



**ORANGA  
TAMARIKI**  
Ministry for Children

**EVIDENCE CENTRE**  
TE POKAPŪ TAUNAKITANGA  
New Zealand Government

# Youth justice custody trends

# Acknowledgements

The Oranga Tamariki Evidence Centre works to build the evidence base that helps us better understand wellbeing and what works to improve outcomes for New Zealand's children, young people and their whānau.

**Email:** [research@ot.govt.nz](mailto:research@ot.govt.nz)

**Author:** Philip Spier (Oranga Tamariki Evidence Centre)

**Published:** July 2023

**ISBN:** 978-1-7385895-8-6

## **Citation guidance:**

Spier, P. (2023). *Youth justice custody trends*. Wellington, New Zealand: Oranga Tamariki—Ministry for Children.

## **Copyright:**

This document *Youth justice custody trends* is licensed under the Creative Commons Attribution 4.0 International License <http://creativecommons.org/licenses/by/4.0/>.

Please attribute © New Zealand Government, Oranga Tamariki—Ministry for Children 2023.

## **Disclaimer:**

Oranga Tamariki has made every effort to ensure the information in this report is reliable but does not guarantee its accuracy and does not accept liability for any errors.



# Contents

<b>Introduction</b> .....	<b>2</b>
Background .....	3
Data, caveats, and drivers of change .....	4
<b>Findings</b> .....	<b>7</b>
Overall trend.....	8
Custody order types .....	9
Age of young people in custody .....	10
Gender of young people in custody.....	11
Ethnicity of young people in custody .....	12
Placement types.....	13
<b>Summary</b> .....	<b>16</b>
Overall trend.....	17
Changing characteristics of young people in custody.....	17
Most youth justice custody placements are in residences.....	18
<b>Appendix A: Data tables</b> .....	<b>19</b>



# Introduction



## Background

This report examines trends in the number of children and young people<sup>1</sup> detained in youth justice custody across the period 1 July 2017 to 30 April 2023.

For this analysis, youth justice custody includes:

### Remanded in custody

- arrested and placed in the custody of the chief executive of Oranga Tamariki (the CE) under s235 of the Oranga Tamariki Act 1989 (the Act) until they can appear before the Youth Court<sup>2</sup>
- detained in the custody of the CE by the Youth Court under s238(1)(d) of the Act while the court case continues
- remanded in the custody of the CE by the District or High Court under s173 to s175 of the Criminal Procedure Act 2011 while the court case continues.

### Sentenced

- ordered by the Youth Court to serve a Supervision with Residence (SwR) sentence in the custody of the CE for three to six months
- sentenced to a term of imprisonment by the District or High Court when aged under 18, and under s34A of the Corrections Act 2004, they were placed in a youth justice residence in the custody of the chief executive of the Department of Corrections for some (or all) of the sentence. If the sentence is still active when the young person turns 18, they will be transferred to an adult prison.

The Act states that young people should only be detained in custody under s235 or s238(1)(d) when:

- they are likely to abscond or not appear in court
- they may commit further offences
- it is necessary to prevent the loss or destruction of evidence relating to the offence with which the young person is charged, or to prevent interference with any witness in respect of any such offence
- they have been arrested under s214A of the Act and are likely to continue to breach any condition of bail.

When young people receive youth justice custody orders, they are most often placed in a secure youth justice residence.<sup>3</sup> Less often placements are in a youth justice community home<sup>4</sup> and occasionally they are elsewhere.

The number of custody beds that are available must be sufficient to meet the maximum demand on any day. However, it is not as simple as this because not every unoccupied bed can be used for every new custody admission because:

---

<sup>1</sup> Over the last five years, only 2% of custody beds have been occupied by children, so for the rest of this report, “young person” is used as shorthand for all individuals in custody.

<sup>2</sup> Custody under s235 is not a court ordered remand but has been included in the remand category in this report because the daily custody number of such orders is too small to show separately.

<sup>3</sup> See: [www.orangatamariki.govt.nz/youth-justice/youth-justice-residences/](http://www.orangatamariki.govt.nz/youth-justice/youth-justice-residences/).

<sup>4</sup> See: [www.orangatamariki.govt.nz/youth-justice/youth-justice-community-homes/](http://www.orangatamariki.govt.nz/youth-justice/youth-justice-community-homes/).

- within residences, people are grouped at a unit level, and it may be undesirable to place a child or vulnerable young person in a unit that contains older youth facing serious charges in an adult court or serving prison sentences
- beds for males and females need to be in separate units
- young people remanded in custody may be considered by staff to be unsuitable for a community home placement due to factors such as aggressive behaviour or having a history of absconding, so need to be placed in a residence
- staff shortages, maintenance work, or other reasons dictate that a unit within a residence cannot be open for a period.

If residences and community homes are regularly operating at or near maximum capacity there is greater risk that detention in police custody will be used instead, which is not desirable as such custody is also used for adult offenders.

## Data, caveats, and drivers of change

### Data and caveats

Custody numbers in this analysis were mostly formed from 'legal status' data from CYRAS<sup>5</sup> which records start and end dates for each type of custody order made by a court. 'Placement' data was used to provide information of where young people with custody orders were placed.

This data is not completely accurate, with the most common issue being end dates not being entered when young people are released from custody. This can lead to an overcount of the number of young people who are in custody.

On occasion, custody orders and placements are not entered at all in CYRAS which means these young people will not be counted as being in custody. This is mainly an issue with community home and other non-residence placements.

To improve accuracy, some cleaning of the raw data was done for records where it appeared unlikely that the person would still be in custody. For example, s235 orders that were longer than a few days, or custody orders that had a subsequent non-custodial court order recorded (e.g., bail). Such records were manually checked in CYRAS to confirm release dates.

If an individual had multiple custody orders or placements of the same type that were adjoining or separated by one day, they were joined into a single custody episode. This includes s235 custody episodes that were directly followed by a s238(1)(d) custodial remand. Otherwise, custody episodes were treated separately.

Some young people had concurrent custody orders when they had active charges in both the Youth Court and District Court. When this was the case, the District Court remand was shown as the custody type in this report. In a few cases, young people serving a SwR order also had an open remand from e.g., an offence committed in residence. When this was the case, the SwR order was shown as the custody type.

---

<sup>5</sup> CYRAS is the main online case management system for Oranga Tamariki frontline staff.

The data cleaning above means the custody numbers presented in this report are not official Oranga Tamariki statistics and may not align exactly with numbers reported elsewhere (such as in the Quarterly performance report<sup>6</sup>).

## **Drivers of change in custody numbers**

A detailed analysis of drivers behind the trends in custody numbers seen in this report was out of scope. However, there were two clear drivers of shifts in custody numbers that should be kept in mind when reviewing the report findings.

### ***Raising the upper age in youth justice***

From 1 July 2019, the upper age in the definition of a ‘young person’ in the Act was changed from “*under 17 years*” to “*under 18 years*”. This change meant that instead of individuals aged 17 when they offended being treated as adults, they could be dealt with in the youth justice system in the same way as 14- to 16-year-olds.

The exception is when a 17-year-old is charged with a serious offence (listed in Schedule 1A of the Act), with their cases being dealt with in the District Court rather than the Youth Court. Such 17-year-olds can be remanded to a residence in the custody of the CE, but if convicted they are subject to adult sentences (including imprisonment) rather than the youth “sentences” specified in s283 of the Act.

Raising the age in youth justice was expected to lead to a significant increase in the number of youth justice custody beds that would be required in the future.

### ***COVID-19 pandemic***

Lockdowns and restrictions associated with the COVID-19 pandemic necessitated several operational changes as in Alert Levels 3 and 4, travel and in person contact away from home were severely limited. These operational changes included:

- Family group conferences (FGCs) could not be held in person at Alert Level 4 and were limited at Alert Level 3, and unless adequate participation and an actionable plan was feasible through a virtual FGC, they were deferred.
- Court appearances could not occur in person, so virtual appearances were held where possible, or hearings were deferred to a later date.
- During the first lockdown, Police in Tāmaki Makaurau implemented an approval process for the arrest of children and young people. This resulted in fewer arrests, and as a result, fewer court appearances and custody orders.
- There was wider application of the Remand Option Investigation Tool (ROIT) to assist with remand decision-making when Police were considering opposing bail, and to take a joint agency approach to explore alternative remand options during the pandemic.
- Oranga Tamariki worked with the Judiciary and the Police to actively manage custody numbers down in residences so that there was spare capacity to isolate young people with COVID-19 like symptoms, and to allow for the possibility of fewer staff being available due to COVID-19 related isolation.

---

<sup>6</sup> [www.orangatamariki.govt.nz/about-us/performance-and-monitoring/quarterly-report/](http://www.orangatamariki.govt.nz/about-us/performance-and-monitoring/quarterly-report/).

While COVID-19 restrictions have now ended, there are on-going impacts from the pandemic such as a cost-of-living crisis and lower than usual school attendance rates which could be negatively impacting on youth crime rates.



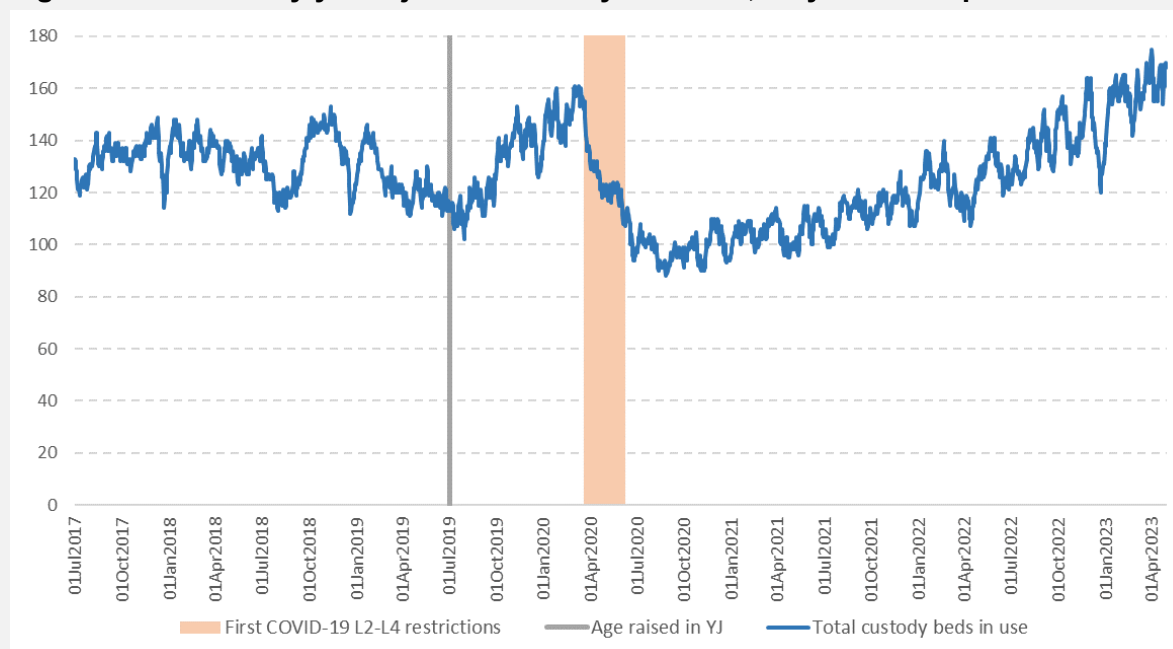
# Findings



## Overall trend

Total youth justice custody numbers (across residences, community homes, and other placement types) are relatively volatile on a day-to-day basis, although there are some clear changes in the trend over time (Figure 1).

**Figure 1: Total daily youth justice custody numbers, July 2017 to April 2023**



Source: Data extracted from CYRAS for research purposes. Figures are not Oranga Tamariki official statistics.

Between 1 July 2017 and 30 June 2019, daily custody numbers averaged 131 but fluctuated between 111 and 153.

The jurisdiction of the youth justice system was extended to include 17-year-olds from 1 July 2019. In the few months before this legislative change, custody bed occupancy was largely 'managed down' to ensure custody beds would be available for the expected greater demand that would ensue.

On 1 July 2019, there were 116 young people in custody, but daily numbers increased considerably in following months, reaching 161 on 3 March 2020.

Had this rate of increase been sustained *without constraint*, custody numbers may have reached 200 by December 2020. However, the global COVID-19 pandemic reached New Zealand shores and the nation moved to Alert Level 2 on 21 March 2020 before moving into Alert Level 4 self-isolation at 11:59pm on 25 March 2020.

Daily custody numbers plummeted from 155 to 94 between 22 March and 25 June 2020. Numbers remained suppressed over the following 12 months, averaging 101 beds in use, with a peak of only 115. Several youth justice system operational changes implemented because of the pandemic contributed to this suppression in custody numbers, as discussed in the previous chapter.

As pandemic-related restrictions eased from mid-2021, custody numbers have continued to increase. Custody bed usage averaging 164 through April 2023, with a peak of 175 on 2 April 2023.

## Custody order types

### Number and duration of orders

Most youth justice custody orders are remands from the Youth Court or post-arrest custody placements before a young person appears in the Youth Court (Appendix A, Table A1). The average duration of all remands since July 2017 is 42 days, with there being little change in this figure since 2019/20 (Appendix A, Table A2).

The number of young people remanded in custody by the District/High Court increased after the upper age was raised in youth justice. Remands from adult courts are typically more than twice as long as those from the Youth Court.

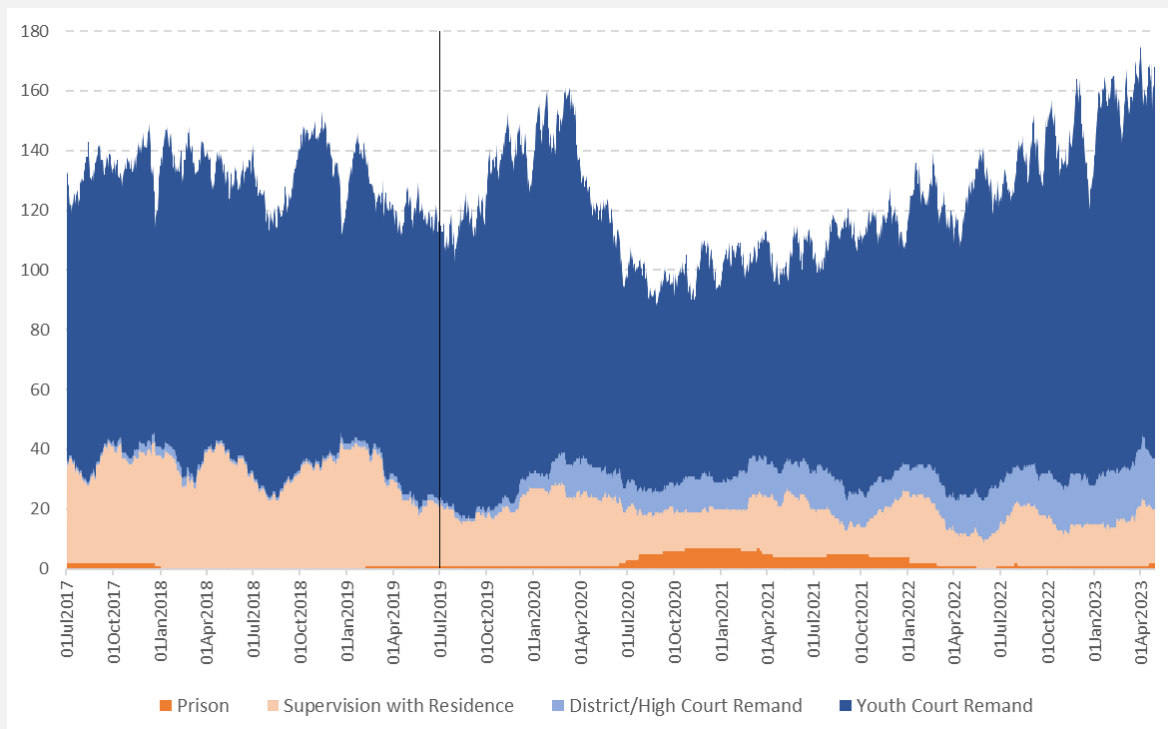
The number of Supervision with Residence (SwR) orders made by the Youth Court decreased from 131 in 2017/18 to 51 in 2021/22. Some young people with SwR orders are granted early release after serving two-thirds of the imposed sentence, and some serve the entire sentence. Since 2018/19, young people have spent an average of 103 days in custody on their SwR orders before release.

A total of 12 prison sentences involving under 18-year-olds were served in full or part in a youth justice residence over the entire period examined. The average duration served for these 12 sentences was 334 days (11.0 months).

### Distribution of order types

Over the entire period examined, 81% of all young people in daily youth justice custody were on remand and 19% were serving a sentence (Figure 2).

**Figure 2: Daily youth justice custody numbers, by type of custody order, July 2017 to April 2023**



**Note:** Young people in s235 post-arrest custody have been included in the “Youth Court Remand” category in this graph because of small numbers (average of one per day over the period examined).

Source: Data extracted from CYRAS for research purposes. Figures are not Oranga Tamariki official statistics.

The proportion of all young people in youth justice custody who were on remand has increased over time. Of daily custody numbers, remand accounted for:

- 74% between July 2017 and April 2019
- 81% between May 2019 and July 2021
- 86% between August 2021 and September 2022
- 89% between October 2022 and April 2023.

As a result of the decrease in SwR orders imposed over time, daily numbers serving SwR have declined from an average of 34 between July 2017 and March 2019 to an average of 15 in the last 12 months. The decline in SwR orders (sentences) has contributed to the increasing proportion of custody beds used by those on remand.

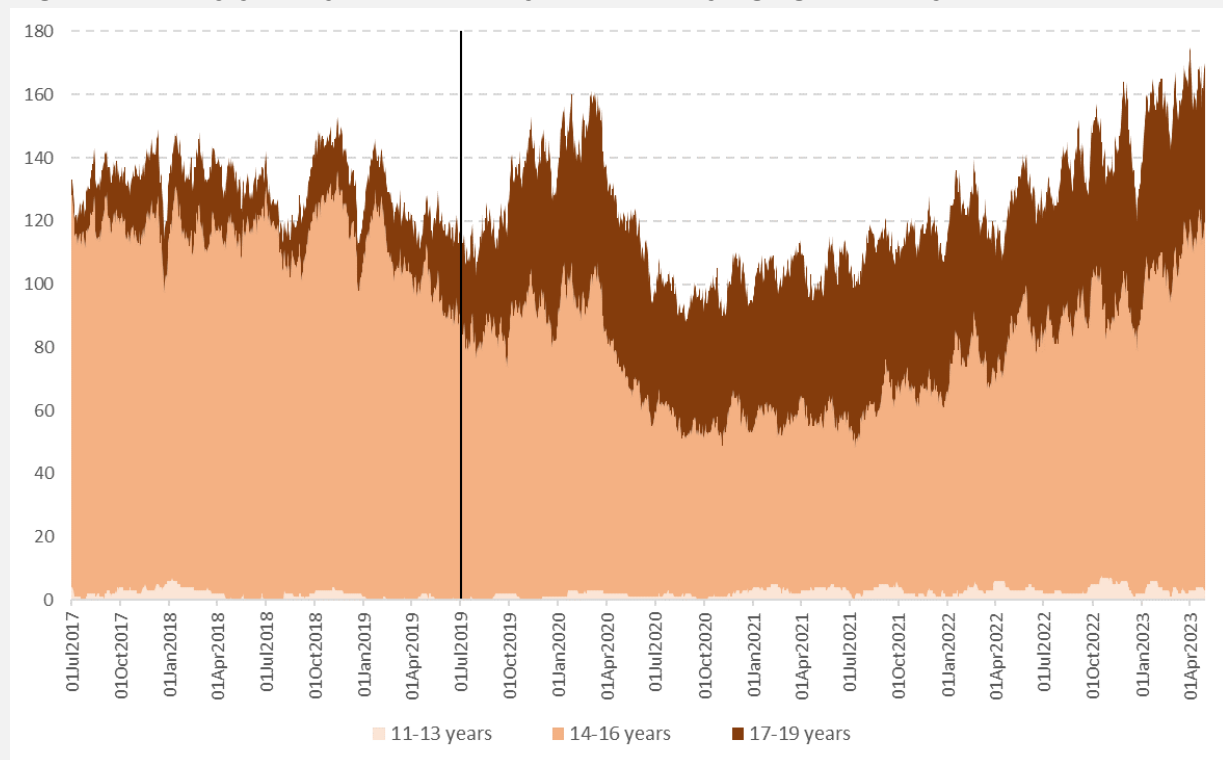
Very few young people aged under 18 are serving a prison sentence in a residence at any time, and sometimes there are none. At peak, there were either six or seven young people serving a prison sentence between September 2020 and March 2021.

## Age of young people in custody

The age distribution of young people in custody has changed significantly since the upper age in youth justice was increased from July 2019 (Figure 3). Jurisdiction in the youth justice system is determined by a person’s age when they offended. Some people will subsequently have one or more birthdays before entering custody or

while they are in custody. This explains why some people aged at least 17 were in custody before July 2019, and why some people in custody can be older than 17.

**Figure 3: Daily youth justice custody numbers, by age group, July 2017 to April 2023**



**Note:** The age groups shown were formed using individuals age on each day they were in custody.  
 Source: Data extracted from CYRAS for research purposes. Figures are not Oranga Tamariki official statistics.

Much of the decrease in custody numbers through the initial COVID-19 restrictions involved 14- to 16-year-olds, and much of the increase in subsequent years also occurred for this age group. In the two years before the upper age was raised in youth justice, 86% of those in custody were aged 14 to 16. The proportion decreased over the next two years – bottoming out at 46% in July 2021 before increasing again. Through April 2023, 69% of those in custody were aged 14 to 16.

In the two years before the upper age was raised in youth justice, the daily number of 17- to 19-year-olds in custody averaged 17. Numbers increased over the next six months and averaged 50 through December 2019. Since then, numbers aged 17 to 19 have fluctuated between 35 and 61 around an average of 47. In the last 12 months, one-third of all those in youth justice custody were aged 17 to 19.

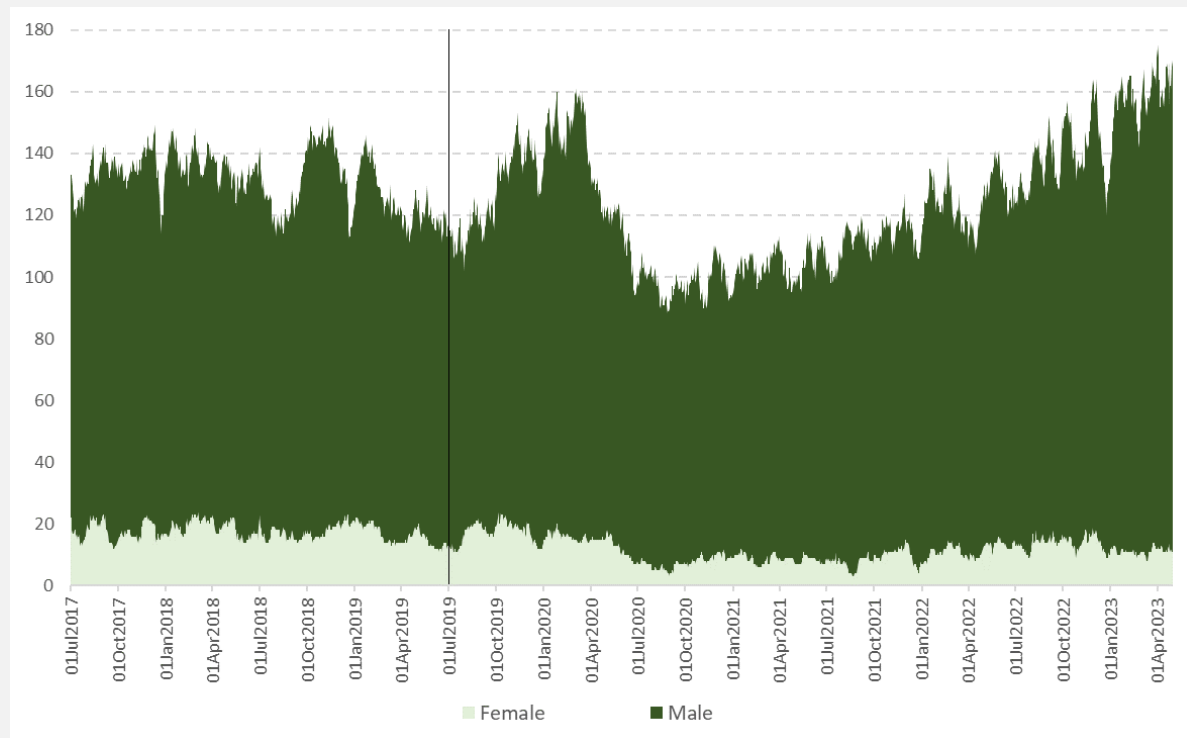
The daily number of individuals aged 18 or 19 (i.e., of adult age) in custody has fluctuated between five and 16 around an average of nine since January 2020.

Since July 2017, there has been an average of two children aged 11 to 13 in youth justice custody, with the daily number fluctuating between zero and eight. Between January and April 2023, there was an average of four children in custody.

## Gender of young people in custody

Over the period examined, 89% of all young people in custody were male and 11% were female (Figure 4). Due to very small numbers, young people in custody who were recorded as being of another gender were excluded from this graph.

**Figure 4: Daily youth justice custody numbers, by gender, July 2017 to April 2023**



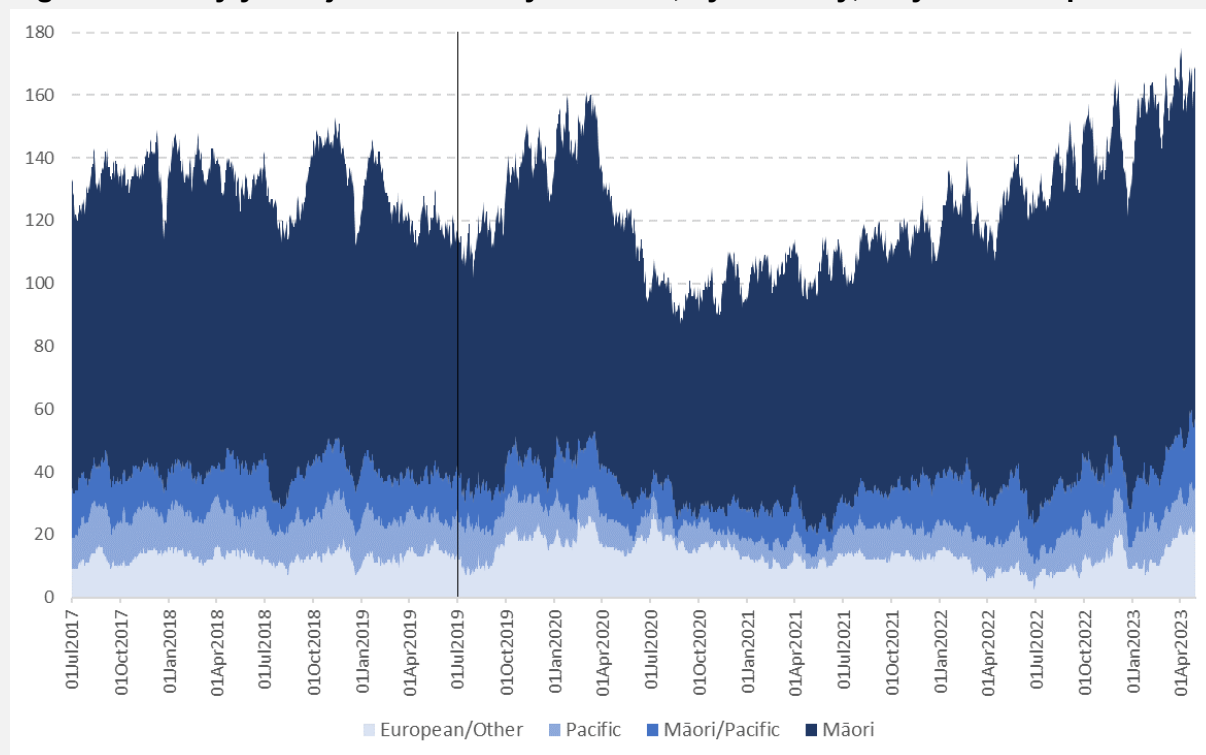
Source: Data extracted from CYRAS for research purposes. Figures are not Oranga Tamariki official statistics.

Between July 2017 and May 2020, there was an average of 17 females in custody daily (fluctuating between 10 and 24). Since June 2020, the average number of females in custody has been lower at 10 (fluctuating between three and 19).

## Ethnicity of young people in custody

One or more ethnicities for each person can be recorded in CYRAS. Over the period examined, 89% of all young people in custody each day were Māori and/or Pacific peoples. This includes 70% who were Māori only, 10% who were both Māori and Pacific peoples, and 8% who were Pacific peoples only (Figure 5). The remaining 11% of young people were of European/Other ethnicity.

**Figure 5: Daily youth justice custody numbers, by ethnicity, July 2017 to April 2023**



Source: Data extracted from CYRAS for research purposes. Figures are not Oranga Tamariki official statistics.

The total proportion of young people in custody who were Māori was 81% over the period examined, with this figure fluctuating daily between 67% and 93%. The total proportion who were Pacific peoples was 19% over the period examined, fluctuating daily between 9% and 26%.

## Placement types

### Number and duration of placements

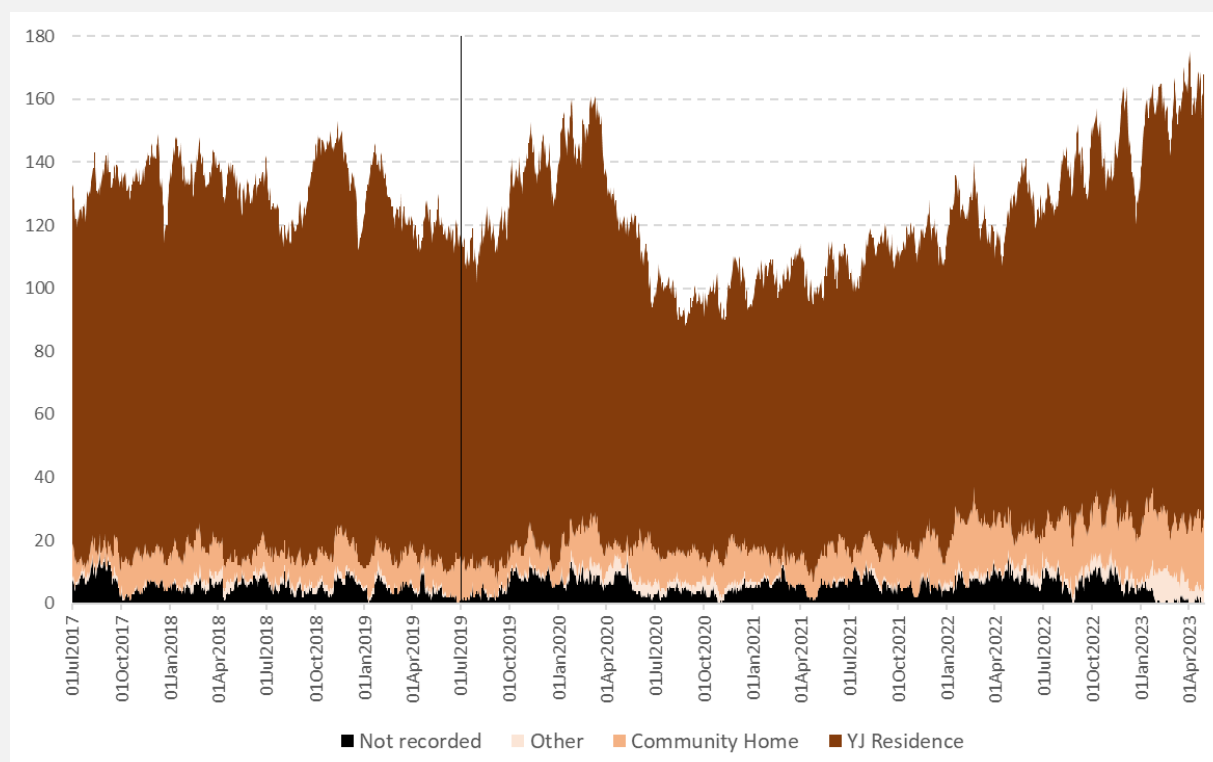
SwR orders and prison sentences involving under 18-year-olds are all served in youth justice residences, with trends in numbers and duration discussed earlier.

Most young people remanded in custody are placed in youth justice residences, with remands in residences being more than twice as long as remands in community homes (Appendix A, Table A3). In the first 10 months of 2022/23, residence remands averaged 49 days and community home remands averaged 18 days.

### Distribution of placement types

Most youth justice custody placements are in a youth justice residence. Over the entire period examined, 85% of young people with custody orders were placed in a residence, with the percentage varying daily between 74% and 95% (Figure 6).

**Figure 6: Daily youth justice custody numbers, by placement type, July 2017 to April 2023**



Source: Data extracted from CYRAS for research purposes. Figures are not Oranga Tamariki official statistics.

Recording of residence placements in structured custody data fields is usually accurate, but this is not always the case with non-residence placements. For the 15% of non-residence placements over the entire period examined:

- 9% were in community remand homes or specialist youth homes
- 2% were in a variety of other placements such as: Nga Taiohi National Secure Youth Forensic Inpatient Mental Health Service<sup>7</sup>, Te Poutama Arahi Rangatahi<sup>8</sup>, or in police custody under s242(1)(b) of the Act. On rare occasion a child aged 12 or 13 remanded in custody was placed with whānau.
- 5% were not recorded in the structured placement data. Some of these placements will likely be of the types above. However, some will be young people who had absconded from their community home placement and went missing for more than one day, so were not occupying a custody bed.

In late-March and early-April 2023, custody numbers reached or exceeded 170 for the first time in the period examined. On 30 April 2023, there were 170 young people in custody and of these:

- 142 (84%) were in youth justice residences
- 24 (14%) were in community remand homes or specialist youth homes

<sup>7</sup> [www.mhaid.health.nz/our-services/regional-forensic-and-rehabilitation-services/national-secure-youth-forensic-inpatient-service/](http://www.mhaid.health.nz/our-services/regional-forensic-and-rehabilitation-services/national-secure-youth-forensic-inpatient-service/).

<sup>8</sup> A residential treatment centre operated by Barnardos that focuses on therapeutic practices for adolescent males who have engaged in harmful sexual behaviour.



- 4 (2%) were in some other placement or had absconded and were missing.

# Summary



## Overall trend

Daily total youth justice custody numbers across residences, community homes, and other placement types averaged 131 through the 2017/18 and 2018/19 fiscal years. However, when the upper age in youth justice was raised from 1 July 2019 to include 17-year-olds, custody numbers increased, reaching 161 in early-March 2020.

Numbers would likely have continued increasing for some time, however, the global pandemic reached New Zealand shores in March 2020. Daily custody numbers plummeted from 155 to 94 between 22 March and 25 June 2020. Operational changes that were necessary due to pandemic lockdowns and restrictions meant custody numbers remained suppressed over the following 12 months, averaging 101 beds in use, with a peak of only 115.

As pandemic-related restrictions eased from mid-2021, daily custody numbers have continued to increase. Custody numbers averaged 164 through April 2023, with a peak of 175 on 2 April 2023.

Contributing to the more recent increase in daily custody numbers has been an increase in custodial remands. The total number of remands in the first 10 months of 2022/23 (949) is higher than the total number in any of the five previous years.

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

## Changing characteristics of young people in custody

Most young people in youth justice custody are on remand, with the proportion increasing over time from around 74% to 89%. Contributing to this increase in the remand proportion is a large decrease in the number of young people sentenced to Supervision with Residence orders. The number of such orders that were imposed dropped from 131 in 2017/18 to 51 in 2021/22.

Much of the decrease in daily custody numbers through the initial COVID-19 restrictions involved 14- to 16-year-olds, and much of the increase in custody numbers in the last two years also occurred for those aged 14 to 16.

In the two years before the upper age was raised in youth justice, the daily number of 17- to 19-year-olds in custody averaged 17. Numbers increased over the next six months and averaged 50 through December 2019. Since then, numbers aged 17 to 19 have fluctuated between 35 and 61 around an average of 47.

Most young people in custody are male. The smaller number of females in custody dropped from a daily average of 17 before June 2020 to an average of 10 thereafter.

Māori remain significantly over-represented in youth justice custody, accounting for 81% of all young people in custody each day over the period examined.

## Most youth justice custody placements are in residences

Over the entire period examined, 85% of young people with custody orders were placed in a youth justice residence. For the remaining 15% of placements:

- 9% were in community remand homes or specialist youth homes
- 2% were in a variety of other placements
- 5% were not recorded in the structured placement data. Some of these placements will likely be of the types above and some will be young people who had absconded from their community placement.

# Appendix A: Data tables



**Table A1: Number of youth justice custody orders<sup>1</sup>, by type<sup>2</sup> and year order ended<sup>3</sup>**

Fiscal year custody ended	Youth Court remands <sup>5</sup>	District/High Court remands	All remands	Supervision with Residence
2017/18	843	2	845	131
2018/19	785	1	786	118
2019/20	911	19	930	78
2020/21	713	33	746	56
2021/22	823	32	855	51
2022/23 YTD <sup>4</sup>	949	36	985	49

**Notes:**

1. Data were extracted and processed for research purposes and are not Oranga Tamariki official statistics.
2. The table excludes a total of 12 prison sentences that were served in full or part in a youth justice residence in the entire period examined.
3. Information is presented on the number of custody orders ending in each fiscal year as these are the underlying numbers to the average durations shown in the following table.
4. YTD = Year to date from 1 July 2022 to 30 April 2023.
5. Includes s238(1)(d) remands from the Youth Court and s235 post-arrest custody placements before appearing in the Youth Court.

**Table A2: Average duration of youth justice custody orders<sup>1</sup> (in days), by type<sup>2</sup> and year order ended**

Fiscal year custody ended	Youth Court remands	District/High Court remands	All remands	Supervision with Residence (served) <sup>3</sup>
2017/18	40	-	40	95
2018/19	44	-	45	102
2019/20	42	91	43	104
2020/21	39	108	42	101
2021/22	37	109	40	106
2022/23 YTD	40	120	43	104

**Notes:**

1. Data were extracted and processed for research purposes and are not Oranga Tamariki official statistics.
2. The average duration served in residence for the 12 prison sentences not included in this table was 334 days (11.0 months).
3. Young people serving Supervision with Residence orders can have one-third of the imposed sentence remitted by the Youth Court. Early release requires the young person to have behaved well, complied with obligations, and not have absconded or offended.

**Table A3: Number and average duration of custodial remand placements<sup>1</sup> (in days), by placement type and year placement ended<sup>2</sup>**

Fiscal year custody ended	Residence remands		Community home remands	
	Number	Average duration (days)	Number	Average duration (days)
2017/18	654	44	197	17
2018/19	641	45	199	16
2019/20	753	46	241	14
2020/21	588	42	209	18
2021/22	627	43	318	16
2022/23 YTD	688	49	356	18

**Notes:**

1. Data were extracted and processed for research purposes and are not Oranga Tamariki official statistics.
2. For consistency across time, information is presented on the duration of custody placements ending in each fiscal year as some placements commencing in the latest year have not yet finished.