**.	
Family Violence	W The safety of victims and **whānau.**	S Need for **specialist family violence courts** with comprehensively trained staff and adequate resources.	W **Children** to live in a safe and secure environment with the non-violent parent.
Homicide	L **Equal victims' rights for all victims.**	Allow victims to update their victim impact statements as needed.	N **Navigator** and consultation with victims.
Sexual Violence	S N Increased **specialist sexual violence services** and **navigation.**	E **Eradicate the impact of rape myths** in sexual violence trials.	More options for treatment, restoration and repair.
Pasifika communities	P The model for victim support must be **co-designed** with Pasifika peoples.	Tama Manu (protection of the vulnerable is vital for the whole community) must be put into practice.	R N **Cultural providers** are key, such as **navigators**.
Ethnic communities	L R **Law change** to deal with **culturally** sanctioned forms of violence (for example, honour killings, marital rape).	E R **Training** and orientation for Police, legal fraternity and judiciary and schools to identify and respond appropriately to victims' voices around **cultural abuse.**	R E Recognise **cultural competency** to respond with cultural sensitivity and **awareness** of violence issues.
Male victims	L Make **legislative** and government agency policy needs inclusive of male victims.	S **Specialist** male victim services.	N **Male advocates** in all male victim services.

Issue/Topic	Priority 1	Priority 2	Priority 3
Vulnerable victims and witnesses	E Frameworks and **training** that include child development and the impact of trauma.	L **Remove the right to a jury trial for sexual violence crimes.**	L **More pre-recorded evidence.**
Prosecution	N **Lawyer for victims.**	L **Victims Rights Act 2002** re-write.	Make victim impact statements more victim-centred.
Victim's voice	N **Navigator support** for victims and families through the process from start to finish	C Auditing/**consistency** of approach by better data gathering and monitoring and evaluation	
Support and communication	R Need **culturally appropriate** justice N **navigators** – supported and valued by the justice system.	Reduce court delays.	Broaden access to more services, and better communication between agencies.
Trial processes	C More **consistency** in trial preparation - raising standards so victims leave with their self-esteem and dignity intact.	C More **consistency** around victim impact statements and more therapeutic treatment of victims.	
Victims Rights Act 2002/Victim Notification Register	L **Review of Victims Rights Act 2002**: make victims' rights clearer and dealt with consistently, make the victim the main focus, remove unintended consequences.	**Making the Victim Notification Register a one 'source of truth' centralised system** recording all victims of specified offences which all relevant parties can access.	Increased restorative justice post sentence.
Legal representation	N Wide ranging model of **victim representation and advocacy.**	L **Alternative model for sexual offending.**	
Restorative Justice	N **Navigator** - an independent **specialist** S victim advocate to walk alongside the victim supporting, navigating, informing, providing advocacy.	E **Education**/**specialisation** S of stakeholders within the criminal justice system (for example, judges, defence, crown, Police).	E **Increase awareness** of the existence of restorative justice and flexibility of the restorative justice process.

A criminal justice system for Aotearoa NZ must demonstrate these values

Tino Rangatiratanga
Protection Prevention
Feveitokai'aki
Tovo vaka turanga
Equality
Co-design
Relationships
Dignity
Mana motuhake
Whanaungatanga
Mana enhancing
Listening
Whakamana
Power sharing
Tika
Restoration and repair
Empowerment
Needs based
Trust
Independence
Easy to navigate
Respect
Healing
Excellence
Holistic
Compassion
Rangatiratanga
Enablement
Te Tiriti o Waitangi
Balance the whole person
Pono
Accessible information
Equality
Resolution
Fa'aaloalo
Participation
Turanga
Love
Transparency
Empathy
Safety
Accountability
Integrity
Hāpainga
Education focussed
Timeliness
Proportionate
Motivation to change
Kaitiakitanga
Choices
Fairness
Diversity
Harm minimisation
Reintegration
No more harm
No wrong door
Support
Honesty
Tama manu
Responsibility
Culturally informed
Victim autonomy
Whakapapa
Responsiveness
Consistency
Wellbeing
Empowerment
Measurement and review
Victim led
Innovation
Change focus
Choice
Inclusiveness
Humanity
Reparation
Truth seeking
Community
Kindness
Kotahitanga
Equal access
Partnership
Care Compassion
Acknowledgement
Flexibility
Information
Ōritetanga
Navigation
Wairuatanga
Advocacy

What are our visions for a victim-responsive criminal justice system in Aotearoa NZ?

A criminal justice system for Aotearoa NZ that enhances the mana of everyone

Tino Rangatiratanga for whānau , hapū and iwi

A system that doesn't re-victimise

A system that empowers people by listening, and responds with choices

Children and sexual violence cases have alternative pathways

Doing justice differently

A Victims Commission

Justice through health and wellbeing

Communities deal with social issues, Courts deal with serious crime, and Department of Corrections deals with restoration, safety and monitoring

All less serious crime goes to the community

Community is involved in accountability and repair

Pasifika values are practiced and upheld

The system must be organic, flexible, and have multiple pathways

When people are incarcerated, they don't come out angry

A system that is mana enhancing, heals and repairs

The system must be based on inclusiveness, autonomy, respect, empowerment, and value diversity and equity

A system shaped from a collectivist perspective

Healing for the long term

Treatment is the only way out

A system that significantly invests in families to prevent harm

...and have more options when charges are not denied

Strong communities

Victims have support and a voice

Resolutions meet victims' needs

Investment in victims and offenders is equitable

A system that is informed by Te Tiriti, whakapapa, and trauma

The system is accountable to individuals and whānau

Victims are supported by a system that is fair, responsive and respectful

A system that has a heart and makes the best use of technology. Resources kick in at the first indication of harm

A system that works towards healing, recovery and restoration of all parties affected by harm, while reducing the risk of further harm

Providers who are educated or culturally sensitive to identify the nuances of Pasifika victims and their families

Non-criminal and whānau-centred pathways for victims to tell their truth

It's person centred

Multiple safety nets

Courts that hold more of a conversation, getting rid of traditional processes and jury trials when charges are denied

A model for support of Pasifika victims that is co-designed with Pasifika

NZ – a world leader in restoring lives damaged by harm

What we heard from Māori victims

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Te Tiriti o Waitangi	There is an absence of honouring Te Tiriti in the current criminal justice framework. There is no recognition of iwi or tikanga processes as alternatives to a formal legal response.	Constitutional reform, such as formal recognition of the Te Tiriti o Waitangi – a devolved separate justice system. The system needs to: • make room for an iwi perspective, tikanga Māori processes, Māori models of healing, support and affirm tino rangatiratanga, mana motuhake, and importantly, be prepared to share power and control. • A whānau and iwi voice with their involvement from the beginning through the entire process • have a discussion about justice in the context of the Māori Crown relationship, and the Māori Development portfolio • allow a mechanism for Māori victims to have a choice of jurisdiction.
A Māori justice model	A Māori justice model will have challenges: • human rights protections for victims must be balanced with due process for offenders • recognising the distinction between victims' rights and victims' needs • ensuring iwi are involved. Compartmentalism and consultation fatigue will be barriers.	Iwi and hapū processes need to be supported and funded. Tikanga principles and processes should be recognised, such as victim voice and participation (story-telling), and the offender taking responsibility. It's important: • to have blue-sky kōrero • to not let the *urgent* get in the way of the *important* • to identify good practice to share (for example, Alcohol and Other Drug Treatment Courts, Rangatahi courts) • better engagement with and use of communities and the knowledge that exists within them to deal with justice needs.
Partnership with Māori	We heard that due to the impact of systemic racism and the ongoing legacy of colonisation, Māori feature highly in both offender and victim statistics. Also, offenders of violence often have histories of victimisation. Yet, Māori voices are absent, especially when it comes to how best to work with Māori.	There needs to be partnership with iwi, hapū, whānau and Māori communities to enable Māori voices to be heard. Māori must be enabled to lead and co-design kaupapa Māori responses, and a model for victim support. What works for Māori will work for all.
	We heard there should be more support for those who are victimised early in life so that they can avoid entering the 'justice pipeline'.	There should be services and responses for unreported offending. Involving kuia, Police, and community leaders, all working together in a collaborative relationship would enable the naming and location of vulnerable households, rather than waiting until they are in court to be responsive.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Need for a victim-centric appoach	The system is not victim- and whānau-centric – Māori victims' voices are not being heard. The spaces, rules, language of the criminal justice system are not victim focussed or friendly.	There should be parity of funding for Māori victims' services and supports so that the voices of Māori victims can be heard and acted upon. We need justice interventions (for example, prevention-focussed interventions) to occur before Māori enter the justice system (i.e. crisis intervention). Create a Victims of Crime office (separate from Victim Support) that: • is mana-enhancing, restorative and transformative in its approach • minimises the harm of the existing system • is Māori designed and led • has whānau-centred practice • is safe, inclusive, fair and welcoming • provides someone to support and advocate in and out of the court for the victim from the beginning to the end of the process • recognises that offenders often also have histories of victimisation.
A whanau-centred approach	We heard that the system looks only at the individual and does not allow for collective experiences. There is not space for whānau. There is currently only a generic response to crisis intervention, providing individual, non-Māori responses. The criminal justice system doesn't do enough to support whānau to deal with all of the difficulties they face. The current system is homogenous and so lacks the ability to deal with the different needs of Māori, non-Māori and whānau. The needs of whānau affected by homicide, are different to needs of whānau affected by 'family' violence.	We need a new system for Aotearoa. We need 'village thinking'. Government agencies need to work together with whānau, hapū, iwi and communities. All justice responses should be whānau-centric, not dividing people up into 'victims' and 'offenders.' There needs to be a focus on restoration of whānau. The system needs to involve whānau and the whakapapa of all involved, including: • identifying the whakapapa of how someone or their whānau came into the criminal justice system • working to address underlying issues, such as intergenerational harm, ongoing colonialism, family violence and poverty – the whole approach needs to be whānau-centred. The Victims Rights Act 2002 should be amended to recognise whānau as victims.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
	We heard that the Family Court is often the beginning of the 'justice pipeline' with whānau torn apart rather than supported to find whānau-led solutions. Universal responses are unacceptable and do little to change outcomes for whānau.	We heard that we need to move away from a victim/offender dichotomy towards a whānau based approach and system that involve: • whare ora • whānau ora • marae-based, Kaupapa Māori based, mātauranga Māori processes • problem-solving strategies to minimise harm • multiple people and agencies invested in children's lives by taking care of and working with the whānau • funding, adequately resourced, and given time to work • recognition of the underlying causes when whānau are in crisis, because there are often multiple intersecting contributing factors • that what whānau want and need is important.
Need equity in funding	Violence and harm exist whether people are on a Community Services Card or a Gold Card. The current funding model lacks equity, disadvantaging Māori given their burden of harm and over-representation in the system. There is a lack of cultural competency across the system. One gap is first response to hara (crime); both (victim and offender). All parties need a secure safe space.	There needs to be an equity approach – the outcomes of the responses should be similar whether people are Māori or not. Safety needs to be at the heart of the system. Funding needs to enable Kaupapa Māori specialists to work with whānau the way they work best. Kaupapa Māori solutions already exist and are working well – government needs the courage to share resources with Māori to enable Māori to implement these solutions.
The Police narrate the experience of Māori in the system	We heard that there is often Police bias in responding to victims and whānau, reflecting a lack of awareness of te ao Māori (Māori worldview). We heard that the Police can be a risk adverse organisation and respond accordingly. The Police focus on achieving convictions, and pressure victims to give evidence to charge offenders. This can lead to victims recanting their statements.	We need to change the question from one of who is guilty or not guilty to who has been harmed or not harmed. The Matariki Court is an example of how to respond in a very different way.
Training and experience	24/7 Police crisis lines are meaningless without trained staff ready to provide immediate interventions.	New staff need hands-on experience on the frontline, so they are work-ready. Lawyers, Police, health professionals, agency staff – they need to understand realities for Māori and whānau, and one way to do this is to have frontline experience.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Police Safety Orders	We heard that Police Safety Orders are often served on wāhine because it is easier to remove victims and find them a place to stay. This significantly impacts wāhine because of their inappropriate apprehension: • further blames them as victims • turns the lens onto the children and therefore increases the risk of children being removed or reviewed by Oranga Tamariki • invalidates protection and parenting orders • negatively influences the whānau. Māori make up 68% of children in state care – this suggests the system racially targets Māori. We heard that this has to stop, that Māori need to be able to work 'with' their whānau, and help them heal from the harm of ongoing colonisation and racism, and the intergenerational harm they endure.	Police Safety Orders must be issued as they are meant to be, according to the legislation. That is, the respondents of the orders are removed from the home.
The purpose of the system is currently the system, not people	A compassionate and humane touch is generally absent in the justice system. Language matters. When we speak of 'victims' and 'offenders', we are placing people into boxes and lose sight of the actual whānau and the wider context within which they live. A lot of time is required to minimise the harm caused by the system.	The system needs to be people and whānau focussed, underpinned by values such as tika, pono, aroha, manaakitanga and whanaungatanga. Safety needs to be at the heart of the system. It must restore victims' spirits, be mana-enhancing, and restore their self-determination and respect. There needs to be a coherent journey for Māori victims and their whānau.
Community involvement	Criminal justice intervention is a bottom of the cliff response.	The system needs to also focus on prevention, and acknowledge the wider historical, social and contextual factors impacting whānau. Community knowledge is currently underutilised and so we need to make more of community connectivity.

What we heard about support and communication

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
In general	The current criminal justice system was criticised: • as a process focussed system, rather than a people centred system • that human rights are being subsumed by the system • that access to justice needs to be improved • that the system is very offender-centric.	The criminal justice system needs: • to adjust to meet individual victim's justice needs • to allow the voice of the victim to be more influential • to better recognise that victims are not simply witnesses, they have also directly experienced the victimisation and its associated harms.
Justice needs of victims	The current criminal justice system does not provide victims with enough support to meet their justice needs. Currently, victims often do not know about: • their rights • what services are available • the criminal justice system itself which can seem foreign and confusing. The earlier a victim's needs can be assessed and identified, the sooner they get access to the communication and support they need. We heard that we need to identify the individual needs of individual victims. Not all victims are the same, and the criminal justice system tends to treat them as a homogenous group.	There needs to be a proper assessment of all victims' needs, including early identification of what needs they have and how to get them the right support services.
	Certain specific groups of victims were identified who are not having their needs met: • victims who live in areas with limited availability to support services and long wait times	Access to services needs to be consistent across the country, no more 'post code' justice for victims.
	• children's needs and rights are not being respected, for instance children are being removed from their homes when they want to stay with their family • ethnic victims have multi-lingual needs that are not being met.	Children should be able to live in a safe and secure environment with the non-violent parent. More support is needed to be put around protective parents to enable them to keep parenting.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Need for end-to-end support and advocacy for victims in the criminal justice system	We heard that many victims have difficulty accessing the information and services they need to navigate the criminal justice system. Victims need to have the criminal justice process explained to them from the very start of their involvement. Then as the investigation progresses, victims need to have ongoing explanation of what is going on in the investigation, and then in the court processes. Victims may not have had any prior experience of the system. We heard that for some victims there may be multiple people from different agencies assisting at varying points in the system, with handovers creating gaps and mis-communication. Other victims are offered no support at all. This is particularly true for the victims of offences that Police may not assess as traumatic for the victims, for example, burglary, robbery, fraud. In these cases, Police may not refer the victims' cases to Victim Support.	We need to develop a national-based scheme to provide end-to-end specialist victim support that: • engages with a victim as soon as possible • helps the victim to navigate through the entire criminal justice system • acts as a buffer for victims so that they don't have to engage directly with multiple different agencies to access the information and services they need. Examples of such specialist support would be Independent Specialist Advocates (such as the existing Specialist Homicide workers provided by Victim Support, or specialist advocates from the sexual violence intervention sector or the family violence intervention sector). These advocates can act as a single point of contact to help victims understand the various processes and roles of Police, Prosecutors, Court Victim Advisors, Victim Support or other in-court support people as the victim moves through the complex and often lengthy system. Court Victim Advisors are still needed to meet any practical needs to do with court processes – getting safely into the court, making sure the mode of evidence (such as a screen) has been applied for etc. Court Victim Advisors can liaise with the specialist advocates to provide this support.
	It was emphasised how demand always exceeds supply for specialist services which means that victims often do not get the help they need in time.	Access to these relevant specialist services can only be fully available if sufficiently resourced by government. This ranges from specialist NGO support, the availability of ACC-referred counselling, Victim Support and the Court Victim Advisor service.
	Currently there is a lack of information sharing between government agencies. This tendency to work in silos limits the ability of service providers to provide continuous and seamless support for victims through the system.	It is important to work towards a well-connected criminal justice system. A possible system was discussed where government agencies shared information to ensure independent NGO victim advocates could work with relevant government agencies to provide seamless support and continuity for victims across the system.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Easier access to support services is needed	You asked how victims are supposed to get help if they do not want to enter the criminal justice process. We were informed that government needs to provide support whether a person enters the criminal justice system as a victim or chooses not to. Currently a victim must either report an offence to the Police or go directly to an NGO and ask for help to access the support they need. Victims may not want to report to the Police and may not feel comfortable going directly to a support service.	There is a need to develop easier ways for victims to access the support services they need outside of the criminal justice system. It was suggested that the health and education systems could be possible avenues to develop such pathways. Hospitals, GPs and schools are already part of most people's lives and could be used to identify and triage these support needs, then helping victims to get access.
Support during trial	You told us that victims currently do not have enough support during trials, with support persons unable to even touch victims for reassurance during testimony. Victims do not always have access to their preferred mode of testimony, such as by using a screen or via CCTV.	A victim-responsive system would make sure victims had better access to: • alternative modes of testimony via CCTV or behind screens in the courtroom • physical touch to support victim during their testimony • adequate preparation and support for trial.

What we heard about victims having a 'voice' in the criminal justice system

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Navigation and advocacy	There is not enough opportunity for independent specialist advocates to support victims. There can be a wide number of people dealing with a victim. Instead victims need a single helper from beginning to end. Handovers can create gaps and mis-communication.	There needs to be victims' advocacy provided from the time of reporting a crime until the end of the process. This needs to be an integrated service, one organisation with advocates which also provides wrap-around support. This service would provide a range of skills, for example restorative justice mediations, lawyers, counsellors, social workers and advocates. An advocate might amount to separate legal representation when the state and victim's interests diverge. The service: • can support victims' family and whānau when necessary • can educate victims/witnesses about cross-examination • with sufficient flexibility, the service can be tailored to the case, victim and community. • can help victims navigate both the family and criminal courts
	This table discussion identified the following potential barriers to setting up a navigation service: • need additional resources and workforce • multiple complainants can be difficult to co-ordinate and manage (in one case) • triaging which victims this service should be provided for will be challenging • implementation challenges • there are people and agencies available for referral, such as NGOs, counsellors etc. But currently there is a shortage of both counsellors and the number of sessions available.	We need to build best practice resources (with consultation) but also allow flexibility. Local models should be involved and supported, and involve partnership with Māori. It will require: • relationship building and continuity of provider services • creative approaches to ensure adequate rural coverage, and urban areas where there is currently a lot of need • specialist training for all concerned to understand the navigator role including judges, lawyers etc.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Legal representation	Victims effectively don't have a lawyer. Prosecutors can't be the lawyer for the victim, they do as much as they can within the limitations of the system. Legal representation is only needed when the public interest and the victim's interests diverge. It is very rare for the victim's view to be separate from the state's. Some examples are: • in family violence cases, often the victim wants a lighter sentence or for the charge to be withdrawn. For Māori, restoring the mana of whakapapa and whānau is an important consideration • Crown prosecutors or Police prosecutors sometimes have to make a call that force victims to come to court to make sure others are not victimised in the future.	Victims could have legal representation from an advocate or lawyer in the following contexts: • the decision to charge • to navigate the wider system, such as in making ACC claims especially where harm is done but the evidential threshold has not been met • plea bargaining with Prosecution and Police • reparation • name suppression • Parole Board.
Alternative processes	Since 2016/17 victims have had the right to go to Youth Court proceedings to Family Group Conferences. This potential '3rd way' of justice is now embedded into the youth system and could be an example for the adult criminal justice system.	This '3rd way' of justice used in the youth justice system could be available for both prosecuted and not prosecuted cases: • as an alternative or as a pre-cursor to charges, depending on the circumstances • for low-risk, one-off situations where there is a need to create a way to hold an offender to account without conviction or imprisonment • this '3rd way' is especially good in cases when the prosecution decides to prosecute, but victims do not want to proceed. It provides an alternative approach to justice for victims.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Alternative model for sexual offences	There is currently a power imbalance between the victim and offender in giving evidence in sexual violence trials, and the cross-examination tactics often used by defence lawyers during these trials.	An alternative model for sexual offences would have the voice of the victim and an acknowledgement of harm by offenders. This alternative model could take up the unrepresented, unprosecuted and (sometimes described as) less serious sexual assault and family violence cases, similar to a restorative justice model at the pre-trial and pre-charge stages. As per the Law Commission's alternative sexual violence court model[1], it would allow for some resolution for the interested parties without risking severe sentences for the offender, in cases where the victim mainly wants acknowledgement by the offender of the harm caused. The victim could visit a service provider or even the Police station to disclose the offence, but retain the final decision in how far to proceed with prosecution of the offence. Resolution between victim and offender will be dependent on the specific situation. Issues include: • some rights are not arguable, for example, the presumption of innocence • serious cases must go to trial • the proportionality of outcomes for the same offences (it should be based on harm suffered, not the offence) • create a mechanism for flexibility in sentencing and changes in sentencing levels where needed. If an offender pleads not guilty they have to disclose their defence, (i.e., clearly identify the issues in dispute between the parties, can't run inconsistent defences).

1 Law Commission (2015) *The Justice Response to Victims of Sexual Violence*, Report 136

What we heard about trial preparation and experiences

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Preparation for trial	The preparation of victims for court is inadequate with inconsistent experience. Victims have no real idea what to expect in cross-examination; they are 'lambs to the slaughter'.	Victims need to be properly prepared for cross-examination.
	Victims often do not understand the different roles of the Crown Prosecutor and the defence.	Provide independent education and familiarisation for prospective witnesses so that they at least understand the process and procedures before going to court.
Support and advocacy	Currently either victims have no support or advocacy, or are being advised by too many different people such as the prosecutor, court victim advisor, NGO advocate, Police. No one continues to engage with the victim to see what they want as they progress along the criminal justice process. They may change their mind. For instance, sexual abuse victims who were comfortable having name suppression at the start of the process may want to tell their story at a later stage, but are then restricted by the suppression. They need to understand their right to have name suppression lifted and be able to easily access the processes and resources to exercise that right.	A national-based scheme should be developed to provide end-to-end specialist victim support that engages with a victim as soon as possible and then helps the victim to navigate through the entire criminal justice system. More support should be provided for victims who are also expected to give evidence (perhaps something similar to the Witness Care Units in the United Kingdom).
		Due to offenders' rights being protected by established case law and the services of defence counsel, it was suggested that lawyers could represent the interests of victims in court where they have established rights, for example, the right to make a victim impact statement or have their views heard on bail or parole. A lawyer for the victim should be appointed: • that is funded by the Ministry of Justice • for everyone but especially for those of specified serious offences • like 'Lawyer for Child' in the Family Court • to provide legal advice not as a social worker, for example, advice on bail views, victim impact statements • that can explain the trial process to victims • who is fully-qualified • who can operate across Family, Criminal and Youth Courts.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
	Out-of-town victims are not financed to stay for the duration of trial; there are regional variations in what is provided for victims.	There should be an expectation that victims will stay for the full duration of the trial and, where necessary, funding should be available to enable them to do so.
Communication, information, respect	The treatment of victims and the rights afforded to victims currently vary depending on type of crime. Police do not communicate with victims when it is just burglaries, assaults, and other non-high-profile cases.	We need to better enact during the trial process the values and principles set out for victims in the Victims Rights Act 2002 and Victims Code: safety, respect, dignity, privacy, informed choice, fair treatment, communication. Victims should have access to better procedural justice.
	Victims are not consulted in the plea-bargaining process. Often the victim's "story" is amended or downplayed in order to fit within reduced charges, and an agreed summary of facts that are devoid of the contexts within which vcitimisation occurs. This further marginalises and disempowers victims. The state is standing in for victims but failing. Sometimes decisions are made that are believed to be in the victim's interest (for instance a presumption that any guilty plea is better than them having to give evidence) without first allowing the victim to have input into that decision.	A review of plea bargaining and the negotiation of charges within the criminal justice system is overdue. The current system is opaque and not properly understood by the public.
Reparation	Further revictimisation is caused through non-payment of reparations, or by the drip payment of reparation. Currently offenders pay the reparation owed $20 weekly over a period of time. Victims should not have to wait for reparation.	The Ministry of Justice or Government should pay a reparation lump sum to the victim so that victims can receive their reparations in full promptly. The offender then pays the amount off on a weekly basis (interest could be charged to incentivise offenders to repay the debt more quickly).

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Court facilities	Safety for victims was a major concern, and one area that was emphasised was the physical layout of the courts. In many cases, there are few private waiting areas, entrances or facilities for victims and they are sometimes forced to share these resources with offenders and their support groups. This puts victims' and their families' safety at risk. During breaks, or while waiting to give evidence, victims can find themselves sharing the same space as the defendant and/or the defendant's friends and whānau. Victims in serious crimes are often not able to give evidence privately behind a screen in court, via CCTV from a separate room or location, or by a video record made prior to the hearing. This is often due to limited facilities at court or because the victim was not consulted in time for the facilities to be made available for the trial. There is a presumption in section 107 of the Evidence Act 2006 that these alternative modes of giving evidence should always be available for child witnesses, but sections 103-105 make it a only matter of discretion for the judge to decide on availability for adult victims. Not all judges allow victims access.	Safe spaces should be allocated for victims' and family or whānau breakout rooms. Victims and their supporters should have their own entrances, bathrooms and waiting areas. Security needs to actively control courtroom unrest. There should be a presumption that a screen or CCTV should be available with an opt-out option, especially for all children, young people and victims of interpersonal crimes.
	Many of the CCTV rooms at the courts are not fully soundproofed which means that sound travels from the room, putting victims' safety at risk by potentially revealing their identity to those outside the room.	Remote victim premises were regarded as a good solution and should be made available.
Communication assistants	Currently there is no structure, governance or training for the Communication Assistants service used to help witnesses with communication difficulties such as children or people with an intellectual impairment understanding and answering the questions put to them during their testimony.	Improve the infrastructure that supports Communication Assistants to be readily available for at least all child witnesses and all vulnerable witnesses. Make it standard practice that any child under the age of 12 is assessed regarding the need/use of communication assistance. There should be more resources available for early identification of people who would benefit from communication assistance and then making it available to them.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Victim impact statements	Victims have little voice in the criminal justice system. Giving their victim impact statement is one of the few times that victims are able to speak to the harm they experienced. There appears to be little recognition of victim impact statements as a tool in restorative justice processes. Yet we heard that victims are treated as bystanders to their own crime, and they are effectively marginalised. Their status is reduced to just that of a witness to the crime they experienced. There is a lack of communication in preparation of victim impact statements. There were complaints that victim impact statements are being redacted by Police or prosecutors – sometimes at the direction of judges - and that this feels as though the victim is being silenced again. Some judges won't allow victims to speak or read their victim impact statements in court. Victims want to have the choice of speaking to the offender when reading out their victim impact statements.	Review the legislative guidelines as to the content of victim impact statements in order to improve the experience of victims and recognise the restorative importance of victim impact statements. Training is needed for all those assisting victims in preparing victim impact statements. There are already models of excellence that can be drawn upon. Find the victim support exemplars, then use them to develop training and establish a quality assurance system that will incentivise high, consistent, standards of victim support nationally. Victim impact statements should not be written by others. There should be less vetting of the victim's wording because the judge is more than able to take the victim impact statement into account the way it is originally written. As part of their rights, all victims should be able to read out their victim impact statements. There is no inherent public interest in having victim impact statements read in open court (other restorative justice processes are carried out in private). Victims should have the option of addressing the offender and reading their victim impact statements in a closed court or at least one that might include the victim(s), offender, immediate whānau (on both sides), lawyers, Police and the judge and exclude media and the wider public.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Delay	There are delays in court, often quite a length of time before a case is heard. This causes problems with evidence, rights, and the availability of people. The use of reserve trials is problematic and causes delay as it allows for more trials to be scheduled than the courts can accommodate in the expectation that not all cases will end up at trial. For Māori victims, lengthy delays in the justice process contributes to the withdrawal of complaints. Family Court processes are not restorative or therapeutic, and instead are still quite adversarial. There is also a lack of connection between what is happening in the Family Court and what is happening in the District Court. Family Court judges may not know that persons appearing before them arguing over custody disputes are also currently before the Criminal Court accused of family violence or associated assault charges. How do we acknowledge harm and repair harm?	You suggested that there should be no further use of reserve trials for serious crimes because every adjournment places an additional burden on victims regarding stress, mental and emotional preparation, and practical costs such as work leave and childcare .Judges and other parties could be encouraged to act to prevent delay through more intensive case management. Defence counsel shouldn't be paid per appearance. Can victims give evidence earlier? There should be more use of victim video statements. This captures the victim's voice at the time and can lead to increased guilty pleas because the accused can see that the evidence given by the victim is overwhelming and they would likely lose if they pleaded not guilty. We need to make greater use of restorative justice options in the criminal justice system.
Training and education	There is no national training in trial preparation for legal personnel involved in trials.	Victim-centred and trauma-focussed training in preparing victims for trial and especially cross-examination, should be provided to crown prosecutors, judiciary and defence counsel. This needs to be a national training programme, with quality assurance and standardisation for all involved.
	Defence counsel behaviour and cross-examination often involve inappropriate and bullying tactics.	There needs to be education of defence counsel; there is no need to bully - it is possible to cross-examine firmly, robustly and effectively without being disrespectful to the witness.
	There is currently a lack of properly informed decision makers (judges and juries).	Directions for judges are needed to cover issues such as: • Counter-intuitive evidence • Questioning of young children • The role of communication assistants These directions should be consistent around the country
Leader for justice system	There needs to be a clear victim focussed leader within the justice sector.	There is no 'one' person in charge of justice system. We heard there is a need for a Victims' Commissioner or equivalent independent body.

What we heard about the Victims Rights Act 2002

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
In general	The Victims Rights Act 2002 (VRA) as currently drafted, is 'not fit for purpose', is not victim-centric, is too highly prescriptive and affords insufficient and inconsistent rights to victims.	Carry out a complete review with victim advocates and specialist criminal justice system staff who work in this area. Then update the VRA to ensure that the true intent behind the legislation is better captured, and to specifically address all loopholes and unintended consequences.
The limited definition of 'victim' in section 4 of the Victims Rights Act 2002	The definition of a victim is far too limited and prescriptive. It does not include the whānau of a victim within the definition which does not reflect the cultural reality of Māori victims. Under the VRA the definition of immediate family of homicide victims includes a spouse or partner, child or step-child, brother or sister, step-brother or step-sister, parent or step-parent and a grandparent, but does not include a grandchild or step-grandparent or step-grandchild who could be as close as full grandparents. Nor does it include ex-partners or spouses who may be a parent to children with the offender.	
	The definition also completely excludes any members of an offender's family from the rights afforded to victims despite the fact that in some circumstances they are severely negatively impacted by the offending and need access to both information and support to move forward with their lives. For example, when a family or whānau finds out their father has been involved in long term sexual abuse of children in their extended circle of family or whānau and friends, but have no right to notifications or support services as they are not regarded as victims under the legislation.	
ACC funding	Victims of road deaths are not treated the same as victims of other homicides. Families whose loved ones are killed through dangerous or careless driving are not eligible for funeral top-up grants. If that same offender drove at the victim intentionally and killed them and was classed as a murder the family would receive assistance. Both instances are homicides and the outcome, aftermath and financial struggles for the families is the same in both scenarios, but they receive inconsistent treatment under the legislation.	

What we heard about the Victim Notification Register

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
In general	The Victim Notification Register (VNR) system is disjointed and antiquated, with an inconsistent level of information available for victims depending on who is responsible for the VNR at any particular stage of the criminal justice process. Being on the VNR allows victims to have certain information about an offender in Department of Corrections' custody or on home detention. This includes impending and temporary release, if the sentence is substituted with home detention, any escape from custody, absconding from home detention, death of the offender, the expiry date of release conditions, impending parole hearing dates, and requests for submissions. The victim's address is taken into account on release of the offender. Currently, the VNR is an opt-on system and may contribute to a huge lack of registered victims who assume they are automatically included. On the other hand, the system may end up with many registered victims who do not keep their details updated. Currently the Ministry of Health and Department of Corrections do all notifications by conventional postal mail, and sometimes sensitive information is going to addresses where the victim no longer resides.	The VNR should be opt-off, rather than opt-on. Victims who are eligible should be registered by default and have to request that they be taken off the register if they do not wish to receive notifications.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Many victims are excluded	The VNR needs to cater for more victims than those currently meeting the criteria legislated under the VRA. For technical reasons some victims are not able to be registered due to loopholes in the legislation. For example, previous family violence victims of an offender are not entitled to be notified when the offender is released for any future offences that did not involve them, despite the ongoing threat that the offender still poses. Another example is that an offender must be sentenced to imprisonment or home detention, or classified as a special patient for the actual offence for which the person is a victim, for those victims to receive notifications post-conviction or while the offender is remanded in custody. If an offender is prosecuted on multiple charges and has multiple victims, a judge may decide to only sentence the offender on the most serious charge and discharge the offender on all other matters if this will not impact the length of the sentence imposed. This results in a situation where the offender is then officially only in prison in relation to one of the victims. Under a strict interpretation of the VRA the other victims do not meet the legislated criteria to receive notifications.	One example of expanding the criteria is to include victims whose perpetrators aren't subject to detention because they are on supervision, or community detention. Anyone who testifies or puts themselves at risk should be supported by the legislation and afforded rights and protections.
The responsiblilty for notifying the victim is confusing	The current legislation is causing confusion for Police and Court Victim Advisors as to who advises the victim of the court outcome in each 'specified offence' (as defined by section 29 Victims Rights Act 2002) bail hearing. It seems to depend on the circumstances of the hearing and whether the person has requested notifications.	If it is a specified offence and bail was opposed by the prosecutor it is the role of Police, but if bail was unopposed it is the role of the Court Victim Advisor. It would be preferable for one agency to have responsibility for notifying victims after all bail hearings regardless of the circumstances.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
One 'source of truth' is needed	Currently Police receive all applications to assess a victim's eligibility to be on the Victim Notification Register against the criteria in the Victims Rights Act 2002. They then disseminate information to the Department of Corrections, Ministry of Health, Immigration New Zealand and the Ministry of Justice on a needs basis. The Ministry of Health and Department of Corrections also frequently have to pass the responsibility for offenders between them as the status of the offender changes which creates potential confusion when each agency has their own database of information. This causes additional work when a victim changes their details, changes their representative, or withdraws from the VNR as each agency has to notify the other appropriate agency rather than updating one central record. A loophole in the VRA means that sometimes not all the agencies receive the updated information, which leaves their records incomplete. This means the victim does not receive the notifications they are entitled to, may be left at risk, or may be contacted when they no longer wish to be, which causes additional revictimisation.	There should be one central database for the registration of victims as currently there is a siloed approach. All agencies with obligations to register victims under section 29 of the VRA would be able to access the same information. If there was one database this information could just be added centrally by whichever agency receives it.

What we heard about victims of sexual violence

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Need for end-to-end specialist support and advocacy for victims	Victims of sexual violence do not have their own lawyer or advocate and those victimised by sexual violence have no continued support from the start of the criminal justice process through to the end. There may be multiple people in multiple roles assisting a victim of sexual violence through the system, but this gets confusing and not all people in these roles are specially trained to deal with victim of sexual violence. Many victims do not know about their rights because they are rarely told about them. The system is foreign and intimidating to many victims, but this is exacerbated by the dynamics of sexual violence and that makes it even more difficult for victims of sexual violence to self-advocate.	There were calls for the provision of a Specialist Independent Advocate service with mandated advocacy status. The function of the role would be to provide: • advocacy on behalf of the victim when the victim is not being heard by those in the system • someone to support the voice of the victim getting into the right places and being heard when the victim wants to speak • someone to provide information and advice about the criminal justice system, as well as systems and support options outside of the criminal justice system, that can assist victims of sexual violence to achieve increased wellbeing and potentially to engage more fully with the criminal justice system • someone who has skill in providing emotional support (not as a replacement for therapy or other forms of emotional support, but in addition) and in trauma informed care as the victim moves through the system • the Specialist Independent Advocate service should also provide wider family and whānau support and be able to respond to child specific and youth specific needs.
Lack of resources	We heard that currently there is inadequate resourcing of specialist support services for sexual violence victims. There are long waiting lists, and some victims end up having to make statements to the Police and go through the court process without any professional support. Specifically, specialist services that support sexual violence victims through the criminal trial process have struggled for funding, and as a result almost all NGOs have been unable to continue to provide the court support services for victims that was previously provided through the 1980's. The workforce, knowledge and infrastructure has therefore largely been lost, but can be redeveloped with sufficient resources.	We heard that specialist NGO sexual violence services should be fully funded so they can support all victims who need it through the criminal justice system. This would support victims' access to justice. Particular areas of funding need are supporting people as they engage with the investigation and court process (especially during Police and prosecution interactions) and in re-building infrastructure, workforce development and services that support victims who go to court.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Lack of specialist training and knowledge in sexual violence	There is a lack of specialised, educated legal personnel and judges and a general lack of understanding of the realities of sexual violence and trauma by those involved in the legal process: judges, lawyers, court victim advisors. Concern was expressed that legal personnel, even judges, can be negatively influenced by rape myths without adequate training and education. Safety for victims is paramount. There is currently a lack of understanding of family violence and its dynamics, and the connection between family violence and sexual violence.	All court and legal personnel who deal with or act on behalf of sexual violence victims, particularly judges, need education and trained skills in: • sexual violence • trauma • child development • cultural competence • victims' rights • coercive control (sexual violence occurring within the context of violence within families or whānau). There should be a requirement for continuing education and certification and in some cases warrants to be allowed to practice in these areas. In the United Kingdom, judges working in certain specialised areas such as sexual violence require certification to appear in those cases. This certification ensures the judge has received mandated training and education in the issues relevant to that specialised area. This in turn increases the trust of victims who give evidence in court as they know that the judge will intervene and protect them appropriately.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Preparation for victims giving evidence	We heard that a great number of victims only get to meet the Crown Prosecutor the morning or day before the trial. They are often insufficiently prepared for the realities of giving evidence in court and the roles of the various court personnel. We heard that many times screens or other protective modes of giving evidence such as via a CCTV, are not requested ahead of time because the application falls between the gaps in the various roles (Police, Court Victim Advisor, Police Prosecutors, Crown Lawyer). Currently a victim can't choose on the day of trial that they wish to be screened from the court as defence counsel may oppose the request which in turn can create delays so the application for a screen needs to be applied for earlier in the case.	Victims should get to meet the Police Prosecutor or the Crown Prosecutor well in advance of trial, and be thoroughly prepared on the role and limitations of the Prosecutor (for example the Prosecutor is not the victim's lawyer but is there to put forward the case for the Crown and the community), the role of the Court Victim Advisor the court layout, roles of the judge, jury, and defence lawyer, and information to support victim witnesses give the best evidence they can. We heard of many ways to improve the current adversarial process including much more holistic preparation and improved support for victims during the pre-court, court and post-court stages, and better protections for victims when they give evidence including increased judicial intervention. Alternative modes of giving evidence such as screens should be applied for automatically. The use of audio-visual technology could be increased to enable victims to feel able to give their best evidence. Court Victim Advisors provide an essential role supporting victims who get to court. Even if there are eventually sufficient Independent Specialist Advocates to support a victim from the time they report to the Police, the Court Victim Advisor role is still vital working within the court system, and in providing victims, or their advocates, with practical assistance for coming to court. Court Victim Advisors are also vital for helping to safely bring the victim and their supporters into the court at a time and route that avoids them having any contact with the accused or their supporters. However, Court Victim Advisors rarely have the time to sit in and support the victim while they are being cross-examined, so this role can be filled by the Independent Specialist Advocate. There are some excellent examples of Independent Specialist Advocates and Court Victim Advisors working seamlessly in support of victims. The Court Victim Advisor workforce should be increased as needed, and additional training provided in key specialist areas.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Cross-examination – lack of support and protection	There were strong complaints about victims being re-victimised by the court process with many victims wanting to drop out of the court case because it was so traumatising. We heard victim advocates report that victims who had been cross examined would not recommend any other victim go through this process. The combative questioning process is particularly re-traumatising for victims and needs to be changed. Victims often are forced to give evidence years after the offence, which can affect their memory and make them vulnerable to attacks by defence lawyers.	Victims must be supported to give the best evidence possible and to be provided with conditions so that they can be the best witness they can be. At the same time, there was agreement that it is the nature of the criminal trial that causes traumatisation (for example, the questioning process in cross-examination), not the lack of support per se, so the current style of the trial process needs to be changed if we want all victims who want to be able to, to have access to a criminal justice response.
	We heard victims are often traumatised during cross-examination because they are being asked to re-live the sexual violence and speak about often painful and degrading details in front of many strangers including the jury, the judge, the court staff and sometimes media.	Judges should be more active in intervening to protect victims from unfair and disrespectful cross-examination tactics. It was suggested that defence lawyers be trained as in the United Kingdom, to cross-examine witnesses respectfully without resorting to personal attacks or attempting to humiliate or confuse the victim/witness.
	Victims are often distressed while they are cross-examined yet they are not allowed to have a support person in their line of sight. When the support person is behind them they are not able to put even a hand on the victim's back even if the victim is visibly distressed. We heard cross-examination described as "inhumane" and that victims have no protection from unfair cross-examination tactics by defence lawyers.	Support persons should be able to touch and remain in sight of the victim while giving evidence, for example, a supportive hand on the shoulder to help with distress.
	The Victims Rights Act 2002 states that a victim should be treated with respect. It was questioned why victims' rights were not always held up in the court process and especially during cross examination.	All legal and court personnel should be trained to understand victims' rights and victims should be fully informed as to their rights.
The system is offender-focussed	The system is currently very offender-focussed. We heard that victims feel the system is unfair to them. For example, the offender has their own lawyer and the victim is not represented, and the offender has the right to silence and it is the victim who is cross examined. The offender has rights to a fair trial, but the victim also has rights. Victims want to be treated as important parties in the case rather than side-lined, traumatised and put on trial.	The entire end-to-end justice system needs to be responsive to victims and to treat them as 'an empowered participant' in their case. Victims' rights need to be better promoted and understood by all. All of those in the system need to be trained in understanding victims' rights and how to fully implement these.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
	Victim advocates told us that it was not that victims want offenders to lose their rights, but that currently it seems like those rights come at the expense of victims. Once they enter the criminal justice system, victims become aware that they have little voice or say in the system and that they are treated as just a witness to their own victimisation.	Victims need to be informed of their rights and they need to have mechanisms to enforce them. The implementation of victim rights need to be evaluated and measured.
Consent laws	We were told that consent law is part of the problem. Because the accused's 'belief' about consent is more important than the victim's 'actual' consent, victim's realities are denied. Offenders can also use 'rape myths' to justify their claimed belief that they had consent. There were also concerns that section 128A of the Crimes Act 1961 has little effect because it applies only to consent and not to the offender's belief in consent, and this is especially a problem when victims are heavily intoxicated or too terrified to resist.	Sections 128 and 128A of the Crimes Act 1961 are problematic, and the laws on consent need to be changed so that there are rules about what might be considered reasonable grounds for a offender's belief for consent to sexual activity. Claims based on, or beliefs based on 'rape myths' should not be considered reasonable. Section 128A needs to be reviewed and made to work. One suggestion was the use of the plea of 'not denied' taken from the youth court to be used in adult court which would give the opportunity for a resolution through restorative justice or mediation processes. This would then be reported back to the court for completion of the case in an appropriate way, with the charges either withdrawn or leading to sentencing of the offender.
Juries as fact-finders in sexual violence trials	You asked whether juries were really in the best position to be fact-finders in sexual violence trials. The current trial process often involves the use of rape myths by defence lawyers to sway and influence juries. Removing juries could reduce the use and impact of rape myths and encourage stronger judicial control in trials. Another problem with having juries is that juries have to reach compromises, but they do not have to give reasons as to their decision. Judges give reasons for their decisions.	The judge could be the fact-finder. A judge alone or a judge with two lay assessors or 2–3 judges could write a judgement and provide reasons which then allows for critique and feedback in the system. These assessors would need effective training.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Rape myths – relying on fiction not facts	The way a victim is cross-examined can promote rape myths and work to inaccurately imply consent was given despite the victim clearly stating it was not. The current trial process involves the use of prejudice and stereotypes (frequently referred to as 'rape myths') by defence lawyers to influence juries. For example, implying that if a victim had a drink with the defendant then the defendant could assume they were entitled to have sex with the victim. Judges do not have enough tools available to deal with the incorrect mythologies of rape such as most rapes are stranger assaults and that there is a 'perfect' victim (for example one who fights the rapist and screams 'No' – rather than lies still because they are terrified, and a victim who had not been drinking and who was not wearing revealing clothing). Victims respond to the context of the unfolding situation, and therefore, compliance with an offender's demands or actions is a form of resistance that functions to minimise the extent of harm meted out to a victim.	We need to significantly increase the use of 'counter intuitive evidence' provided by expert witnesses to help educate juries to understand some commonly held misconceptions about how sexual violence can be perpetrated. This should be followed by a greater use of jury directions that instruct juries on the falsity of rape myths and that they aren't evidence. There are some good examples in other jurisdictions and in New Zealand in relation to delay. A good example is section127 Evidence Act 2006 – if a defence lawyer suggests that a long delay in reporting sexual assault means it didn't happen – the judge can instruct the jury that there can be many reasons why victims delay reporting and they shouldn't read anything into the length of time between the assault and reporting to Police.
Propensity witnesses need more protection	Propensity witnesses (witnesses who are called to give their knowledge of previous similar offending by the same offender) do not have the same right as victims of crime, for example, the right to a closed court during testimony, or funding for their support person to come to court. Propensity witnesses can be preparing for six months and then when they get to court they aren't needed because the defendant pleads guilty on the day. Propensity witnesses have, by definition, already experienced or witnessed harm and calling on them to be involved in reliving something that happened possibly years earlier can be retraumatising. To call on these witnesses and then not use them can cause unnecessary distress in a person's life when they may be just recovering from earlier harm.	Propensity witnesses should have same recognition and rights as victims. They should be given support to deal with the extra distress caused in helping a case that they were not a party to.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Physical layout of court facilities	Victims shouldn't have to sit in close proximity to the offender and their family and whānau. Victims and their family and whānau shouldn't have to be in shared spaces with the defendants and their family and whānau.	Victims and their supporters should have their own entrances, bathrooms and waiting areas so they are protected from the defendant and their supporters' potential derision and/or hostility. These protections should be ensured throughout all of the processes including during breaks and the seating in the court where anyone can attend for example to hear sentencing. If separate entrances and waiting areas are not possible within the existing physical structure of existing court building then victims should be able to choose to give evidence from a remote location, so they don't need to be subjected to harassment from the offender or the offender's family and whānau.
Delay	Significant distress is caused to victims and their families and whānau due to cases commonly taking up to two years to get to court and in some cases longer. We also heard about the stress caused by not having sufficient and timely information about court dates, with some victims not being informed about changes to court dates and cases being stood down at the last minute. Some workshop participants raised their concerns and they wondered if some defence lawyers were using the last-minute cancelling of a case as a tactic to wear the victim and their family and whānau down. Some participants told us that sometimes this tactic worked and that that victims pulled out because the case had been stood down multiple times.	Provide more certainty for victims about court dates and minimise adjournments of trial dates.
Case tracking	Currently there is no way of knowing how many cases are scheduled and then adjourned on multiple occasions.	Develop a system that tracks each case and monitors how many times a case has been scheduled and then adjourned on multiple occasions. Without accurate data the system cannot be improved to provide better justice for victims.
Sentencing	Currently courts are not closed for the sentencing of sexual violence cases. Due to the specifics of details given about the offending at sentencing, victims should be given the choice if they would like the court open or closed.	The court should be closed for the sentencing of sexual violence cases if victims want. Public interest can still be served as journalists often attend closed court. Giving a victim impact statement is a very emotional and exposing event and it should be treated the same as giving evidence in a closed court.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Lack of consistency in practice across country	Evidence practices are currently inconsistent across the country. For example, only some areas close courts for propensity witnesses. What works well in some areas should be used consistently across the country.	Standardise good practice at all points. Standardised practice throughout the country, taking what works well from different areas and standardise this nationally.
Treatment courts	We heard that rather than long prison sentences some victims want the offender to have treatment to make sure they don't harm someone else in the future. There should be resourcing for treatment of people found guilty of sexual offending. Currently there is no funding or treatment programmes for sexual offenders who offend against adult victims. The justice sector (Police/Courts/Department of Corrections) should be more integrated in its approach.	Investigate the possibilities of a treatment track for sexual offending; most victims want the prevention of future harm. More treatment possibilities need to be resourced, and to be evaluated. Investigate the use of solution-focussed courts. Provide the resources for more options for restorative practices and processes throughout the entire justice process to provide alternative processes to the traditional court case justice system.
Name suppression	The name suppression of the victim and the offender are linked. The law presumes that victims of sexual violence want their names suppressed. However, some victims believe some offenders use the excuse of 'protecting' the victim from being known in the public for keeping the offender's name suppressed. These examples are especially highlighted when the victim and offender have a close relationship, for example, the victim being the daughter or son of the offender. Some victims do not want a defendant to have name suppression and are willing to have their name (the victim's name) unsuppressed so that people can know who harmed them for the safety of others. Victims currently have to bear the cost of a lawyer if they want to get their name suppression lifted by the courts. Victims often fear an offender can hide under their name suppression and can go on to harm others who have no knowledge of a previous history of harm.	We need greater understanding of the consequences for all parties with the issue of name suppression. We need research with victims on this issue as an important first step. This issue is quite complex and is currently poorly understood. There needs to be more information and more support for victims wanting to raise name suppression (for themselves). The process should be simplified for adult victims who wish to have their names unsuppressed. Adult victims and caregivers of child victims (for example, children of offenders) who want to contest name suppression should be provided with information and support to be able to make the best decision for their particular situation. Victim's shouldn't have to pay to have their names unsuppressed. Training of all lawyers in issues for victims in name suppression should be increased, and lawyers should consult victims on this issue and ensure victims' views are fully taken into account.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Lack of cultural competence and inclusiveness	The system needs to be less monocultural. The Māori world-view is not currently congruous with the system. Understanding and integrating te ao Māori would be a significant step forward. Cultural competency would also add to sexual violence support capacity.	Ensure that Te Tiriti o Waitangi and its principles are fundamental to any legislative change. Promote te ao Māori. All support services could be more inclusive. A focus on the restoration of mana and the healing of relationships. For Māori who are disconnected from their roots and have no connection with their areas, whānau, extra support may be required to help them to reconnect with hapū and iwi if possible.
Need for proper evaluation	Evaluations of victim services need to be more than satisfaction surveys. The sexual violence intervention sector experiences endless pilots, but which are too small in scale to be effectively evaluated or not funded for evaluation so never get the programmes rolled out.	Need proper effective evaluation of what works well to provide evidence to promote change at the structural level, need to turn promising practice into reality with evaluations. For example, this would allow for the up-scale of effective programmes such as Project Restore.
Better use of existing legislation	Existing legislation could be better used.	Rather than re-writing existing legislation the Ministry of Justice could assist the use of existing legislation to improve the justice system for victims. Some of the practice change that needs to occur is possible under existing legislation but needs to be supported, enforced and resourced. There is also scope for increased innovation under existing legislation, for example, section 57(2A) Evidence Act 2006 allows for without prejudice discussions and this could be used to give greater scope to the use restorative justice processes.

What we heard about family violence

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
The importance of Te Tiriti o Waitangi	There is an absence of Te Tiriti o Waitangi in the criminal justice framework. This is particularly noticeable in the area of family violence given the high over-representation of Māori in family violence statistics.	There is no recognition of iwi/tikanga processes as alternatives to a formal legal response. Māori articulated the need for tino rangatiratanga and mana motuhake to be informed by Māori for Māori justice processes. The system needs to make room for an iwi perspective, tikanga Māori and Māori models of healing, support and affirm tino rangatiratanga/mana motuhake and be prepared to share power and control. There needs to be whānau, hapū and iwi voice and involvement from the beginning.
	There are not enough resources to develop 'by Māori for Māori' responses.	Because Māori are Te Tiriti o Waitangi partners with the Crown, Māori expertise on violence within whānau should be retained by Māori, plus equitable power and influence should be accorded to Māori in system design and oversight processes. Fully fund Māori and non-Māori specialist service agencies in the family violence intervention sector.
The voices of victims	We heard that individuals can be affected differently by family violence and so responses need to be tailored. It is important that the voices of victims are properly listened to and understood, even if they don't 'fit' within a government agency's frame of knowledge or practice. For instance, Police will often strongly advise a victim to obtain a Protection Order, even if the victim thinks this would pose further danger to the victim and the victim's children. If the victim then fails to do so, this is seen by some Police (and others within the government agencies) as evidence that it either wasn't terribly serious and/or the victim doesn't really need assistance.	All those in government and non-government agencies need to listen closely to victims' needs and understand the dynamics of family violence and the effects this form of victimisation has on victims.
	We heard the process of trying to get help to deal with family violence can feel abusive and that government agencies need to improve their approaches to and treatment of victims. For Māori, the systemic barriers encountered can act as a deterrent for seeking help.	
	We heard that Police officers attending crime scenes often have incorrect information. Police are confronted by very distressed victims and calm and rational perpetrators. Victims are routinely seen as experiencing mental health issues, rather than as victims displaying entirely understandable and reasonable responses to their victimisation.	

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Specialist knowledge	We heard that all of those responding to family violence should understand that all family violence equates to harm, and there is no low-level family violence – it is all serious. For example, a case of strangulation can involve 17–20 incidents. Domestic incidents are usually episodic and can evolve and worsen over time.	Specialist family violence services should have the resources to be able to work with the Police on every Police Safety Order because they are the experts in working with family violence situations.
What works and why	Because the court case can often be 2 years after the Police have taken the victim's statement and because the victim has had to move on with their lives, if they give evidence in court two years later, they can seem less traumatised and so less believable to a jury or the fact-finder. Lengthy periods of time leading up to a court case can see victims withdrawing their statements and refusing to engage in the criminal proceedings.	The use of on-site victim video statements for later use in Court, has been a positive development for many victims. Video statements recorded at the time of the incident enable capture of immediate context that is often lost by the time case gets to trial. Police report an increase in guilty pleas due to the strength and impact of the video statements. This helps victims as they are not required to appear in Court to give evidence.
		What works well includes: • a clear description of the violence at the time the Police take a statement • the capturing of evidence close in time to the incident • Police having good quality conversations with the victim at the scene. If Police do not engage closely with the victim they are less likely to gain a fully rounded, accurate and contextualised account of the episode. They are often more focussed on what happened, rather than why, which often tends to obscure risk factors • documentation of injuries (for example, photos). Families benefit from good interagency practice and the benefits of good relationships between community services and Police when family violence reoccurs. Positive reinforcement for Police when things are done right – this means they do a better job.
Training	We heard that there is a lack of understanding of family violence by those involved in the legal process: defence lawyers, judges, report writers.	All court staff need to receive comprehensive family violence and sexual violence training, including the dynamics of coercive control. This means training for lawyers, judges, court report writers, lawyers and psychologists. All agencies working with family violence cases must be well trained to understand that breaking free of an abusive relationship especially when there are shared children involved is a complex, dynamic and often slow process that can take many years. Risk heightens for victims and children when separated from partners.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Cultural differences	We heard that isolation, language barriers and immigration factors make it harder for victims to receive the services they need. We heard that increased services with the skills to reach out to victims impacted by these issues were needed. For Māori, whakapapa and whānau are important and can influence decisions victims make about leaving a violent partner, and the relationship between victims, violent partners and their children. When children are removed for child protection concerns, victims are further victimised and criminalised in a situation they deem is unsafe to leave or cannot control.	There is a clear need for a wider knowledge of cultural difference in relation to family violence in mainstream and ethnic services. Refugee and migrant women seeking assistance need culturally appropriate and safe services wherever and whenever they approach services.
Victim-blaming	We heard of oppressive victim blaming. Automatic sharing of Police incident information with Oranga Tamariki makes victims often fearful of involving Police out of fear of consequences from Oranga Tamariki. A victim (or whānau members) using a Protection Order repeatedly can be seen as not adequately protecting the victim's children by continuing to allow them to be exposed to violence, even though the victim is using the Protection Order precisely as it was designed to be used.	Victims should not be treated punitively when they utilise their Protection Orders.
Offenders are seen as having greater rights than victims	We heard that current responses to family violence are not respectful of victims, and in fact often re-victimise victims. Human rights are subsumed by the legal process. The system does not respect victims to the same extent as offenders. There is no representation or advocacy for victims. There is little opportunity for victim participation or voice before their court appearance.	We need to ensure victims' rights to privacy and dignity are upheld throughout the justice system from Police, Courts, legal counsel, judiciary, Correction staff and Parole Boards. Equal rights to justice for offenders and victims are needed. Victims need a voice. Victims should have: • access to quality and affordable legal advice • access to specialist family violence and sexual violence advocacy services.
	There is an issue with people who are not seen as credible witnesses, for example, disabled and elderly witnesses.	There must be equal access to all victims including disabled people/older people/people seen as non-credible witnesses.
	Victims want acknowledgement from the offender that they have committed a crime.	Victims should be able to decide what accountability looks like in order to give closure.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Children and the Family Court	We heard that the needs and rights of children are not respected. Children's voices are going unheard in the criminal justice system which tends to focus on the rights and needs of the perpetrators and victims, rather than giving full weight to the needs of the entire whānau. We heard that Police involvement means victims fear automatic Oranga Tamariki involvement, particularly Māori victims. There is insufficient recognition of the harm done to children by living with violence.	The best way to reduce harm is for children to live in a safe and secure environment with the non-violent parent. More support needs to be put around protective parents to enable them to keep parenting and support them to be safe (housing, financially, etc). What's needed is a renewed focus by Police and the Courts around primary aggressors and primary victims.
	We heard the concern about the separation of the Criminal Court and the family court that were previously the same. This separation means that processes between the Courts lack coherence and suffer from a lack of information. For instance, while a Criminal Court Judge hearing a bail application can view the entire family violence history of an offender, this same information rarely finds its way before a Family Court Judge. All Courts should have access to all the information pertaining to offenders and victims as soon as possible. Another example would be Criminal Court Judges having access to final Protection Order documentation from the Family Court to ensure that they were in possession of all the information about that offender at bail hearings or at sentencing. We heard that there is a lack of connection within the justice system between family violence and sexual violence. These are currently treated as separate offending whereas it is well known that a great deal of sexual violence occurs within a family context. The separation between these is arbitrary and unhelpful as it serves to support the arbitrary hierarchy of offences.	Enable better sharing of information on histories of family violence, sexual violence and other violence at all stages of the process and across all courts, for example, Family and Youth Courts. A good example would be an extension of the bail information sharing pilot where Judges are provided with a full family violence history of the offender when making bail decisions. All personnel in all courts need training to understand the dynamics of family violence and sexual violence including all those in the Family Court; all lawyers dealing with these cases especially Counsel for Child. These people are making important decisions about family and child safety, so they should have training from family violence and sexual violence victim experts about some of the issues they should be aware of. All personnel in all courts dealing with family violence and sexual violence need to understand issues with the overlap when both family violence and sexual violence crimes occur as well as understanding Kaupapa Māori approaches, and there needs to be appropriate training for all District Court Judges and Family Court Judges.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Safety of victims and whānau does not seem to be the focus in family violence and sexual violence cases	We heard you tell us that safety is not at the heart of the criminal justice process and there is no escalation of consequences for repeat offending. The nature of and language used in court processes tend to depersonalise the harm done by family violence. Violence is then seen as an abstract event, with the pattern of offending that occurs over time and the cumulative harm often obscured and the harm minimised. We heard that victims can be asked for their support of bail decisions in the presence of a family violence offender, which results in ongoing victimisation. Victims are influenced by body language which restricts their ability to freely share their opinions and concerns about such decisions.	The safety of victims should be prioritised. Bail decisions should prioritise victim safety especially in family addresses and in small rural communities. This also involves not asking victims if they support such decisions in the presence of an offender. Victims should be consulted separately face to face given the often nuanced forms of coercive control. Victims should be able to rely on a presumption of safe access to physical court infrastructure for victims – for example, use of screens, CCTV evidence. Perpetrators should lose the ability to cross-examine in person. Accurate language should be used to describe violence and violent acts. All criminal justice system personnel need to have training, not just judges. Victims should be involved in defining safety.
Court system is over-loaded and lacks timely responses	The process of cases getting to court is too long. These long delays mean the offender has a far greater opportunity to intimidate and harass their victim. It can mean that in serious cases a victim may be forced to remain within a refuge setting for an extended period of time to ensure that victim's safety. It is vital that all personnel working with family violence cases keep the victim up to date for their safety. For example, there are safety issues if an offender is bailed and the victim is not told until the next day. If the victim is unaware of the custody status of the offender, they and support agencies such as Women's Refuge are unable to adequately manage the risk to victims and their children.	Specialist family violence courts with comprehensively trained staff and adequate resources are needed. More judges and court staff are also needed. Information for victims should be made available throughout the process.
	The system is too 'present' focussed (not future or past). The court process is still seen as focusing on discrete incidents, rather than acknowledging the ongoing and episodic history of most family violence offending. We heard there is a lack of post-sentence rehabilitative services or options. The vast majority of victims have ongoing relationships with perpetrators following release from custody or exit from the criminal justice system. It is critical for victims that those offenders receive appropriate, effective and timely rehabilitative support.	The Family Court should have more options available to it, i.e. the ability to direct respondents to alcohol and drug rehabilitation.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Acknowledging the truth about family violence	We heard the criticism that coercive and controlling behaviour is currently not an offence. There is a lack of widespread acceptance that family violence is grounded in gender-based patterns of power and control. Accepting a gender-based analysis must also acknowledge that family violence occurs within same sex relationships and that women are also capable of abusive behaviour.	

What we heard about homicide

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
In general	We heard that victims are disrespected and not treated as people. "They are a person, not evidence."	All victims, including homicide victims and their families, should be accorded respect, dignity, privacy and fair treatment as per the rights set out in the Victims Rights Act 2002.
	We heard that there is no respect for the victim's family – anonymity is important for these families. Reading unfounded information in the media about the victim further traumatises the victim's family. The offender often receives name suppression, but the victim's name often ends up published immediately in the media. Making the offender accountable is most important for homicide victims' families.	There should be further restrictions to prevent media identifying victims publicly. The media must ensure the wellbeing of victims' families. There should be clear media guidelines developed.
Victims' rights	Homicide victims' families often feel forgotten. Offenders' rights are prioritised over victims' rights.	The Victims Rights Act 2002 needs more status in the justice system. The legislation contains rights for victims that should be widely known, respected and fully implemented across the system.
Safety	Victims and their families often feel that they don't have enough information to feel safe.	Provide victims' families and whānau with the information they need to feel safe. This may continue long after the trial is over.
Definition of a victim	The definition of a victim does not currently extend to include all whānau members.	Broaden the definition of victims to include all whānau members, and all those impacted by the crime.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Support and advocacy	Currently, there are problems with late referrals, funding and bad communication between the Police and Victim Support.	Police need a main point of contact in Victim Support so that they can keep Victim Support updated. We heard that Victim Support also need to case manage each case to a family's needs.
	You reminded us that we need to recognise the longevity of victims' need for support.	More expert and highly trained counsellors and alternative forms of therapy should be offered to victims' families. These families need trained psychological services that are trauma and violence informed, and that support should not be limited. It should be open-ended as it is a lifetime journey for them.
	Legal processes are a foreign language to victims and their families. Currently, there is inconsistent or non-existent support for victims and other witnesses during and in preparing for court.	We heard that from the time of the initial crime legal information and support and interpretation of the judicial process needs to be provided for victims: a paid professional support service for victims of crime supported by a legal team. When charges are laid, victims need a legally qualified advocate or support person to help explain and navigate the system. To fund this, increase the offender levy. There should be legal representation for victims' families at Parole hearings and all court appearances eg: bail, and coronial hearings. Police and prosecution services (Crown) should give victims' families the option to discuss what is happening, their rights, any plea bargaining decisions, and their role in the prosecution, for example, charges, submissions, and sentencing. Victims need more face-to-face sessions with Crown prosecutors. Victims' opinions need to be consulted around name suppression, bail etc. Victims should have the option to be involved before the prosecution stage. Victims should be informed of plea bargaining options.
	ACC and Victim Support is difficult to access, victims feel like they are fighting for help (that's if they have the 'energy' to fight).	More counselling and alternative forms of therapy should be offered to the families of homicide victims.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Victim impact statements	The current system boxes, devalues and prescribes a victim's experience. Victims are misled into believing they have the ability to freely speak about their feelings and how they have been impacted in their victim impact statements. However, they are edited, redacted and censored and are therefore not the victims' voices. Victims cannot impact sentencing or make requests or recommendations. The victim impact statements are also not culturally aware, and Māori awareness is just token. This is not a true victim impact statement.	Let victims speak in their own words. There should be no limitations in victim impact statements (except for threats and swearing). Giving a victim impact statement should be therapeutic for the victim and should therefore be the victim's voice. Victim impact statement standards need to be consistently applied nationwide.
	Some people who want to give victim impact statements are not defined as victims.	Review the definition and rights of who can give a victim impact statement. In homicide there are often many people affected by such a major event.
Parole	The Parole Board process is very offender-centric. Victims' families currently have no rights to ask questions at Parole Board hearings or appeal the decision, but the prisoner does.	The Parole Board needs to have training to understand the issues for the victim and shouldn't traumatise victims further. The Parole Board should consider the victims' families when determining the number of times to meet to discuss release. The time of an offender's release needs to be more transparent. There could be an independent body to oversee offender release, as currently there is no visibility for victims' families to know what the offender's release conditions are – it's not transparent. Families can't have confidence in this way of doing things. Victims' families should be able to ask relevant questions at Parole Board hearings and appeal a release decision.
Restorative justice	Saying sorry, and having offenders wanting to participate in restorative justice does not denote genuine remorse. There's not always enough funding for restorative justice. The length of time to process requests for restorative justice is too long.	Restorative justice should always be victim-led. Victims' families need acknowledgement from the offender that he or she has killed a person. Restorative justice should be available at whatever time in the criminal justice process the victim wants it, and for homicide victims' families this is usually not straight after the trial but some years on. Most homicide victims' families don't go through restorative justice – restorative justice is not appropriate for everyone. Some families have reported feeling safer after going through restorative justice; it should be up to the families when and if to do it. For most who do go through it, it is about achieving accountabilioty from the offender, not necessarily leading to forgiveness.
	Restorative justice should not be linked to sentencing for homicide cases. Sentences should not be reduced as a result.	

What we heard from victims of 'mental health' patients

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Lack of rights under Victims Rights Act 2002	If the offender is a mental health patient ('special patient') in the Ministry of Health's care, the victim notifications are more limited such as only being told about the patients first unescorted leave but not others.	Victims of mental health patients should have the same rights as victims of offenders who are in prison. The Victims Rights Act 2002 needs to be amended to achieve this.
Support	We heard that this leaves these victims with no information about the offender, or his movements. There is the fear of randomly running into their offender into public. They also fear not even recognising the offender if it has been several years since the offence. Victims feel like they are in 'no man's land'.	Victims of mental patients should also have the right to support services such as a wrap-around navigator who helps them make their way through the criminal justice system.
Not guilty by reason of insanity	We heard that victims of offenders who are found not guilty by reason of insanity feel that the system is denying that any harm happened at all. They want an acknowledgement that the physical act of victimisation occurred.	We heard that the verdict' not guilty by reason of insanity' should be replaced with a verdict of 'not proven'.
Victim impact statements	Victims of offenders who are found insane or mentally unfit for trial aren't able to present their victim impact statements as there is no sentencing process.	Wherever possible, victims of defendants who are found insane or mentally unfit for trial should be given an opportunity to present a victim impact statement to the judge, and an opportunity to meet with the defendant's whānau as part of a restorative justice process. Funding should be available to enable these processes to happen.

What we heard about other offences

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Motor vehicle and white collar offences are minimised	The way the law is currently structured minimises motor vehicle offences. There is an attitude in New Zealand that 'this is just another driving offence'. There is a disparity between the charges and the harm that is caused. The language around motor vehicle offences minimises the offence and the effect it has on the victim. There is a lack of resources available for victims of white collar crime and certain crimes seem to be seen as more deserving of resources than others. The emotional impact and trauma of financial crime is often not recognised, but financial crime removes the sense of security for the victim as well as impacting their home and business. With serious fraud there can be hundreds of victims in any one case. Each of these victims needs a support person who understands the specific stress, trauma and impact financial fraud can have on a victims' whole life.	Language used around motor vehicle offences needs to reflect the level of harm, for example, 'driving causing death', 'dangerous or negligent operation' should be updated to 'vehicular homicide'. As with other crimes, each victim may need a specialist tailored support person as well as a trained advocate to advise them if their rights and options along the entire criminal justice process.
Lack of communication	There is a lack of victim notification for all victims. This is a right under the Victims Rights Act 2002 for serious offences but is not consistently adhered to. Please see the chapter on the Victims Rights Act 2002 and Victim Notification Register for more detailed feedback on this issue.	Victims need to be kept informed throughout the whole process. All victims need to be considered. Often there is more than one victim in a motor vehicle crash and all need to be entitled to register on the Victims Notifications Register and receive notifications.
Technology	We heard that the New Zealand criminal justice system is out of step with the rest of the world in regard to the use of technology.	The system needs to evolve to respond to changes with technology, for example smartphone data should be used to improve driver distraction.
Alternative approaches	Restorative justice often works well for motor vehicle offence victims but there needs to be an opportunity to intervene earlier. Often victims want to engage in restorative justice but there are barriers which prevent them from initiating the process.	Restorative justice should be centred around the victim, so it is at a time that suits them.
		There needs to be victim input in how their offence/ situation is resolved. The system should consider: interim suspension of driver licences, rehabilitative sentences and imposing monetary sentences to cover reparation for the victim.

What we heard about restorative justice

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
What justice means	Our system is dedicated to meeting the fundamental justice needs for truth-telling and accountability, but there is a gap when it comes to healing and recovery (for victims and offenders). Victims are frequently disappointed in the criminal justice system for its failure to deliver a sense of justice	Somehow, we need to forge a system that combines the strengths of the retributive system (ensuring due process for those accused of wrongdoing and protecting future victims from predatory behaviour), with the strengths of a restorative system (that puts the moral and therapeutic needs of the harmed parties at the centre). Several ideas from restorative justice theory and practice could offer some guidance: • The understanding of justice as repair rather than justice as censure or justice as punishment. Rather than speaking of "justice" and "healing" as separate concerns, we should think of justice as healing. Every policy decision could be judged on how much it repairs and restores. Every judge could ask the question – how will this sentence promote repair, in its fullest sense, for everyone involved? • The notion of whakapapa (relationality and connectedness) and community involvement. There needs to be a wide variety of resolution processes, both within the system and outside the system, and have mechanisms available to help people choose the option that best meets their needs, while also safeguarding the larger protective responsibilities of the state for victims. Local communities could work in partnership with the state, and perhaps under the ultimate oversight of the state, to provide resolution processes that address harms, meet needs, and reaffirm shared values. Justice would be measured, not only in terms of procedural uniformity but in terms of reparative outcomes.
Addressing harm where the victim does not want to go through the criminal justice system	Not all victims want to go through the criminal justice system.	Restorative justice can offer alternative justice processes for victims who do not want to go through the criminal justice system. Some options could be: • A restorative justice programme with a co-ordinated approach, not one-off interventions, and flexible to victims' needs • Iwi justice panels • Earlier Police diversion to restorative justice where appropriate • Note, that for any of the above to be possible there needs to be greater awareness of legal privilege.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
A narrow understanding of restorative justice practice	There needs to be greater understanding of what restorative justice is and its potential and scope. There is a gap in evaluation practices between the actual long-term value of restorative justice, and the short and medium-term impacts of restorative justice. Restorative justice is currently limited by current timeframes in the legislation.	Restorative justice in general (and in policy) should be defined as a continuum with various restorative options based on the needs of victims and informed by restorative philosophy. Evaluation of restorative justice needs to be reoriented to victims' needs and conducted throughout the process, not just at the end. Links need to be built with other sectors through networking and communication. There is also a need for more innovative practice.
	Tying funding to completion of a restorative justice conference is restraining.	Funding needs to be available for flexible processes that fall on a restorative continuum, not just for completion of victim-offender conferences.
The public profile of restorative justice	There is a lack of public awareness and understanding of restorative justice practice.	Information needs to be given to victims, the public and stakeholders up front. The communication strategy for the public but also for key stakeholders across the sector, would involve clear communication messaging (not by the Ministry of Justice but by practitioners, etc.), addressing victim needs, and should be a voluntary process. This requires relationship building and developing trust. Whakawhanaungatanga (the process of connecting and forming relationships, whakapapa) is also essential. Relationship building within the restorative justice sector and community toward greater understanding, clarity and awareness. Victim outreach liaison could help broaden this understanding by meeting victims at whatever stage of the process they are at, even if it does not have the format of a victim-offender conference.
Māori	All cases do not need to go through a single model.	Māori communities should have the freedom, where all parties agree, to pursue restorative justice within a te ao Māori worldview and according to tikanga. Community participation is a key restorative justice principle – but participation involves more than being present in the room when a standard process is run; it involves genuine power-sharing in the process and outcomes.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Need to support victim throughout entire process	There needs to be a broader focus than just the individuals, the focus should include a wider healing of all whānau. The onus shouldn't be on victims to identify when or if support is needed. Harm can take a long time to heal from, and victims should be able to access support whenever they need it.	We need programmes that are tailored to meet individual's needs, with more access to services (not restricted by time) and information for harmed people/whānau/victims. The philosophy that whānau ora follows is a good model, we need more of this co-ordinated and integrated approach. It is important to have an independent support person, and a specialist with training in the impact of specific crime trauma. This support needs to be: • from end-to-end across the system • needs based since needs vary for those who have been harmed • proactive and continued across time • focussed on outreach so that the responsibility is not on the harmed party to reach out when they might not know how or even if to • an outreach liaison anchored in restorative principles. Restorative justice needs to be provided and viewed as a continuum. It was suggested that a 'voucher system' could be introduced where people receive a voucher for restorative justice and they can use that at any time.

What we heard from Pasifika communities

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Pasifika frameworks of justice are not visible throughout the criminal justice system	Pasifika models of justice do not separate or isolate victims from offenders, nor do they separate their support people, especially families, from the processes of addressing the offending. By separating them the criminal justice system cannot give proper institutional recognition to Pasifika peoples' justice values.	The Pasifika Youth Court has provided the current system with a hybrid solution. It offers the criminal justice system a model not only for Pasifika inclusivity in the courts, but also for how ethno-cultural inclusivity could work more widely in the system. It models how different parts of the system (courts, Police, social service providers, community elders and families) can work together to be more responsive to Pasifika values of collective responsibility for addressing and healing harm. A formal evaluation of this model is needed for insights into its wider system application potential for Pasifika, and for building a criminal justice system that is reflective of New Zealand's ethno-cultural diversity, for both the short and longer term.
Pasifika affirm the equal partnership between Māori as Tangata Whenua of Aotearoa New Zealand and the Crown as established in Te Tiriti o Waitangi	Pasifika acknowledge that we share a cultural whakapapa with Māori as the descendants of Moana Nui a Kiwa. We also acknowledge that our recent migrations to Aotearoa New Zealand was as a result of modern political relations between the Crown and the governments of our Pasifika Island nation states. As such, Pasifika peoples living in Aotearoa New Zealand acknowledge Māori as tangata whenua and affirm their partnership with the Crown as recorded in Te Tiriti o Waitangi. Given our shared cultural whakapapa with Māori, and the increasing number of Pasifika children who are both Māori and Pasifika, and the number of Pasifika peoples involved in the criminal justice system as offenders, victims and staff, there are a number of synergies that could be explored more deliberately for their potential to co-create meaningful resources for our victims, offenders and families involved in the system.	Pasifika cultures place significant value on principles such as whakapapa and mana, which we share with Māori. Such principles help to define and nuance our Pasifika justice frameworks. Our frameworks must reflect a Pasifika jurisprudence, but there is a significant lack of expertise here, which is an area that must be addressed and is something that can be greatly assisted by Pasifika in the justice sector and academia working closely together with Māori legal scholars and jurists.
Lack of knowledge and language barriers	Pasifika peoples try to make the system work for them, based on their limited knowledge of the criminal justice system. Language is a significant barrier to engaging well with the criminal justice system.	A review of the justice system's translation services that can propose solutions for identifying and addressing key Pasifika language barriers.
Support and navigation	It's not clear how effective the support within the criminal justice system is for Pasifika peoples. There is a need to identify victims from a certain point in the process, where they are vulnerable, and where navigators could advocate for the victims.	Someone (a support person) to support, and walk with, victims from the beginning to the end of the process. This should be a person or a navigator who understands the system and is able to explain the entire process. Navigators are needed to cover diverse Pasifika ethnic groups and languages. Navigators would set plans with victims and families, advocate for their needs, facilitate the process and link to relevant support agencies.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
	We heard that there's a disconnection, a lack of networking, communication and referrals between victim-focussed support services and other social service providers that victims may need to access. This is a big gap in the Pasifika community.	Pasifika peoples can help co-design a model for victim support. We can use the values of the Tokelauan concept of "Tamamanu" which translates literally to a young bird. It encourages us to look within ourselves, to find that spirit of compassion to take care of anyone who is in a vulnerable state. Just as the young bird needs support and assistance to fly, all of us must take up our responsibility and obligations to shield, protect and take care of all our family members, particularly our vulnerable members. This is part of the Pasifika justice value of collective responsibility.
	There is a lack of understanding of what Pasifika peoples (including youth) go through and the trauma experienced and trust issues they have and how this impacts on their engagement or not with the criminal justice system. Victims need skills for writing their victims impact statements and perpetrator letter to enable thoughts and feelings to be properly articulated. There are challenges for Pasifika peoples navigating through the system.	There exist successful Pasifika frameworks and initiatives that mainstream services, including those without Pasifika clients, can use or integrate into their systems. Pasifika providers could be better utilised by mainstream providers, to help develop programmes or subcontract to deliver a service for Pasifika people where mainstream has no capacity or expertise to address the needs of their clients who are Pasifika. Church leaders could be utilised more to support Pasifika families and communities due to their influence and leadership however there is a need to offer them training in personal and community skills. The Matua Whaangai programme of working with Māori whānau in the 1980s could be reprised and restructured.
Cultural collaboration	We heard that there is a lack of collaboration with Pasifika communities. There is a lack of understanding about how Pasifika traditional systems and principles of justice or values apply in the NZ criminal justice system or vice versa. Our children in the criminal justice system are not engaged with their Pasifika cultural systems. There are Pasifika cultural frameworks established and referred to in other agencies however no obvious ones in agencies within the criminal justice system.	The Pasifika family violence training for restorative justice providers practicing in family violence or working with restorative justice training providers could be used to ensure Pasifika communities in the justice space have culturally appropriate or nuanced frameworks. This has cost-effective benefits. The Nga Vaka o Kainga Tapu – a collection of Pasifika family violence frameworks – would be great to use as tools for training different providers in the family violence space of the criminal justice system.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Vision and creativity	Ideologically the criminal justice system has difficulties with the collective responsibility orientation of Pasifika values, protocols, expectations and justice institutions. Having a justice system that individualises rights and responsibilities means that there is a difference from the start in understanding how justice works and ought to work.	Could look to utilise te ao Māori developments and initiatives as a framework / foundation for Pasifika focussed outcomes and ways of working, for example, in restorative justice. Something similar for Pasifika could be done. The Health and Education Sectors have developed good models around the integration of Pasifika values into those systems. The criminal justice system is still quite fragmented in their work on this. Pasifika in justice need to be courageous regarding our own cultural models, such as looking into the potential of the Ifoga, or the Hu lou ifi as Pasifika restorative justice processes.
	There is a lack of vision. People are not prepared to push the system to reimagine the box, to try something different or new.	It is important to create spaces for innovation in the community, for example, programmes such as men's support groups have shown promise, and as well programmes carried out with perpetrators (having those that have been in the system sharing their wisdom with youth as part of their giving back to the collective) have proven effective.
Resourcing and contracting	We heard that the contracting framework is very limiting, the barrier is often the system itself: • the number of audits and low levels of trust • institutional culture that is hard to penetrate • providers need management skills to provide evidence to support their services • not enough trained male workers to engage men when there has been family violence • not enough programmes for Pasifika victims, often women and children, to help them with family violence matters. In particular how they can gain independence from a violent and damaging co-dependant relationship.	A committee to review contracting frameworks and propose solutions for addressing barriers identified.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Reporting and court	There is no Police report when complaints are reported to agencies other than Police.	Agencies, including community service providers, that receive a disclosure of harm from a Pasifika person and/or family must find a way to process the disclosure within the system quickly and compassionately so that the disclosure and the person making it is not unfairly judged and prematurely dismissed by the system.
	Support is needed for victims while they wait for trial. Two-year gaps are too long.	Granting requests for delays should be exceptional, and victims views should be taken into account. Trials for serious offences should get priority. And offenders on bail need to be monitored for victims' safety.
	There is not enough support and recognition for victims during trial.	We need culturally appropriate counselling for Pasifika victims. A lawyer for the victim could help with the victim impact statement. Victims' opinions should be allowed to be fully expressed in court. Letters of apology by offenders should only be considered in mitigation if produced after a guilty plea or early in the trial.
	Victims still need access to support services after trial.	Victims should get counselling, even after a not guilty verdict.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Restorative Justice	The problem with restorative justice is that it is not well promoted among Pasifika communities in New Zealand. It's not promoted to Pasifika victims as another option once an offender pleads guilty and is to be sentenced. The main option Pasifika victims understand they have is submitting a victim impact statement which is through Police. Most victims know nothing or little of restorative justice until contacted by restorative justice facilitators. Pasifika cultural processes have ways of dealing with offending that do not always mean reporting to the Police. These could be properly explored for their alignment with restorative justice frameworks.	The restorative justice process should be better promoted to Pasifika communities and Pasifika victims of crime. There is a need for better education in society generally on what restorative justice is and its purposes. There needs to be development of a Pasifika cultural framework that speaks to the restorative justice best practice framework developed by the Ministry of Justice and is inclusive for all Pasifika ethnicities. And this must have associated training for facilitators in restorative justice to ensure effective engagement with and connections to Pasifika peoples and their values. This is really important for Pasifika victims and their families or communities (for example, churches), especially in family violence cases where achieving reconciliation or restoration is difficult. In family violence restorative justice cases, the system needs to allow for more than one restorative justice conference. Where offenders are in prison, this means post sentence restorative justice conferences to ensure safety of victims and good support is in place for them. Both the victim and the offender must agree to the restorative justice process. Active engagement with the support persons for the victims and offenders must be in place also in restorative justice. This is non-existent currently and something some facilitators do on their own initiative, and which is not always funded by the Ministry of Justice under the current funding model, and so not sustainable.

What we heard from ethnic and migrant communities

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
In general	The criminal justice system must not generalise 'culture'. While 'cultural appropriateness' is important, the system also needs to be aware of aspects of ethnic culture that are abusive and a violation of human rights. Currently, ethnic and migrant voices are not being heard appropriately by the justice system.	The justice system needs to recognise ethnic advocates/decision-makers beyond tokenism. There needs to be more diversity within the system with required cultural competency to better reflect the communities they are serving.
Lack of information	Migrant and ethnic communities often are not aware of what the criminal justice system involves and expectations of their level of participation. There is a lack of information for victims around the trial and limited interaction with the prosecution. We heard information is withheld based on rules that have no basis, effectively keeping victims in the dark. Witnesses have rights. However, they are often not kept in the loop and excluded from information on processes. We heard there is rarely support or follow up even after witnessing a homicide.	
	There is a lack of multilingual response options for victims. Smaller migrant and refugee communities in particular find it hard to access interpreters, particularly as they may be known to the families concerned and may be in conflict.	There needs to be multilingual response options for victims in order for them to better understand and use the criminal justice process and actively choose to be a part of it.
	We heard that while interpreters may have the language proficiency, they lack adequate training in understanding and in analysing family violence and therefore many victims are mis-represented during the interpreting process as they paraphrase victims' statements within their own worldviews and not the victims'.	Better accessibility to linguists and interpreters are required to combat the communication barriers between the victims and the agencies. However, they need to be adequately recruited and trained as they are required to keep information confidential and keep the victim feeling safe. Training in understanding family violence within the New Zealand context is essential for interpreters, as well as in declaring conflict if they know the perpetrator family.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Lack of support for victims	The current justice system has a lack of support for ethnic (migrant and refugee) victims. This support is even more necessary because ethnic and migrant communities often feel isolated from their families and communities. There needs to be recognition of cultural dynamics and issues with safety in attending trials. Fear and safety of witnesses are often not taken into account, particularly taking into context how small some communities can be and that everyone knows one another.	Culturally-appropriate support for victims should include: • dedicated victims' advisors who are legally trained and who can seek the support of trained interpreters or ethnic agencies supporting the victims • victims' legal advocates – someone to work with the victim from day one • culturally trained Victim Support workers • victims to have an independent voice so they are authentically represented • interpreters who are to be trained in family violence and sexual violence and be culturally competent.
	Oranga Tamariki processes are not working for ethnic youth and children in cases of family violence and sexual violence. For instance, in cases of forced marriage, the Oranga Tamariki process of whānau approach may not work as it is likely that the family may take the victim out of New Zealand and then ask her to remain in her country of origin.	Oranga Tamariki to be provided with cultural training for responding appropriately to migrant and refugee communities. Recent immigrants have different needs to those that have lived in New Zealand longer and so each case needs to be treated on an individual basis.
Gaps in the law	In the justice system there is a lack of recognition of the different types of violence (culturally specific) that migrant and ethnic communities can be subjected to. The law currently doesn't recognise some cultural norms of violence (for example, honour killing).	There needs to be legal recognition that there are gaps in the law and how the law manifests in terms of cultural abuse. This requires thorough consultation, research and work. Ethnic agencies engaging in reconciliatory work need to be informed of the rights of the victim and that safety is paramount in family violence or other acts of crime.
	The Family and Criminal Courts need to communicate better. Judges need to be aware and access relevant information from other court processes. One example is when an order preventing the removal of children leads to the withdrawal of immigration status, which advantages the perpetrator. Currently perpetrators can use other systems to prevent victims from seeking or accessing justice. Immigration abuse is often not recognised - threatening to take away a victim's visa is a form of coercion.	The Police, Courts and Immigration department need to work together to ensure that non-permanent resident women victims do not lose their children to the perpetrator when the latter withdraws visa sponsorship of the mother. The Courts need to be acutely aware of such situations and judges needs to take into consideration the visa status of the victims.
	The question was asked how the dowry and forced marriage legislation will be implemented.	Crimes such as forced marriage, honour-based violence and dowry-related violence need greater understanding and recognition at the implementation levels within the justice system.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Discrimination/ racial bias	We heard that racism and discrimination penetrates through the justice system. Often people from ethnic (migrant and refugee) communities won't be taken seriously unless they have a kiwi accent: the 'we can't hear you' attitude. There is a prevalence of bias among government agencies especially frontline staff. An example of this is first response staff hanging up on people with 'foreign' accents. We were told that ethnic and migrant communities are feeling intimidated and bullied by Police and there is no accountability for this treatment.	There needs to be more mechanisms to hold people to account for discrimination.
	We heard that there is no accountability for Police intimidation and bullying. Negative experiences with the Police act as a barrier to reporting.	
	Religious leaders tend to perpetuate harm in their endeavours to keep up with culture and tradition and to not 'name and shame' their communities. Migrant and refugee communities feel the need to preserve 'culture and tradition' and can inadvertently fuel conservatism in certain pockets.	There should be compulsory training on family violence and New Zealand laws for religious leaders and resources allocated to monitoring them.
Cultural competency	We heard that there is a lack of appropriate cultural competency within the justice system including the Police and judges. The cultural competency of judges is a major concern.	There needs to be investment into a multicultural, well-trained human interface including specific training in family and sexual violence space. All of government need specialist cultural training that is consistent and relevant. This is particularly necessary for Police and the Judiciary. The justice system needs to tailor its response so that it is right for the community it serves. There needs to be more use of cultural advisors in cases relating to ethnic and migrant communities. However, it is necessary to consider who gets to be cultural advisors – do they have the essential knowledge of family violence and how and why it manifests?
	Juries are not reflective of the communities they serve and lack understanding around different cultures.	During the jury selection process, balance and diversity needs to be considered.
Pressure on victims	There is a lot of pressure on victims from prosecutors to testify against family members, and that is contributing to them feeling worn down and weakened. This is particularly worse when it comes to victims who lack the required English language skills.	Pre-recordings should be considered admissible evidence and should aim to alleviate pressure on victims. However, there are language barriers for victim video statements and this needs to be addressed to better serve migrant and refugee communities.
	There is added financial stress on migrant families and these pressures are not recognised by government.	Agencies need to acknowledge and act on the added financial stress on migrant victims.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Te ao Māori approach	There is currently a problem with the western justice system and how it treats those of different cultures.	Though there are opportunities to learn from te ao Māori, it needs to be flexible as this will not work for everyone.
Alternative Processes	The current approaches of the criminal justice system to migrant and refugee victims are left wanting.	Further research could be undertaken into what an alternative justice system could look like for migrant and refugee communities. An analysis is required of the highly gendered and collectivist nature of such communities and the power imbalance between victims, perpetrators and family members especially for women, youth and children. The restorative justice model needs to be rethought in relation to ethnic communities. The model needs to recognise the power imbalance, cultural pressures, cultural abuse and immigration related barriers. There needs to be more involvement of ethnic communities in discussions of restorative justice and how to ensure the safety of victims.
Communication between agencies and courts	Silos are a big problem in Government both within agencies, the courts and between agencies and NGOs and communities.	More information sharing is needed among the courts, especially the Family and Criminal Courts. Judges in these jurisdictions need to be aware and access information from other court processes. For example, orders preventing removal of children, withdrawal of immigration status which is an advantage to the offender. More consultation is needed from government agencies with NGOs and migrant and refugee communities to better serve these communities.

What we heard from the rainbow community

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Lack of recognition and acceptance	We heard that the rainbow community is not recognised in the criminal justice system. This lack of recognition extends throughout legislation and policy, government agency regulations and practice, and community programmes and intervention. We heard that the rainbow community are often feared and not trusted by the wider community which can lead to them not being believed when reporting crime. General societal bias fuels not only the crimes but the responses to them.	Until the rainbow community is recognised in legislation in all levels of government, they will remain invisible. The rainbow community needs to be engaged with regularly. All research supporting legislative change should be co-designed with the rainbow community. Though there is a responsibility of rainbow individuals to create change internally, this needs to be created with support of the wider community.
Lack of understanding on the nuances of the experiences of victimisation	We heard that parts of the rainbow community experience crime and victimisation in very different and complex ways. Currently legislation and practice does not understand or adequately reflect this, particularly regarding crimes such as sexual violence. There is a lack of understanding of diversity within diversity, for example Māori and refugee members of the rainbow community.	It could be useful to adapt existing sexual violence and family violence training to specifically help the rainbow community.
	Online harassment is on the rise and the rainbow community is most at risk. This can include online bullying, outing online and doxing.	Changes need to be made to the Harmful Digital Communications Act to better deal with this.
Inadequate understanding within the justice system	The general societal bias that members of the Rainbow community face can lead to negative responses from Police when reporting crimes making it harder to come forward. The community organisations that could pay a large part in crafting solutions are under-funded and over-stretched.	We need to allow the rainbow community to be a part of the solution as only they understand the changes that need to be made. The rainbow community needs to be regularly engaged with on legislation and policy. Education is needed for the service providers for them to be more responsive than reactive. Gender-diverse resources are needed.
Operational impacts	The rainbow community is often excluded from tick box forms and not counted in documents such as the census and Police rape kit. There are problems with the rape kit information particularly in relation to issues around gender. In the Family Court there are problems in getting Protection Orders.	Collaboration with the trans community in particular is needed around how to record/when to record gender. Further discussion is needed around the rationale for why recording gender is or is not important. We heard that all Ministry of Justice and Ministry of Social Development forms should be redesigned in conjunction with the trans community.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Not feeling safe within the justice system	Mainly non-LGBTIQIQ personnel control the justice space and there is a consistent threat of fear-mongering particularly for the trans community. The rainbow community is often disowned by family and friends and can suffer abuse at the hands of their community due to their sexual orientation/ gender. This means that they can sometimes have nowhere to go for support.	
Lack of information, research and data collection	There is a need for accurate data collection for the rainbow community.	Accurate data collection is needed, especially to support legislative changes.
	There is a lack of ownership and training as it seems to always be passed on as someone else's problem.	Support is needed for the establishment of a Transgender Centre of Excellence to promote and co-ordinate research and training.
	Intimate partner violence is much harder to recognise within this community, even members do not always know it is happening.	Education is needed for the rainbow community on recognising this kind of violence.

What we heard from male victims of sexual violence and abuse

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Lack of recognition	We heard that male victims of sexual violence and abuse are not recognised by the criminal justice system, nor are female perpetrators and that this lack of recognition extends throughout government legislation and policy, government agency regulations and practice, and community programmes and intervention.	Provide specialist tailored responses to male victims so their needs are addressed at each stage of the criminal justice system. Until male victims and female perpetrators are recognised in legislation and in all levels of government, they will remain invisible. All research supporting legislative change should be gender-balanced and inclusive of the Māori voice and world view.
	We heard that the 'Male = Perpetrator' stereotype lacks both analysis and understanding. This stereotype labels all men as perpetrators and all perpetrators are men when this is clearly not true. Such stereotyping leads to judgement and bias.	We heard that the Ministry of Justice needs to challenge such stereotyping.
	We heard that there is no specialist 'voice' for male victims of sexual abuse, and this problem is compounded for Māori men.	We need pro-male promotion of both issues and services.
Lack of support and services	There is a lack of support and specialist services for male victims through the ACC system, the court processes and the health system. There are no new targeted resources to meet the needs of male victims. We need both education and specialist training to address these needs.	All agencies and services contracted by government to provide support services to male victims, need to identify their expertise to deliver those services.
Male victims are 'silenced'	Male victims are 'silenced' from making disclosure and reporting abuse due to the fear of being seen as a 'nark' (especially if the abuse happens in the prison system), the fear of not being believed, and the fact that there is a massive gap in services available to help them if they do disclose.	Train family violence and sexual violence services, as well as all justice agencies (Police, lawyers and judges) to understand the challenges for male victims of sexual violence speaking out about the crimes against them.
Need for alternative justice approaches	There is a need for alternative justice approaches – it is not always about punishment and prosecution of perpetrators.	Because of a lack of awareness and early support, often male victims of sexual violence resort to alcohol and drugs to self-medicate the trauma. For this reason, alcohol and drugs, as well as angry behaviour and other post abuse effects need to be seen and treated as health issues. Early interventions are needed to avoid a life-time of distress.

What we heard about vulnerable victims (disabled etc) in the criminal justice system

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Justice needs, support and specialisation	There is a lack of compassion in the criminal justice system for disabled victims. These victims are often rushed and forced to operate on others' terms. There is a lack of flexibility: "We do it this way".	We heard that the system needs more respect, kindness and recognition that everyone is different – processes should be done 'with you' not 'to you'.
	These victims have no voice in the justice process. Vulnerable adults are defined in the Crimes Act but are invisible in the system as there is no system, process or supporting legislation to implement this definition.	
	There are issues around rights, legal capacity, the right to make your own decisions, human rights. There needs to be timely identification of an individual victim's disabilities and health issues, and their particular justice needs such as culturally relevant support, issues with legal capacity, family needs, degree of trauma suffered etc.	We need to identify vulnerabilities immediately; this needs specific recognition and advocacy so that support services can understand and be fully involved. People who work with vulnerable victims need to be trained, specialised and supported. Such specialist services need to be funded for longevity, not on a one-off basis. There needs to be a longitudinal approach with follow-up. These victims need information that is accessible, culturally appropriate, in various media, not only written material, but easy read and visual aids, and support people to engage with the resources and make supported decision making, for example, Protection of Personal Property Rights Act 1988. Communications assistants should be readily available for all children and adults with communication needs (as legislated in much of the world).
	Victims with disabilities have particular communication needs, they need help with supported decision making. For example, there are issues with legislation such as the Protection of Personal and Property Rights Act 1988.	The UK Care Act 2014 gives good guidance. It identifies the need for support for vulnerable adults whether that person is a victim, respondent, offender etc.
	Police use terms like "not a reliable witness", "not credible".	It should be the system's responsibility to understand how the person communicates and facilitate proper communication.
	There are no Police specialist adult interviewers. Adults with neuro-disabilities are interviewed by child interviewers.	
	There is a lack of support available for the caregivers of disabled victims in the criminal justice system.	Support to caregivers should be more available, and they need more knowledge of their options.

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Systemic issues	There are problems with scheduling and timing and constant waiting, especially in the courts. There is a lack of structure and funding. There is no integrated approach by government and service providers.	Please see solutions for delay in the Trial preparation and experienced chapter.
Data collection	There is no data on vulnerable victims i.e. disabled people in the criminal justice system.	We must ensure that data about vulnerable victims is captured, to inform policy and practice, for example, disabled people, older adults, impairments (their core and support needs).

What we heard about children in the criminal justice system

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Courtroom testimony	Court is not a good place for children – it is seen as a terrifying place. This can discourage children from attending hearings or making complaints.	Review the processes that don't work for children in court and promote those that do work (for example, reconsider the length of time taken in the cross-examination of children). Build the capacity of lawyers in child cases, for example, structure, training, accreditation. All people who deal with children in court need to be properly trained in how to communicate with them. Consideration could be given to: • accrediting judges, prosecutors and Public Defence Service lawyers to take cases involving children and other vulnerable witnesses • making it a prerequisite for accreditation (and for maintaining such accreditation) to attend regular training on best practice in questioning children and vulnerable witnesses, and adapting trials to accommodate them.
	The question was asked whether children's voices are accurately heard in court. Although communication assistants are already operating in New Zealand courts, they are few and unregulated. Demand for these services is growing and will soon outstrip existing capacity. Currently there is no structure, governance or training in place for the service.	Communication assistants can help children to tell their story in court, or to voice concerns or questions. We need to develop the appropriate infrastructure to ensure effective and safe expansion of this key service for vulnerable witnesses such as children.
	The suite of options for alternative modes of testimony is not the same across different victims, for example, Audio Visual Links. At present it is a 'trickle out' service because there aren't sufficient facilities available. Currently, it is necessary to argue for the service to be available for each child.	The use of remote sites for children's testimony could be investigated to develop appropriate sites that facilitate best practice in terms of processes adopted.
	The Family Court makes orders for the offender to visit the child who alleges that they abused them. This ends up silencing the child who then develop a habit of not talking.	

What's the issue?	What's the reality? What are the gaps in the system?	What are the solutions?
Pre-trial and trial delays	There are problems with scheduling and timing and constant waiting.	Increase the use of pre-recording practices for children's testimony as per the Evidence Act sections 103 and 105. Evaluation of the successful Western Australian model of pre-recording for children and other vulnerable witnesses showed successful outcomes in the 20 plus years it has operated. This practice has since been adopted by most of the Australian states. Prioritise improving the timing and scheduling of child witnesses.
Support and access to information	Currently, different communities have access to different resources. There are issues with children and their families not knowing what support they can get.	Comprehensive provision of support for child victims is needed across rural and urban New Zealand. Child-friendly resources should be widely available such as "Safe to Talk" or similar practices.
	Child victims also need someone to support them if they are: • an indirect victim of a homicide • a direct victim of a less serious offence (for example, burglary).	
Lack of data and training	Police do not capture information or data about children's interactions with the courts, there is therefore no evidence of the need for 'services' to respond.	We must ensure that data about vulnerable victims such as children is captured, to inform policy and practice, for example, disabled people, older adults, impairments (core and support needs).
		Education and training is needed for all criminal justice system professionals who work with children or youth in justice settings. 'Being a parent' provides insufficient knowledge by itself.

Glossary of Māori and Pasifika concepts

Hāpainga	Healing-centred, responsibility to carry
Hou rongo	To make peace with what has happened to them
Hu lou ifi	A sacred ritual of apology for Tongan people
Ifoga	A bowing down, an act of submission for the purpose of seeking forgiveness and reconciliation
Kaitiakitanga	Guardianship, navigation, to care for one's own
Kotahitanga	Community, unity, collectivity
Mana	Status, power, prestige, influence
Mana motuhake	Accountability, obligations, partnership, self-determination
Mana-o-ngā-tāngata	The rights of the people
Ora'anga mou	All-encompassing, describing the full, thriving and complete wellbeing of the individual and the collective
Oritetanga	Equality, sameness
Pono	Truth, sincerity
Rangatiratanga	Autonomy, legitimacy to make decisions over self
Tama manu	Compassion for vulnerability, literally a young bird term used to represent a person who is less fortunate
Tika	Fairness, just, accurate
Turanga	The acknowledgement by self and others of one's position/standing and potential within the collective
Wairuatanga	Spiritual wellbeing
Whakahoki mauri	The lifting of the spirit to enable victims to stand in their own mana
Whakamana	Empowerment, authority
Whakapapa	Relationships, relational, genealogy
Whanaungatanga	Whakapapa, connecting relationships

Hon Andrew Little and Kim McGregor with Strengthening the Criminal Justice System for Victims Workshop participants: 4–5 March 2019.


Hāpaitia
te Oranga
Tangata
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