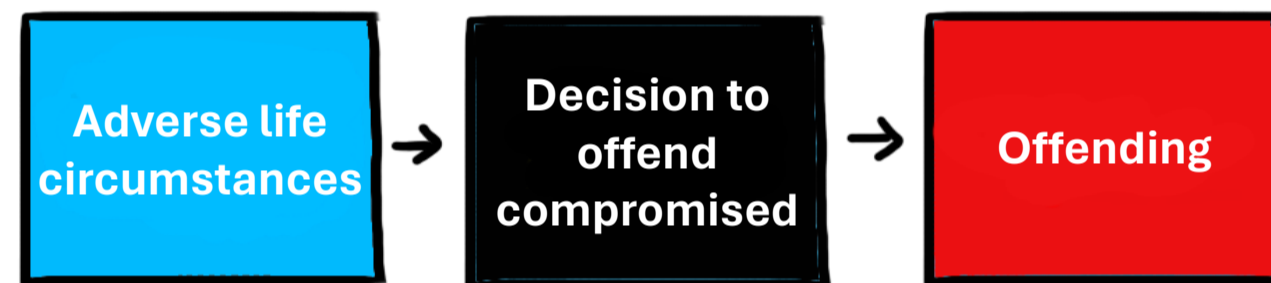


# How are high court judges justifying reduced sentences for offenders who experienced adverse life circumstances?

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## Introduction

- When judges sentence for crimes, they can reduce sentences if they find the person's **decision to offend was compromised** by adverse life circumstances.
- Adverse life circumstances may include **deprivation** (e.g., poverty, abuse, poor education), **historical dispossession** (e.g., colonisation, cultural disconnect), and **addiction**.<sup>1</sup>
- Understanding how judges justify reduced sentences (particularly for contentious reasons like life circumstances) is important to ensure judges are making transparent, defensible decisions; a key part of a fair justice system.

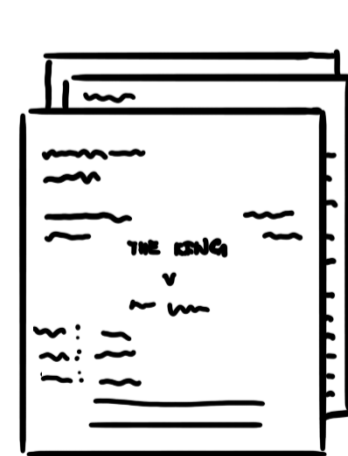


Hypothetical pathway judges use to justify reduced sentences

## Aim

Examine how judges justify reduced sentences for adverse life circumstances.

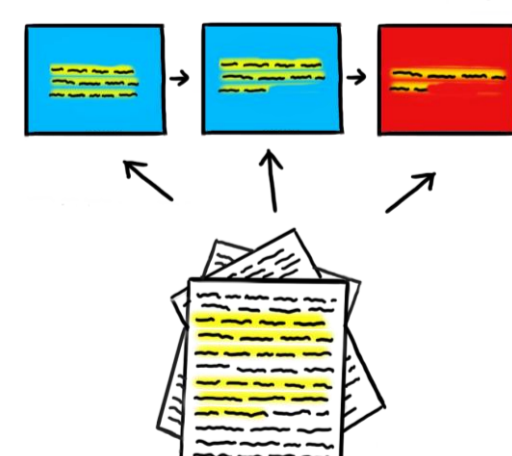
## Method



1. Collected sample of high court judges' sentencing notes (n = 44).

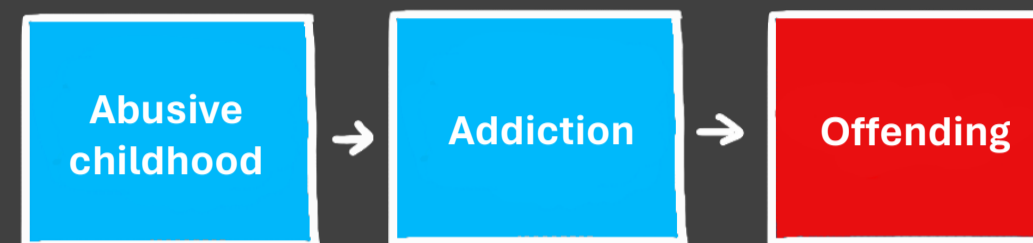


2. Extracted judges' reasoning from sentencing notes when they gave reduced sentences (n = 33).

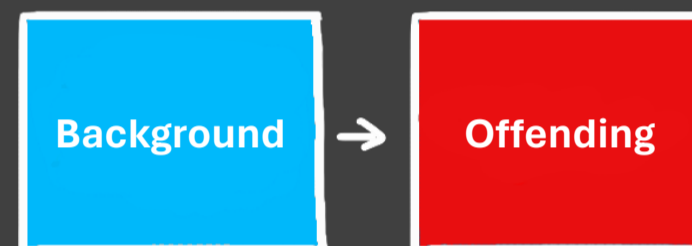


3. Formed pathways based on judges' reasoning and identified patterns across pathways.

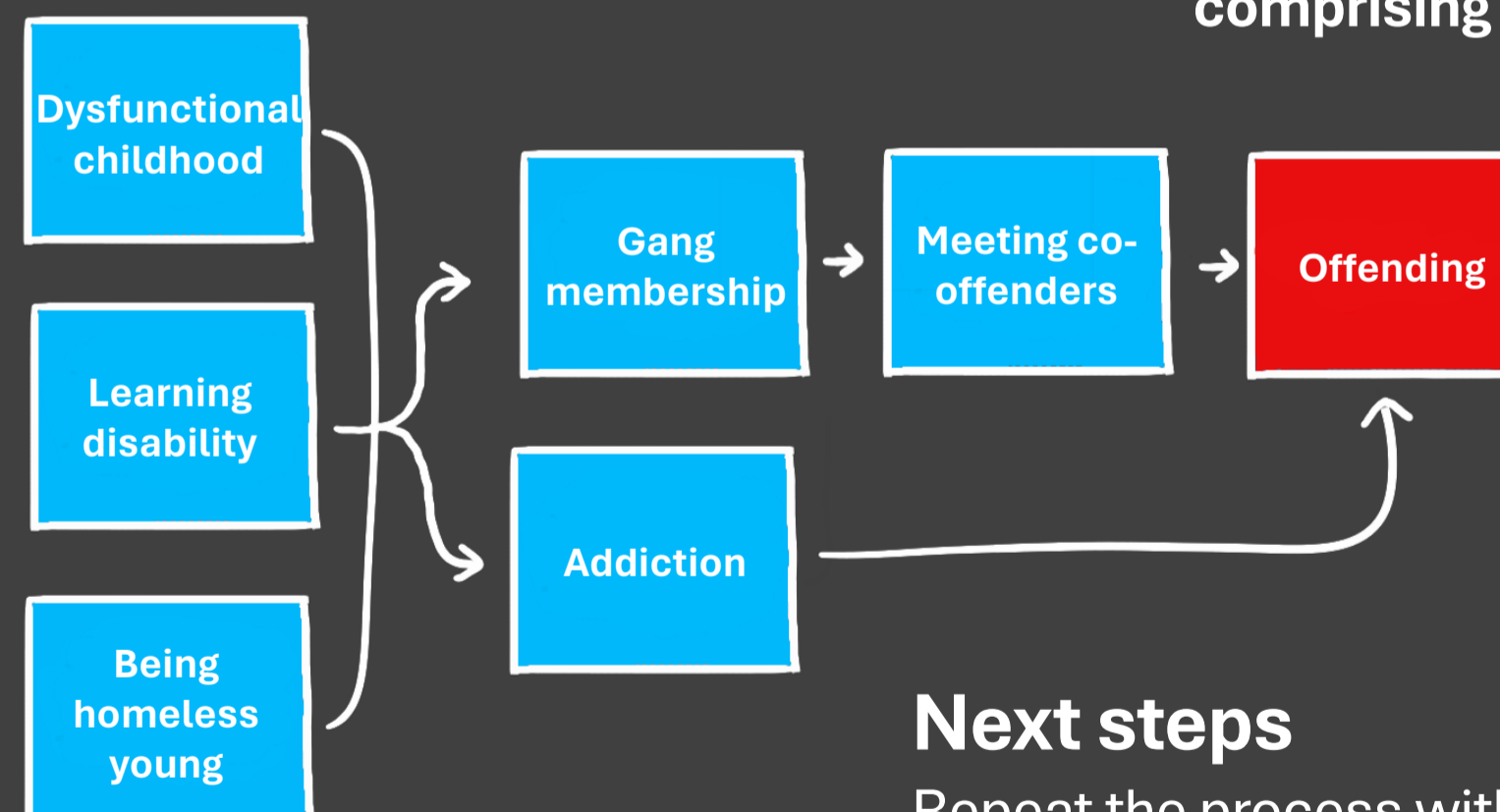
Simple pathway example:



Vague pathway example:



Complex pathway example:



## References

<sup>1</sup> *Berkland v. R* [2022] NZSC 143, [2022] 1 NZLR 509.

## Results

- The **complexity** and **number of circumstances** in each judge's pathway **varied from case to case**.
- Two cases were too vague to know which adverse circumstances the judge was basing the reduced sentence on.
- **Deprivation** circumstances were most often included in the basis for reducing sentences (28/33), followed by **addiction** (10/33), and **historical dispossession** (6/33) and most circumstances first occurred during childhood.
- Though not explicitly discussed by judges, nearly all circumstances included in their pathways were described in a prior case as **comprising someone's decision to offend**.<sup>1</sup>

## Discussion

Most sentencing decisions contained at least a simple version of the hypothetical pathway, providing transparency in their decision-making.

## Next steps

Repeat the process with sentencing notes from district court judges to see whether the pathways to reduced sentences and types of circumstances considered are similar for lower severity offences.

