

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY
LAKE ALICE CHILD AND ADOLESCENT UNIT INQUIRY HEARING**

Under The Inquiries Act 2013

In the matter of The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions

Royal Commission: Judge Coral Shaw (Chair)
Ali'imuamua Sandra Alofivae
Mr Paul Gibson

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Mr Scott Brickell for Denis Hesseltine
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Abuse in Care Royal Commission of Inquiry
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TRANSCRIPT OF PROCEEDINGS

INDEX

ANDREW MORRIS JANE	
Questioning by Ms A Thomas	694
Questioning by Commissioners	705
PAUL ZENTVELD	
Questioning by Ms Joychild	707
Questioning by Commissioners	743
THOMAS JOHN FITZGERALD	
Questioning by Ms Feint	745
MALCOLM JAMES BURGESS	
Questioning by Ms Hughes QC	747
Questioning by Mr Finlayson-Davis	751

Hearing opens with waiata and karakia tīmatanga by Ngāti Whātua Ōrākei

[10.00 am] [10.07 am]

CHAIR: Tēnā tātou katoa, nau mai hoki mai ki tēnei hui. Ms Thomas, mōrena.

MS A THOMAS: Tēnā koe e te Kaiwhakawā otirā, koutou katoa ngā Kaikōmihana i runga anō i te mōhio ko tēnei te wāhanga tuatahi o te rā, kā mutu te kaikōrero tuatahi, e tika ana kia mihia ki tō tātou Pāpā ka tahi anō kā tuku i te karakia hei timata i tō tātou rā. Kā mutu e whakaaro nui ana ki ērā ō ngā tāngata ki roto i Pōneke e noho haumaruru ana i tēnei wā, i runga anō i te mate urutā ka tae ki terā rohe. Nō reira e whakaaro nui ana ki a tātou, engari ki a tātou, ki a rātou, ki a tātou kua tatū mai nei kua whakarauika mai ki tō tātou whare, tēnā tātou katoa.

Ma'am, it is my privilege to know and to introduce our next witness for the morning, Mr Andrew Jane. Morena Andrew, like we discussed I'll pass it over to our Chair for the affirmation and then we'll begin with your evidence.

ANDREW MORRIS JANE

CHAIR: Hello Andrew. Do you like to be called Andrew? What's your favourite name?

A. It's fine.

Q. Fine for that, okay. So I'm just going to ask you, do you solemnly, sincerely and truly declare and affirm that the evidence you'll give before this Commission will be the truth, the whole truth and nothing but the truth?

A. Yeah, absolutely.

Q. Thank you very much. I'll leave you now with Alana.

MS A THOMAS: Thank you ma'am. Just to introduce Andrew before we begin our evidence. Andrew did want to make it clear to the whare and to the Commissioners that his story is about the abuse that he has suffered in State care generally and what's different about his experience with Lake Alice is that there is no records of any admission for Andrew into Lake Alice and he will speak as to why that is the case throughout his statement. But he wanted to make that clear right at the beginning.

CHAIR: Thank you for that, that's really important that we know that Andrew. Thanks for sharing that.

QUESTIONING BY MS A THOMAS: So Andrew, if I could take you to your statement. Like I discussed, we have plenty of time, so take your time to read through the statement. If there's anything there that you want to add on as we go, feel free to do that as well, and if you need to take a break, then just let Maik know and we can do that as well. So if I could take you to paragraph 1 and if you could start reading from there.

1 A. Yeah, righto. My name is Andrew Morris Jane, and I'm born in 1963, I'm 58, 57 years old.
2 And I'm a survivor of, you know, extensive abuse, you know, from 7 until 15. And so
3 whatever's going to be said today is for everybody, for all us people that went through stuff
4 we should never have been subject to, and quite frankly I'm amazed I'm even sitting here,
5 I should be dead actually. But, anyway, so -- what?

6 **Q.** Let's go to paragraph 3 Andrew.

7 A. Right-o, okay, so --

8 **CHAIR:** Andrew, I'm just talking to you from over here, Andrew. You've got a choice, the way
9 you tell us your story is entirely up to you, whatever way you like. There's lots of options.
10 One is you can just read out what your statement says.

11 A. Yeah.

12 **Q.** But I've got a feeling you might not be feeling very comfortable about that. You can do it
13 that way, or another way is that Alana can just ask you some questions and you can answer
14 them, or third way, is for you just to talk to us about what you want to say. Now it's up to
15 you. If you want to take a minute to think about that and talk about it with Alana I'm happy
16 for you to do that. Would you like a chance to have a chat with her about that?

17 A. Just guide me.

18 **QUESTIONING BY MS A THOMAS:** Another way is perhaps I could start reading a few of the
19 paragraphs just so we start to hear your words and you get more comfortable with hearing
20 your story and then you could take over. Shall we start that way?

21 A. Yeah, right-o.

22 **Q.** Okay, we'll give it a go and just the most comfortable way for you, that's how we'll do it.

23 **CHAIR:** Yeah, and change it over, you know, at any time, any time you want to change up how
24 you do it is fine by me, all right? Okay.

25 **QUESTIONING BY MS A THOMAS:** So I'll start at paragraph 3 there. "My parents split up
26 when I was 5 to 6 years old. I lived with my father and my brothers in Napier. My sister
27 lived with my mother." I won't say that sentence just there will I, Andrew, I'll just leave
28 that. "I didn't want -- I ran away a lot from home. But the Police would find me and take
29 me back. I became fairly well-known to the Police.

30 At the same time I was struggling at school and so the principal referred me to a
31 psychiatrist. The report says that I was struggling from an unsettled home environment and
32 needed stability and reasonable supervision." Is that generally what home was like at that
33 time Andrew?

34 A. Yeah, I ran away from attempted, you know, shit from the old man. But the unfortunate

1 thing was is no-one understood what I was, you know, that in those days, and so it didn't
2 enter my head to say what was happening, it wasn't just me, you know, and so from --
3 anyway, from about 7 years old I was -- that was it, it was the beginning of the end
4 I reckon. So State care, birthright, you know, all that sort of stuff and then -- so basically
5 I went from an early stage of abuse at home and I was the only sibling that had the guts to
6 run away and hence that was the start of --

7 **Q.** And that's what you talk about in paragraphs 5 and 6, don't you, about being taken on a
8 warrant by the Police for a number of theft charges, so you were getting into trouble with
9 the Police but they were taking you back to a home environment where you were also
10 suffering abuse as well?

11 **A.** Yes.

12 **Q.** Did you want to read paragraph 6? You don't have to if you don't want to but I think it's a
13 good background into how you ended up in State care.

14 **A.** Okay, so after the birthright homes in Manawatu, there was half a dozen of them I got
15 shipped around to, then I was in Child Youth again, court, Social Welfare, and I was about
16 10 now I guess, 9, 10. And then all of a sudden I end up at Holdsworth in Whanganui.

17 **Q.** And that's what you say at paragraph 7 that you were admitted to Holdsworth in 1976 and
18 you were about 12 years old?

19 **A.** I was 11, 10 and a half, 11. So the next year of my life was -- I got there and I'm not going
20 into detail what happened to me, but I've already done that. Yeah, so it's stuff that you
21 would never comprehend actually, so people, you know. And but that's where it started, the
22 social people, men, boys, you know, every type of stuff you wouldn't even read about.

23 **Q.** And you say there that in just the first week of being at Holdsworth you tried to run away?

24 **A.** Yeah, oh yeah, twice I took off from there.

25 **Q.** And what would happen, they would find you and take you back?

26 **A.** Yeah, yeah. So the Whanganui Police, you know, just took, you know, found out I was a
27 guy in Holdsworth and that was it, back there, and that was, you know, punishment, beat,
28 you know, hidings, the whole lot. And that's where the first physical shit happened from,
29 you know, staff members, men, they're all sickos mate.

30 **Q.** I think it's important to outline you running away, because those are documented in the
31 Holdsworth reports, aren't they, that you ran away and --

32 **A.** Yeah.

33 **Q.** -- were returned?

34 **A.** Yeah.

- 1 **Q.** And what you say is between some of those escapes or you running away was when you
2 were taken to Lake Alice for punishment?
- 3 **A.** Yeah.
- 4 **Q.** So let's go to that now, which is outlined in paragraph 9 of your statement. Do you mind if
5 I read that and then ask you a few questions about that?
- 6 **A.** Sure.
- 7 **Q.** Or would you prefer to read it?
- 8 **A.** No.
- 9 **Q.** So paragraph 9 says, "After the second time I ran away they sent me to Lake Alice as
10 punishment and to try and deter me, I guess, from running away again. I don't know when
11 this was but if I look at my Holdsworth notes it must have been between me running away
12 the second time in February 1976 and running away the third time in March 1976." So that
13 puts that timeframe of when you think you were taken to Lake Alice?
- 14 **A.** Yeah no, in my case I was in a van and I ended up in -- just down the road as I've, you
15 know, I didn't know what it was at the time, but I certainly know now. And, you know,
16 how is it possible that I could -- how is it possible that I even ended up in there? How is it
17 possible that an 11 year old kid gets sent to a nuthouse and put in a room, you know, fuck'n
18 trying to whatever, you know.
- 19 **Q.** And just going back a few steps to before you even arrived at Lake Alice, you described it
20 as something out of a movie or like a covert operation and you were one of a few boys who
21 were taken there in the Holdsworth van?
- 22 **A.** Yeah.
- 23 **Q.** Holdsworth was close to Lake Alice, so it was easy for them to just take you over there to
24 get shocked?
- 25 **A.** Yeah, well I don't know how many kids this happened to prior or after me, but, you know,
26 how can you -- how was it justified that I even ended up there?
- 27 **CHAIR:** Andrew, when you went in the van to Lake Alice, were you in the van, were you the
28 only boy in the van or were there other kids there too?
- 29 **A.** No, I was -- it was just me and staff members.
- 30 **Q.** Right, okay.
- 31 **A.** Yeah. There was no other kids there, it was me.
- 32 **Q.** Just you.
- 33 **QUESTIONING BY MS A THOMAS:** Do you remember who the staff people --
- 34 **A.** No.

- 1 **Q.** -- the staff were?
- 2 **A.** I can remember -- I can remember one inmate's name the whole time I was in Lake Alice, I
3 can't remember any staff members, I can remember no names. Why is that? Why is that?
4 Help me. You know what? I've blanked it out. I've never spoken about this publicly in
5 anything, ever. It's been in here.
- 6 **CHAIR:** We really appreciate that, you know, that you've taken the courage to come and do this,
7 it's really, really good for us, yeah. Thank you.
- 8 **QUESTIONING BY MS A THOMAS:** And I know that you have tried to blackout, blank out a
9 lot of those memories. But I appreciate that you have really tried to remember and provide
10 detail of that time you were in there and especially with the ECT that you received, and you
11 go into quite a bit of detail there in paragraph 13 and 14. Would you like to tell us about
12 that time when you arrived and what you saw and what happened?
- 13 **A.** Yeah, right-o. So yeah, just what I said.
- 14 **Q.** Should I read the paragraph?
- 15 **A.** Yeah.
- 16 **Q.** Then you add anything in you might have.
- 17 **A.** Yeah.
- 18 **Q.** So "I received ECT when I was in there?"
- 19 **A.** Attempted EC, I fought it, so there was -- in my case I was fighting, I was, you know,
20 trying to figure out what's going on, why were they -- what's going on. So I did get some
21 sort of injection like Largactil or something like that, because I got knocked out mate, I was
22 out for, I don't know, maybe -- I haven't got a clue, two or three days I think, something like
23 that.
- 24 **Q.** So when you first arrived they took you into a small room?
- 25 **A.** Yeah, yeah.
- 26 **Q.** What was the room like, was it dark, was it light?
- 27 **A.** Yeah, it was in a -- it was like a cell.
- 28 **Q.** Any windows?
- 29 **A.** No.
- 30 **Q.** Who was in there?
- 31 **A.** Three or four staff members, there was, I don't know, I can't quite remember everything. In
32 fact, I was drugged mate, so I didn't even -- I can only remember little bits, you know.
- 33 **Q.** And that's what you say there in your statement and what you provided to me, is that they
34 tried to drug you with a needle?

- 1 A. Yeah.
- 2 Q. They ended up having to give you something to drink and, like you said, you think it was --
- 3 A. A sleeping pill, or something similar to that.
- 4 Q. Because of what you have heard about that drug is that it knocks you out and that's what
- 5 happened to you?
- 6 A. I believe so, yeah.
- 7 Q. And once you took the drugs they strapped you down?
- 8 A. Yeah.
- 9 Q. On a wooden table and "they" is the staff members that were there?
- 10 A. Yeah.
- 11 Q. And you blacked out?
- 12 A. Well, I don't think I blacked out, mate, I think whatever they gave me knocked me out.
- 13 Q. And sorry, I just want to go back to paragraph 14, Andrew. Do you mind if I read that
- 14 because I think that's important about you putting up that struggle and that fight at the time
- 15 that you were in the room, it was all dark, no windows, the staff and you were screaming
- 16 and yelling "'What the fuck are you doing, I'm only 12'. I was just trying to escape and get
- 17 away."
- 18 A. Yeah, I wasn't mental, well, you know, I got issues, but --
- 19 Q. So when you woke up, were you still in that room?
- 20 A. Yeah, yeah.
- 21 Q. And what did you see or feel when you had woken up?
- 22 A. I can't quite remember really. I was like you expect, Jesus, I was confused, not knowing
- 23 where I am, not knowing what's going on, why am I here, why is this happening? I actually
- 24 didn't even think that, I was just trying to fight to get out of there. Let me go home.
- 25 Q. And were you all by yourself at that time?
- 26 A. When?
- 27 Q. When you woke up, still in the room?
- 28 A. Yeah, yeah, yeah.
- 29 Q. You were by yourself?
- 30 A. I was in -- it's like -- it's the same as being in a digger cell, I guess, or something like that,
- 31 you know, in a, what do you call it -- do they understand it? It's like being in the pound all
- 32 locked up in a, you know, and punished, I don't know, fuck.
- 33 Q. You also said that you had bruises on your body?
- 34 A. Yeah.

- 1 **Q.** On your legs and arms, and so who knows what happened to you when you were knocked
2 out, that's what you said?
- 3 **A.** I don't know.
- 4 **Q.** So you've just woken up and you say that about four or five people came in once you had
5 woken up and you were yelling and screaming again?
- 6 **A.** Yes.
- 7 **Q.** Do you remember what happened after that, Andrew?
- 8 **A.** Not long after that I was again put in a van, I guess. In fact I don't even think it was a van,
9 it was one of their vans. I'm not sure which staff members, I don't know who they were. It
10 was either Lake Alice staff or a combined mixture of both staff members from Holdsworth,
11 fuck, as I said, I'm going to start again, how is it possible this even happened, you know,
12 you wouldn't read about it. So -- but I'm here, I'm alive.
- 13 **Q.** And you say it's actually hard to remember because the whole time you were drugged?
- 14 **A.** Yeah.
- 15 **Q.** And they must have given you injections to keep you so drugged?
- 16 **A.** I wasn't in a fit state, I wasn't in a comprehensible frame of mind at all, of course not, I'm
17 still not. No, whatever medication they called it I think, you know, that's what they tried to
18 say when my old man was trying to, you know, figure all this out, and "Oh he was
19 medicated", yeah right, no such thing happened. It was torture, okay? Attempted torture.
20 And they did it. That's just the beginning though. That was just the beginning of it.
- 21 **Q.** And I appreciate that it is hard for you to remember because of the drugs, but you think that
22 maybe you were there for a few days, at least a day and a night?
- 23 **A.** Yeah, absolutely, it was probably a week.
- 24 **Q.** Before being put in the van again and then taken back to Holdsworth?
- 25 **A.** Yeah. The food, I can't even remember food, there was trays and I don't even think I ate
26 anything, you know, I was thrown around and stuff like that. In actual fact it was like
27 similar to -- so my memory of the building was very similar to Pare, maxi, going in and
28 that, you know, all gated, all -- a big long road to go down there, massive long road and
29 then into the, I don't know, wherever, you know.
- 30 **Q.** Sorry, was that comparison with Paremoro and you've been there so you could draw the
31 comparisons?
- 32 **A.** The Lake Alice road itself, I can remember, you know this massive long road going down
33 there. And then going into the building it was like Paremoro, maximum security as you
34 go into the main section, it was very similar to that. And I got put in a holding cell or

1 whatever it was, or torture cell, you know, and that, you know, straps on your arms, what's
2 that for? So...

3 **Q.** And I think it's also important to talk about afterwards and you briefly spoke about it with
4 your dad, but before we go on to that, is there anything else about that time in Lake Alice
5 that you wanted to say before we move on?

6 **A.** Yeah, yeah, because I only had a -- it doesn't matter the level of what was attempted on me,
7 you know, the fact that missing -- that I experienced it, experienced, you know, that
8 situation, nah. That was worse than the next several years of my life, I guess. That put the
9 thing in my head, the memories of that, that time, you know, I don't want to, you know, as
10 I said, for me a lot of it's been blocked out, I've just lived, tried to live and I couldn't, yeah
11 nah.

12 **Q.** And being so young as well.

13 **A.** There was no such thing as telling people or nobody was around in the 70s, no-one -- you
14 didn't say anything. You know? You didn't -- and even -- it's only in the last five years
15 that -- and then I don't even want to think about it anyway because it screws me up even
16 more, so --

17 **Q.** Although you were very brave and you did tell your dad --

18 **A.** Yeah.

19 **Q.** -- about what happened and you say in your statement at paragraph 18 that you remember
20 going home for the following holiday and telling my dad what happened and he got angry
21 and your Holdsworth notes show that you went home in about August/September 1976, so
22 again, those notes generally follow the timeframe or the timeline that you're giving us. So
23 what happened after you told your dad about Lake Alice?

24 **A.** Well, first and foremost he came to Holdsworth and tried to speak to whoever was running
25 the show, you know, Dr Jeckyll or whatever, you know. But I don't know, I wasn't there,
26 I mean I didn't hear the conversation or nothing, but he attempted to get answers, why, you
27 know, why I was getting beaten up and abused sexually, physically from fuck'n staff
28 members and, you know, inmates. How is it possible that I even ended up in, you know,
29 Lake Alice for a very short period and all that, you know, attempted drugs and shit and
30 everything. It doesn't matter how long I was there for, mate, it's irrelevant, it's what they
31 tried to do. I could have been stuck in there for 50 years if I hadn't have been smart enough
32 to run away, or fight or whatever, and thank gosh I wasn't, you know, because this --
33 everyone that's been in that place, mate, a lot more than me, you know, I pat you on the
34 back if you're still around. But, yeah, the old man tried to get answers, he couldn't, it was

- 1 just palmed off, you know, "Nothing happened to Mr Jane, nothing", that's how it was.
- 2 **Q.** And you say that no-one else followed up with you again about what you had told your dad
3 and so you just never tried to tell anyone ever again?
- 4 **A.** It didn't enter my head, just none of that. So I was just back to Holdsworth and then
5 I escaped again trying to -- what's going on now, I'm not going to, you know? And then
6 into Epuni for Christ's sakes, and the same stuff happened there, technically, without the
7 Largactil or whatever it was. We didn't get that but we got everything else, every type of
8 abuse you could imagine happened in that joint, and someone -- Kohitere same, Hamilton.
- 9 **Q.** And so you were in Holdsworth and then Epuni Boys' Home, also in Kohitere?
- 10 **A.** Yeah, yeah, so after the Lake Alice attempt I ran away about four days later after that, when
11 I got back there, that time, so it would have been my second time, I think, or third or
12 second, and then I was in another van and shipped down to Wellington, and that's when
13 I got put in the exact same thing again, like a Pare maxi digger cell, you know, and that was
14 a similar thing, beatings, you know?
- 15 **Q.** And I think it's important to read out what you say here, Andrew, that you stopped telling
16 people because they wouldn't have believed you and you were just too busy trying to
17 survive the State ward care on a daily basis, night and day, night and day?
- 18 **A.** Yeah, yeah, of course those thoughts of belief again was never in my -- it's only now, you
19 know, and like that, but so there was no such thing as -- there was no person to, you know, I
20 was too young to even think like that, to even try and tell anyone, you know, it wasn't a
21 thought in my head, it was just, I suppose, trying to stop, why am I here? I mean I didn't do
22 anything wrong, I've done -- you know? I ran away from attempted abuse at home at 5 or 6
23 only to be abused in ways most people here could never comprehend for the next several
24 years of my life and I went on to borstal and on it goes, oh fuck, and on and on it goes.
- 25 **Q.** And I think it's important to note, and you've told me a few times, Andrew, that the abuse
26 you suffered at home, at Holdsworth, at Epuni, at Kohitere was all horrible, but the three
27 days that you spent with Lake Alice was the worst?
- 28 **A.** Of course, if I look at it now, I can sort of look at it now and go, you know? I only have to
29 look at a -- go to a hospital and someone in a uniform, you know, and I -- not every day,
30 but, you know, 20 times a year, I mean I have memories of, you know, I have shit like that.
31 It's not nice, I wake up sweating and oh, am I still tied up to a frick'n chair? Am I going to
32 get -- am I ever going to wake up? Not wake up, I mean, because --
- 33 **Q.** And I might actually take you there now, Andrew, just about the effects of Lake Alice and
34 State care on your life. Because what we heard from one of the witnesses yesterday is

- 1 similar to you that you have a heart defect?
- 2 A. I had a heart operation when I was a kid, yeah, my identical twin brother's dead. So, but
3 my technique of surviving all this shit, you know, I put it down to being an identical twin,
4 yeah, he passed when I was a kid. We both had heart operations and shit, but -- yeah, so...
- 5 Q. And you say that they -- this was before you were put into State care, that they knew this?
- 6 A. Yeah.
- 7 Q. And they should not have been shocking you full stop, but especially with a heart defect
8 and giving you drugs at Lake Alice, they should not have been doing this to any children,
9 let alone a kid with a heart problem?
- 10 A. Well, I've got a 14 inch scar on my back mate, we were half naked all the time anyway, you
11 know, and shit and the staff members that, you know, sexually, you know, all that crap,
12 they saw that there, no-one, you know, they didn't -- no, no-one cared, you know, no-one --
- 13 Q. Do you have ongoing heart issues now?
- 14 A. I had an issue in Australia in the 80s. Yeah, I don't know, I'm surprised, as I said, I can't
15 believe I'm still here, after going through all of this, I can't believe it.
- 16 Q. What about PTSD, you talk about that a bit in your statement?
- 17 A. I didn't know what that word was up until four years -- I had no idea what it was until four
18 or five years ago. But I've had it from -- obviously I realise now that that's the thing that
19 I've had since fuck'n -- since I first started, since I was 7, 8. But these psychiatrists, you
20 know, I was never diagnosed with anything. Obviously it's clearly that it should have been
21 done, you know, 50 years ago, I would have got help then, you know?
- 22 Q. And you say that PTSD that you know now to be PTSD --
- 23 A. Yeah.
- 24 Q. -- affects every part of your life?
- 25 A. Yeah.
- 26 Q. From your relationships you have, to how you deal and cope with situations, and one of the
27 major impacts has been employment. Can you tell us a bit about the effects -- has there,
28 I'm happy to keep reading the paragraph if you'd like me to?
- 29 A. Well, it's clear, you know, it's just clear that I've never been married, you know, I've never
30 had a job, you know, it's not because -- it's just my -- yeah, it's because of the level of abuse
31 that I went through is why I have the personality that I do today. And I can't -- you know,
32 I jump on a bus, anybody -- sorry to say this, but anybody that's fat and got a beard or
33 whatever, you know, I look at them and they remind me of, you know?
- 34 Q. A person who sexually abused you?

- 1 A. Yeah, sex offenders, yeah, kid fuckers, yeah. Fuck'n cunts. So yeah, I have those issues
2 big time. You wouldn't look at it if you, you know, if you sight me you wouldn't have a
3 clue, people don't, they don't, you know, they don't.
- 4 Q. And you say in your statement that -- and you're very aware as well too, that it was easier
5 just to turn to a life of crime because you didn't have to deal with relationships?
- 6 A. There was no premeditated crime, it wasn't like that at all, it was just running away from
7 the people that shouldn't have been doing stuff to you that were, you know? Physical for
8 years, ET, sexual, all of it. Give me some help.
- 9 Q. I just want to read one of your paragraphs, if that's okay Andrew, paragraph 36 about the
10 ongoing trauma that you have to deal with. You say, "I find it hard even now to talk about
11 what I went through. I tried to bury it but it's there every single day. That's the pain that
12 we have to live with. I can't even go on public transport" and that's what you just spoke
13 about just now, because you want to attack people that look like that. "I am a real person
14 and I just want to be treated like one. I don't want to be treated like I'm just another crazy
15 person who has gone through Lake Alice." That's right?
- 16 A. Yeah.
- 17 Q. And you go on in the last part of your statement to talk about what you want from the
18 Royal Commission. Would you like to speak to that and tell our Commissioners what
19 you'd like to see?
- 20 A. Yeah, well first and foremost I want an apology. Not for me, for all of us. How is it
21 possible people know, knew what was going on, how is it possible that they just buried it
22 for 100 million years, you know? How is that -- these guys are meant to be educated, we
23 weren't, I'm still not. How can a human being -- I look at it like this now, how is it you,
24 you know, so I just hope the Royal Commission of Inquiry gets -- sorts this out with the
25 people that, you know, us ladies and men and survivors, you know, do the right thing and, I
26 don't know, who's going to get accountable for this? The perpetrators? No, have they been
27 busted? No. I want to get my hands on them actually, but, you know, I'll get locked up,
28 again. I'm fuck'n over that.
- 29 Q. Who would you want to see the apology from, Andrew, have you thought about that? And
30 if you haven't that's fine.
- 31 A. Well, okay, so whoever was the management of institutions, of Lake Alice and all those
32 places, the Social Welfare system, they were controlling mostly all this, most of the kids
33 were in the boys' homes, Holdsworth, Kohitere, Epuni prior to go Lake Alice, I guess a lot
34 of them were subject to that prior. So you can't put kids in a mental institution and try and

1 do what they did and, you know, ECT and fuck'n all this crap they did and injections and
2 half of them are still dribbling today, half of them are dead. I should have been but, as
3 I say, I'm still here. Just sort this out, just communicate with each other, you know? I'm
4 never going to own a house, you know, I don't get those opportunity, I didn't get that
5 opportunity, I'm never going to get it. As I said, 11 years' time I'm 70, I'm lucky to be
6 alive, I'll be dead, you know? I haven't got much time left when you actually think about it.
7 So for everybody that's still alive of us, you know, sort us out please. Help us get ahead
8 maybe, compensate us. Give us an apology letter so I can put it on the wall, you know? It
9 might let me live a little bit longer. But at the moment, mate, I'm -- nah.

10 **Q.** And I see in the last, the last thing you say that you want from the Royal Commission is to
11 be heard and to be believed?

12 **A.** Absolutely.

13 **Q.** You're heard and believed today, Andrew, so I just wanted to say thank you very much for
14 sharing that korero with us. Unless there's anything else you wanted to add, the
15 Commissioners may have some questions for you about some of that that you just spoke
16 about, is it okay that they ask you some questions?

17 **A.** Yeah, sure.

18 **CHAIR:** Thank you.

19 **COMMISSIONER GIBSON:** Thanks Andrew, yes you are heard and believed. Do you know if
20 there were any or many others, or what's your guess how many others went from places like
21 Holdsworth without being formally admitted to Lake Alice?

22 **A.** I could imagine heaps, through the various different State care, you know, institutions.
23 Look, I bumped into a few guys that were there in adult prisons years later and they briefly
24 have said exactly the same sort of thing. So I don't know how many, of course I don't, but
25 yeah, there would have been hundreds, I guess, over the ten-year period that I was in that
26 situation from Holdsworth, Kohitere, Epuni. I didn't go to one, I ended up in the whole
27 frick'n lot, you know, some people only went to one place for five months, three months. I
28 was in all of these places. And all I was ever doing was running away, not because I was a
29 criminal or doing anything wrong, it was just running away from physical and mental and
30 sexual abuse. That's primarily what happened to me.

31 **Q.** Yeah, in all those places.

32 **A.** Remember I was the littlest guy in all these places, mate, I had to fight a bit harder than
33 most.

34 **Q.** And just checking again, both Holdsworth and Lake Alice would have been well aware of

- 1 your heart issues before they went to --
- 2 A. They had to have been, they had to have been. Like I said, I'm really strong on this,
3 I cannot believe that I'm still here. That should have -- I should have -- my heart should
4 have, you know, I cannot believe I'm still here. In actual fact people have died, so on little
5 shock treatments, even the injections I've heard stories that people have been very ill, you
6 know.
- 7 **Q.** Thanks Andrew.
- 8 **CHAIR:** I've got a question for you, if that's okay. First of all I'm glad you are alive and I'm glad
9 you've come today, really important for you to be heard and to tell others what you went
10 through. Just one question. In your brief of evidence here when you went to Lake Alice
11 you said you remembered somebody in a white coat.
- 12 A. I don't know if it's white, might have been similar to that. Might have been a similar
13 colour, might have been light green, I can't quite remember, yeah.
- 14 **Q.** Right, and was that person in the room where they were strapping you down?
- 15 A. Yeah, there was three or four people in the room, not one, yeah.
- 16 **Q.** And were they all wearing -- it sounds to me like a medical sort of outfit?
- 17 A. Oh, yeah, similar to that, yeah, all it was was, it was either light green or beige, green, it
18 was something like that, yeah, I was drugged at the time, I'm telling you now.
- 19 **Q.** Okay.
- 20 A. I was under some shit, something, something.
- 21 **Q.** And so you said that when you go to hospital now you think back to that time, is that right?
- 22 A. Yeah, I just got out of hospital in October and, yeah, yeah, so anybody in a uniform of that
23 type of thing, not Police or nothing, I'm talking like that.
- 24 **Q.** Yeah.
- 25 A. Yeah, nah.
- 26 **Q.** Does that bring back the bad memories does it?
- 27 A. Oh gosh yes. I don't walk around with them every second, but I try to hide it, you know,
28 I try to bury it, you know.
- 29 **Q.** But if you see something it triggers the memories in your mind?
- 30 A. Yeah, of course, especially, you know, the physical part of it, men, men. It wasn't women
31 but --
- 32 **Q.** Right.
- 33 A. Yeah, I've got a real issue with that. And that sort of thing with the -- yeah.
- 34 **Q.** It's always present in your mind, isn't it?

1 A. It's never going to leave me.

2 Q. Really sorry that you have to live with that, Andrew, really sorry.

3 A. This is not what I wanted -- I don't know, look, I could sit here for, you know, go into detail
4 more, this is just a little, little tiny thing.

5 Q. It's a snapshot, isn't it, of a very -- a long time of terrible things happening to you?

6 A. Especially when you're looking at several years, eight, nine years, you know, as I said,
7 I cannot believe I'm even comprehending what you're saying. I shouldn't be. And I say
8 that for all of us, all us survivors, ladies, women, you know, we went through, once you
9 experience a level and the timeframes that I did, not everyone did, as I said, but us guys that
10 did, you guys I take my hat off to you.

11 Q. Yeah, we take our hats off to them as well. Thank you. I'll just give to you Commissioner
12 Alofivae here.

13 **COMMISSIONER ALOFIVAE:** Andrew, I don't have any questions thank you. We've read
14 your brief and everything you've been able to share with us this morning really highlights
15 just the enormity of what you went through. Can I just say to you and to thank you that we
16 hear you and we actually see you as a real person. Thank you, it's a real privilege actually,
17 because you said to us today in your evidence that this is the first time that you've actually
18 ever spoke publicly about what happened to you in Lake Alice, and we're very, very
19 grateful for your courage and your boldness and you might not feel very strong right now,
20 but you've brought a big gift to us and we want to be able to honour that back.

21 So I know it's a difficult morning and I can see that you're struggling there a little
22 bit, but we just wanted to be able to say that we are very grateful for you coming this
23 morning. Thank you for being alive for us today to actually be able to formally bring your
24 testimony and to put it on our record, to add to our work. So we've got well-being there,
25 I'm hoping that you will be able to take that up and be able to get some support through all
26 of this.

27 **CHAIR:** Thank you. It's over now, we're going to take a break. Thank you. **[Applause]**

28 **Adjournment from 10.54 am to 11.25 am**

29 **PAUL ZENTVELD**

30 **CHAIR:** Just before we start, just a couple of technical matters, and nothing to do with you, Paul,
31 at all. The first thing is that I need to formally lift the embargo for the evidence of Victor
32 Soeterik, that's done now. And also I understand that when I took the affirmation from
33 Andrew Jane this morning that for some reason it wasn't recorded and I want to confirm
34 that I administered the affirmation and that he agreed to tell the truth, and that's for the

1 record, it's formally on there now.

2 Which brings us importantly to you, Paul Zentveld. Welcome, formally, to the
3 hearing space. I know you've been around a long time keeping in touch and thank you to
4 your two supporters, again. Can I give you the affirmation before we begin? Do you
5 solemnly, sincerely, truly declare and affirm that the evidence you give to the Commission
6 will be the truth, the whole truth and nothing but the truth?

7 A. I do.

8 Q. Thank you very much.

9 **QUESTIONING BY MS JOYCHILD:** Good morning, Paul.

10 A. Good morning.

11 Q. Before I start asking you to read your evidence, I'll just give the Commissioners an
12 overview, that your first admission he was 13 years old and Paul spent three years and one
13 week in Lake Alice in all over five admissions. He is the second-to-longest survivor who
14 has been in Lake Alice of our group. And he was diagnosed with a behaviour disorder.

15 Paul, can you please read your statement. We're not going to run through your
16 early life because we want to make most use of the time.

17 A. Yes.

18 Q. So we're going to skip some paragraphs and start with paragraph 7.

19 A. Getting old. Okay, I was seen by a psychologist Craig Jackson when I was 11 years old
20 after a complaint at school of me threatening another child and truanting.

21 Q. Now if we go down to paragraph 9, you're going to talk about how you came to be in Lake
22 Alice?

23 A. Okay. They found nothing wrong with me, the report dated November '71 by Jackson.
24 The Department of Education found there was two exceptions, I was otherwise a
25 personable, and cooperative, friendly boy with no typical features noted to his class -- noted
26 to either his classroom behaviour or academic level. I was also noted that the behaviour of
27 concern to the school would appear to be episodic and not --

28 Q. Symptomatic.

29 A. -- symptomatic to any seated personally disturbance. Then they called in Dr Soeterik. That
30 was back in '71.

31 **CHAIR:** Can we just check where you're at here?

32 **MS JOYCHILD:** He's now gone to paragraph 10.

33 **CHAIR:** That's fine.

34 A. A psychologist from a place called Manawaroa which was just down the road from the

1 hospital. I walked with him over there, I didn't tell him that I was sort of shocked that I was
2 going to go there because I knew or thought Manawaroa was place where mentals went.
3 I went into the building with him and attended a discussion group but I thought it was just a
4 waste of time. I was put through psychological tests with Victor Soeterik in '72. I was 12
5 years old.

6 **QUESTIONING BY MS JOYCHILD CONTINUED:** Next paragraph, after that you stopped
7 going to group discussions. You were still the same and you were getting into trouble
8 again?

9 A. Yes, I tried to talk to Victor Soeterik but he wasn't there, instead there was a psych --

10 **Q.** Psychiatrist.

11 A. -- a psychiatrist whose name was Dr Selwyn Leeks and he looked at mum's report and said
12 that I would try a wee while at Lake Alice Hospital and then he sent me to Lake Alice, got
13 my mother to drop me off, for the first time on 22 March 1974. I was 13 years old.

14 **Q.** Can you remember, Paul, at that stage was -- Mr Dempsey had started or was his charge
15 nurse --

16 A. No, he was later.

17 **Q.** That was later, so you were there before --

18 A. Yeah.

19 **Q.** -- Mr Dempsey, okay. Thank you. Now paragraph 12?

20 A. Okay. So I was 13 years old when I was first admitted, the first day I was there just after
21 lunch, all these guys were sitting around the day room. The nurses introduced me and
22 showed me all around the place. All meals were provided. Choice. I thought it was like a
23 Sunday camp, the first week there, and then I started getting all drugged up. Some other
24 kids had told me it was a looney bin. I went to discussion groups like -- I went to
25 discussion groups run by Victor Soeterik during the first week. I wouldn't talk so I started
26 getting punished. So that was the start, because you're shy you didn't know anyone, you're
27 just trying to feel the place.

28 Within a week I was given Paraldehyde for making insolent remarks towards the
29 staff and misbehaving.

30 **Q.** Can I pause you there, Paul. You heard Mr Soeterik yesterday saying he never ordered
31 anyone to get punishment from the group therapy. How do you know you were being
32 punished for not speaking up at group therapy?

33 A. Can you please ask --

34 **Q.** We'll wait until the end.

- 1 A. Just do the question again.
- 2 **Q.** The question is: you said earlier that you were -- you started getting punished because you
3 were shy, you didn't know anyone, and you weren't speaking up. So why do you believe
4 you were being punished because you didn't speak up?
- 5 A. Well, because he sent me upstairs, this is all about yesterday with my outburst. Sorry.
- 6 **CHAIR:** It's all right.
- 7 A. I was just being transparent.
- 8 **QUESTIONING BY MS JOYCHILD CONTINUED:** So are you saying that during the
9 discussion group you were sent upstairs?
- 10 A. Yeah. No, no, he would put my name forward, this is what it was all about. So after the
11 group was finished, next minute --
- 12 **Q.** Selwyn Leeks would come in?
- 13 A. Yeah.
- 14 **Q.** And you were sent upstairs?
- 15 A. He wouldn't come in, he was already waiting upstairs, and the staff would say you, you,
16 you upstairs, or you upstairs, and then we'd be taken upstairs, for the first time I didn't
17 know what was happening, but every other time I was struggling and fighting, they were
18 drugging us up, because we knew what was going to happen, but --
- 19 **Q.** How did you know Victor Soeterik was the reason that you were --
- 20 A. We didn't, not the first time, then the other boys told me he was running the group, so that's
21 why I was a little bit shocked yesterday when he tried to say he was an observer, until you
22 showed that letter. So.
- 23 **Q.** He was running the groups?
- 24 A. Yeah, that was his job, every Friday, and then later on it changed to Wednesday, but at the
25 time that's what -- that's why we were getting so much grief going upstairs with shock
26 treatment, it wasn't Dr Leeks running on his nursing notes or the staff, it was that man
27 there.
- 28 **Q.** Right. So he came in the morning and did group therapy, Dr Leeks did the ECT in the
29 afternoon?
- 30 A. Yeah. Victor Soeterik had nothing to do with going upstairs and giving ECT, he was
31 correct there, he wasn't actually giving the medication, the Paraldehyde, but it was his -- it
32 was on his professional evidence I would say, and he was the one -- so he was sending -- he
33 was the one who was putting our names forward, there was no-one else, he was God, and as
34 an adult I'm saying who gave him the right to be God, so that's why I nicknamed him

1 Dr Leeks' right-hand man because it wasn't Dr Leeks' choice. So we were told if you don't,
2 over a period of time, if you didn't talk in the group, if you just sat there smirking or
3 smiling to play safe, that wasn't enough, when it was your time, and he was doing all the --
4 it was up to him, it was his group, it wasn't the nurses aides running it, it wasn't Dr Leeks
5 running it, he never even came into the groups. So quite often after the groups were
6 finished then Dr Leeks would arrive with a little Combi van.

7 **Q.** So when you say "We were told that if we didn't speak up we'd go up", who told you that?

8 **A.** He did.

9 **Q.** Victor Soeterik told you?

10 **A.** Yes. And then Dr Leeks would say, "Oh, we've heard you've been not talking again, so
11 we'll just give you something to think about."

12 **Q.** Right. That was --

13 **A.** Once -- when there was -- the groups -- a combination of the groups, wetting the bed, I was
14 actually horrified yesterday because they knew I had a medical problem, in that letter, for
15 years. So it's basically: how dare they? It was a combination of the nurses with the attitude
16 and behaviour, one time, one reason you go upstairs, or the -- and that was Dr Leeks
17 bringing -- the staff ordering you up there but mainly in the groups, Victor Soeterik. And
18 then later on, as I got to know the school teachers, it depended how good, if you're -- if you
19 were trouble at school or not learning then you would get ECT, because he would be -- the
20 doctor would be telling you why you're getting it. That was how you knew.

21 **Q.** Right. So he told you before each ECT while you were getting it?

22 **A.** Yes, and just with that smirk on his face. He just seemed to love it.

23 **Q.** Okay. We'll run through, because we're going to get to the ECT soon, so we're at paragraph
24 14.

25 **A.** Yeah. I did not like it at Lake Alice. After two weeks there I started to give the wrong
26 impression to the staff by playing up and for that I got ECT and boy I hated that.

27 I recall waiting in the day room with other kids. One of the nurses Steve Hunt,
28 who was a charge nurse, called me up. As I was unfamiliar with ECT, I willingly walked
29 with him upstairs and down the corridor into the second room on the left. The room
30 contained a long bed, window -- that's wrong. The room contained a long bed, no shutters,
31 and a trolley on one side. That was the ECT room and the next two rooms is where they
32 had the shutters, where we'd wake up. I recall taking my shoes and belt and laying on the
33 bed. Terry Conlan and Steve Hunt were in the room at the time holding me down. I recall
34 a kidney-shaped dish containing headphones which were soaking in liquid. This was on the

1 trolley next to the bed. At this stage Dr Leeks walked in the room, introduced himself and
2 said he was going to give me some of this to teach me a lesson and to let me know what it
3 was like. He also said that he wanted me to start talking during the group therapy sessions.

4 Terry applied gel to my temples, a hand towel which was rolled in a sausage like
5 and put it in my mouth. The hand towel was to gag me to ensure I wouldn't bite my tongue.
6 The experience of unmodified ECT was pure pain. After receiving ECT for the first time,
7 my next recollection was waking up in bed with water running out of my mouth.

8 I was in there for two months and got sent home on 24 May 1974. My diagnosis
9 was listed as behavioural disorder and reactive depression. This is taken off my file, staff
10 notes.

11 **Q.** That's right.

12 **A.** I went back to school at Queen Elizabeth College. There was some interaction between the
13 principal of Queen Elizabeth College, Ted Worthington and Dr Leeks of Lake Alice as he
14 wrote to him in August '74 saying I wanted to see Dr Leeks about my relationship with my
15 family. He also wrote I was very hyperactive and a worry to the school. From --

16 **Q.** Don't worry about that.

17 **A.** I hated the ECT at Lake Alice and I thought it was punishment for being naughty. I told the
18 principal this and in my medical there was a letter he wrote to Dr Leeks saying that I was
19 frightened of ECT and I saw it as a punishment for being naughty and as I was to be
20 re-admitted to Lake Alice Hospital in August 21st.

21 One of the issues I had was bed wetting due to a complication when I was
22 circumcised as a baby due to religious beliefs of my parents. This, however, was never
23 examined as a physical problem when I was at Lake Alice, instead it was seen as a
24 psychological problem.

25 **Q.** Just pause there. The physical problem was that you had an undiagnosed, at that time,
26 ulcer, didn't you, on the skin near where your --

27 **A.** Yes.

28 **Q.** -- foreskin had been cut?

29 **A.** I didn't find out until 2006. Even my mother thought I was doing it on purpose. Nursing
30 notes. In my adulthood there was a -- done that. So I was given Paraldehyde as
31 punishment for throwing apples on August '74. I got ECT on 31 August '74 for sticking the
32 vacuum cleaner in a bucket of hot water, with another patient wouldn't -- when another
33 patient wouldn't move it. I thought it could be, could go and then it would come out at the
34 other end and squirt out like a gun at the other school kids. That was my young MacGyver

1 in me. I never knew it could have given me a shock, even though it didn't, so I was lucky.
2 On 14 September I filled my bed with pillows and towels and ran away from Lake Alice,
3 I flogged a bike from the local village and biked to Palmerston North. I jumped on to a
4 freight train to Wellington but I was scared there were -- scared there so I jumped on to
5 another one, but this time Masterton and that was where I got caught and brought back to
6 Lake Alice five days later. After I was returned to the hospital, by the Police, I was put in a
7 shuttered room. Dr Leeks then came to shock me. The incidents of ECT is not recorded in
8 the notes.

9 **Q.** Can I just pause you there, Paul. You're one of the few people with a full set of notes,
10 aren't you?

11 **A.** I don't know.

12 **Q.** Okay.

13 **A.** You're asking the wrong person.

14 **Q.** But you do have a full set of your notes?

15 **A.** Yes, because I got them out myself.

16 **Q.** You got them very early on?

17 **A.** Yes.

18 **Q.** We'll go on to paragraph 25.

19 **A.** On 10 October 1974 I and another boy were causing a disruption when watching TV, I was
20 given electric shocks and placed in a seclusion room for the following day. My nursing
21 notes recorded that both of us got a blast, which seemed to pacify the situation.

22 I was given Paraldehyde on 18 October 1974 for continual agitation and fooling in
23 the bathroom.

24 I was given Paraldehyde on 22 October, three days, apparently to help me sleep
25 and to deflate my exuberant behaviour, according to the nursing notes.

26 I was discharged on 19 December, the 19th. Dr Leeks considered I was doing
27 better in the group discussions and that my bed wetting had improved. I was sent home.

28 The cause of my -- yeah.

29 **Q.** Now up to paragraph 29.

30 **A.** We're just going over the same.

31 **Q.** Right, so we'll go to paragraph 30.

32 **A.** While I was in Lake Alice I was going to group therapy with psychologist Victor Soeterik
33 as this was part of my treatment under Dr Leeks.

34 **Q.** Now we'll go on to your third admission.

1 A. I was admitted to Lake Alice for the third time 8 January 1975 following a disruptive
2 holiday with my family at Foxton Beach. There were disputes with my family members
3 and fights with my siblings. On 14 February '75 I was given unmodified ECT for accused
4 of adopting a threatening attitude to a female staff member. Dr Leeks saw me and gave me
5 ECT that afternoon. Two days later on 16th I was placed in a seclusion room for several
6 nights after being caught fighting in the dormitory. Then a month later, on 17 March, I was
7 transferred to Villa 11 and was made to sleep in a seclusion room for several nights. The
8 room was locked overnight. This was for causing disturbances in the dormitory. I've added
9 this a little bit because this was the only fun we had. So pillow fights -- pillow fights was
10 the only fun we could have and laugh together. That's the whole dorm, it was massive. So
11 we were all rebelling.

12 So I escaped on the night 1 April '75 along with another boy. We were found the
13 next day. This time we were put in Villa 8 and I was locked up for over a week. I was
14 allowed to Villa 8 in the day room but only in my pyjamas. I was given kitchen duties for a
15 while and after that absconded from Lake Alice. I went to the nursing notes.

16 I went back to Villa 11 and after some home leave, I was discharged on 15 June
17 '75.

18 Fourth admission. I came back to Lake Alice for the fourth time on the 24th 1975
19 [sic] and was being accused of stealing \$20, I ran away from home. Dr Leeks advised my
20 mother to send me back. It was the admission period that I had given -- was given a lot of
21 ECT which was both modified and unmodified, and given as punishment for my behaviour.
22 The ECT notes from 1975 record 11 entries. ECT notes, yeah.

23 On 30 July '75 I was given Paraldehyde for fighting. On 6 August '75 ECT was --
24 the ECT started. This was given to me in Villa 6, the girls ward. It was modified. It says
25 in the nursing notes, "He has become increasingly vague, inappropriate, paranoid, ECT
26 times 4 prescribed by Dr Leeks." I was given ECT over the next 12 days and I developed
27 headaches and chest complaints and was put on antibiotics.

28 During that time I was again locked in seclusion and given Paraldehyde as
29 punishment. My behaviour did not change much despite the ECT almost every day. On 28
30 August my father was advised to call me less frequently, I had also asked my mother stop
31 visiting.

32 On 30 August there was a nursing note saying I challenged one of the female
33 nurses and I wouldn't do what she asked. The note says I was seen as potentially
34 dangerous. "As his behaviour is much more vindictive and impulsive since the completion

1 of his recently completed ECT course. Dr Leeks then ordered unmodified ECT x 2."

2 Each course had 25 times or 25 days in each course. Just so you know.

3 **Q.** Are you saying the unmodified?

4 **A.** Yeah, the one they put you to sleep when they take you to the girls' villa, that was.

5 **Q.** 25?

6 **A.** 25 in a course. That's 25 days.

7 After more reports about my behaviour, Dr Leeks prescribed three more modified
8 ECT sessions in Villa 6. I was also heavily medicated on 26 September '75. There was a
9 nursing note saying I am in a continual dream-like state as if not quite with us. Now if
10 you're a teenager you'd love this.

11 After that there was four more modified ECTs in October from the 2nd to the 13th,
12 then on the 15th of October it was reported that I smile inappropriately and fatuously
13 during group discussion although my behaviour was being greatly modified since
14 completion of ECT. I was wising up to their games and I would sit there saying nothing
15 and smile.

16 I would also go outside and sit under the birch tree across the road reading my
17 books to be safe. I would only come inside when I was called. When I visited the grounds
18 of Lake Alice in the early 2000s, the tree was still there and my name initials etched into it,
19 PAD. On 19 November '75 I had stopped taking my medication for three days because I
20 was becoming scared I was becoming high. I was persuaded to continue with the
21 medication in '76. Bad boy.

22 I went on home leave to 28 December '75 over New Year's and I went back into
23 Lake Alice on 9 January '76.

24 On 25 January I wrote to mum and the new dad and the kids saying I wanted to
25 work with my original dad when it was all right with him, but would also look for another
26 job in the meantime. I was still in Lake Alice because I was doing newspaper deliveries,
27 paper boy. I was still in Lake Alice when I wrote this letter and I included that Victor
28 Soeterik said he had given up on me in the discussion group and that he was going to tell
29 Dr Leeks to let me go home.

30 I was put on medication and discharged to my mother's place at the end of the
31 month. In January. I was on psychiatric medicine, medication while at home.

32 **Q.** Now, we're not going to read the next few paragraphs but they describe what you were
33 doing at home, you were working for a while and there was a bit of conflict in the family?

34 **A.** Yeah.

1 **Q.** So we'll now --

2 **A.** Many years later my sister apologised to me for setting me up because she know I'll be sent
3 to Lake Alice, I never forgave her for that. We're not together anymore as brother and
4 sister.

5 The next day mum and I went to see Dr Leeks and I went back to Lake Alice.
6 I made up my mind if I got any ECT I would take off.

7 Despite efforts by my mother to either return me to Lake Alice or turn me over to
8 social welfare, neither wanted me. The family situation was not much better, but clearly
9 the treatment and punishment at Lake Alice made things worse for me, not better. I believe
10 Dr Leeks did not want me back there. So after long discussion I was admitted back to Lake
11 Alice on the fifth time on 7 April 1976, aged 15. Admission papers, yeah. This time it was
12 under section 19 of the Mental Health Act as an involuntary patient, in other words ward of
13 the State.

14 I was treated once again in the adolescent children's unit. On the -- yeah, just a
15 brief one on that. I never forgave my mother, she went to her grave unforgiven and that
16 was my wish, I never forgave her for signing me over to the state.

17 On 11 April '76 I was given Paraldehyde for quarrelling and disturbing other
18 patients and also made to sleep in the seclusion room.

19 **Q.** Can I just pause you there, Paul. When you're talking about your mother, did you tell your
20 mother you were being electric shocked?

21 **A.** Yeah.

22 **Q.** And did she believe you?

23 **A.** No, because the authorities were always right.

24 **Q.** Okay. We'll start at paragraph 58.

25 **A.** I read that. My notes on 10 May 1976 record that I was suspicious and paranoid. With all
26 of this treatment using drugs and electric shocks as punishment for my behaviour I had
27 deep distrust in the staff at Lake Alice, but mostly especially of Dr Leeks and Victor
28 Soeterik. I saw them as working in conjunction and behind the treatment I was getting.

29 On 29 May '76 I was given oral Paraldehyde for fighting with two other patients. I
30 was put in the seclusion room again on 3 June for fighting and oral Paraldehyde again for
31 boyish behaviour on 14th of June. In the nursing notes on 9 June it was -- it says "still the
32 same young Dixon, a smile like a Cheshire cat abounds, always thinking he's smart." Then
33 on 14 June I was given oral Paraldehyde for boyish behaviour.

34 On 19 June '76 I was organised to abscond -- I was organising to abscond with

1 some other boys and got caught.

2 When I was asked by one of the staff why I wanted to get out, I said I was hacked
3 off with being committed. On 7 July I was given Largactil for being involved in a pillow
4 fight.

5 So leaving Lake Alice. When I got to 16 years of age I became an adult and was
6 put into the adult villa under Dr Bill Carr. He was my life saver. They moved me from
7 Villa 7 to Villa 8 on 16 July, the adult wards. It was great because within five months I was
8 chucked out of there. After three months I was off my medication. Doctor Carr said,
9 "We're throwing you out, you don't need to be here, there was nothing wrong with you, you
10 shouldn't have ever been in those other villas." I was a committed patient, he saved my
11 bacon. He got me out of there. No more shock treatment because Dr Leeks wasn't in
12 control anymore. I'll remember that until I die.

13 I worked on a store truck from 20 July for over a month. I found working to be
14 beneficial for me, I kept out of trouble.

15 On 3 November I was discharged for the final time.

16 Dr Carr said, "What do you want to do?" I said -- because I lived by the airport
17 with my mother, I wanted to do sky diving. Dr Carr said, "Yeah, sweet" and I was the best
18 out of my class of that year out of three jumps closest to the target so I achieved something,
19 it was a thrill.

20 While I was in Lake Alice this final time I was on intra-muscular Modecate, 50
21 milligrams every three weeks and Artane 1 milligram. I was treated in the villa with group
22 psychologist Victor Soeterik schooling and ECT from Dr Leeks. This is all detailed in a
23 letter to Dr McKay, Benson, medical officer.

24 So for the bullying and abuse. I was never sexually abused or bullied, or badly
25 bullied. There was a gang of four of us that hung out together and looked out for each
26 other. I could stick up for myself. For a lot of the time I was there it seemed like about
27 80% of the boys were Māori. They had come from violent -- they had come from violent
28 boys' homes like Kohitere, Hokio and also Holdsworth. They were pretty aggressive.

29 I understood that I was admired because I was picked on so often by the staff for
30 ECT but I showed the staff I didn't care. I was strong and stubborn, and I remember once
31 I was locked down for two weeks and just sat there staring at the wall. I wouldn't talk.
32 And I was getting quite used to it. I even stopped blinking. I tried to -- they tried to shock
33 me out of it but each time I was put back I just stared at the wall and wouldn't talk. In the
34 end Brian Stabb come in -- Brian Stabb coming in and bringing me back downstairs.

- 1 **Q.** You're at paragraph 74.
- 2 **A.** GRO-B.
- 3 **Q.** Do you want to talk about that now?
- 4 **A.** It was a game of stubbornness. I just, because I said I'd given up, I said give me all the
5 ECT you like, I don't care anymore, I just had given up. To protect myself I was just
6 staring at the wall. GRO-B.
- 7 GRO-B.
- 8 GRO-B.
- 9 **Q.** To try and make you go downstairs?
- 10 **A.** No, trying to stop playing my little game.
- 11 **Q.** Of staring at the wall?
- 12 **A.** Yeah.
- 13 **Q.** Right.
- 14 **A.** Yeah. So I'd just had enough. I'd been up, committed as a patient, didn't care anymore.
- 15 **Q.** GRO-B, have you got any comments on that?
- 16 **A.** Well, I remember him when I first started getting ECT, him, GRO-B, Terry Hunt,
17 GRO-B, Terry Hunt -- Steve Hunt, Terry Conlan, GRO-B and, yeah, those
18 four and also GRO-B, they were holding me down all the time and it was
19 always four. Later on when the ECT got to the genitals, Terry Conlan was the first one to
20 basically say, "I'm not having nothing to do with this anymore", and later on GRO-B
21 was the one as well, they said, "No more, this is it". And things slowed down a bit for me
22 then. But they were going from doing their job, we just saw them as monsters, but then
23 they suddenly had a heart. So.
- 24 **Q.** Okay.
- 25 **A.** Then they ended up taking me away for any spare time just to get away from everyone else
26 because they didn't like me being picked on all the time. But basically those two said,
27 "ECT on the genitals, no way, this is out of whack." This is in my Police statement.
- 28 **Q.** Mmm-hmm.
- 29 **A.** Finally they had a heart.
- 30 Being in the boys villa was like being in -- with a whole lot of boys, we were
31 stoned all the time. Everyone was on drugs of some sort. We wasted so many days being
32 drugged out.
- 33 Schooling. I didn't learn anything at school, I remember two teachers Anna

1 Natusch and Sheila Daly, they were kind enough and like mother figures.

2 At Lake Alice if you didn't -- if do you something wrong, didn't do your
3 schoolwork or not talk in the groups, upstairs for shock treatment, that was the start. This
4 was after the first couple of weeks. Everyone else was getting it as well. Every Friday the
5 boys would all be sitting there shaking, waiting for Leeks to come in through the door.
6 "You, you". And I found out what it was about. I was just as bad as them, wetting your
7 pants while sitting on the seat, couldn't be helped.

8 The ECT sessions usually occurred on a Friday when Leeks would come around
9 about 9 or 10 am in his white Combi van and have discussions with the staff, while we
10 were sitting in the day room in a big circle waiting and being scared in case your name was
11 called to go upstairs.

12 Sometimes the doctor would visit on a Wednesday if some other boys had played
13 up. The nurses would say "Oh, we'll do him, we'll do him and we'll do him." Dr Leeks
14 would come in during the week or any time. He was on-call. He would come in for one
15 thing, and suddenly there was two or three of other boys going upstairs for the same thing,
16 for things they had done like they even smashed a plate or something.

17 **Q.** Was this when Dr Leeks was living at Lake Alice?

18 **A.** At the house, yeah.

19 **Q.** At the house.

20 **A.** Sometimes -- I'm only saying this because I think this is more significant than the other
21 stuff. Sometimes two or three of us would get called singularly and were taken to
22 individual single rooms where we would be left on our own looking at plywood shutters
23 over the windows with one inch thick circles for fingers, so you could open them, but they
24 were locked. To wait our turn and listen to the screams of the other boys of getting ECT
25 knowing we were next.

26 We were all individual people in there but we all felt for each other on ECT days.
27 We were all family back then.

28 The ECT I got was mostly on the head, I had also got it on my knees and the
29 scrotum about three times. I would be held down by three of the nurses, one on each knee
30 and one holding or two holding my shoulders. Three or four I couldn't remember. Usually
31 Terry Conlan or Steve Hunt on my shoulders and two others on my knees.

32 I can't recall exactly how many times I got ECT for what, but I got it at least 12
33 times for group therapy sessions to try and change my attitude. The mischievous
34 behaviour. Not getting on with other people having an argument with some of the other

1 guys, not eating meals, not talking in a group was -- that's what started it. I wouldn't talk so
2 I'd go up stairs for ECT. Then I'd talk and get myself into trouble. Then I got more ECT.

3 That's what -- that's when the willpower games started, wetting the bed, ECT,
4 you'd be on more drugs so you'd like being like a zombie. The first time it wasn't for
5 mischievous behaviour it was because I wouldn't talk.

6 You could get ECT for not talking in the group discussions run by Victor
7 Soeterik -- not bad for a part-timer eh -- it was up to the head nurse. They would look
8 through their notes for the week, like we would have mass dorm fights because we were
9 bored, or something to do. It would make us all happy but the night nurse would come up,
10 sneak up, shine the torch, "You, you, you", we would pretend to be asleep. "Come with
11 me", Paraldehyde or the next morning, Dr Leeks would come, "You upstairs, you upstairs".
12 Sometimes there would be nine or ten of us going up in a line just waiting. Then they come
13 down, get a couple more and sometimes there would be big runs of them.

14 **Q.** Was that after playing up in the evenings in the dormitory?

15 **A.** Yeah. During the ECT Dr Leeks would pause and say something smart, like "We're going
16 to change your way of thinking", or "You've been bad Paul, we've got to change your
17 thoughts." Then he would turn the dial up, then he would give you a bit more. It was
18 always in threes, once, then stop for about 10 seconds, I think, 15 at the most, then he
19 would turn it to the right up and push the button and that's it, you'd wake up, and no-one
20 was there, naked and looking at the plywood shutters over the windows, feel like -- you'd
21 feel like shit, you want to just get the bastards, any bastard was there. You'd lie there for a
22 couple of hours, then the nurse would say come in, "Come on Paul, come on down, have
23 tea." The staff would feel sorry for you the first time trying to cheer you up with biscuits
24 and Milo.

25 **Q.** Can I pause you there, Paul, and ask another question. You say you were naked, were you
26 given ECT when you were near naked?

27 **A.** Most of the time. Oh they took out -- they used to take our shoes off, the belts, anything
28 because they needed to hold you, yeah, if you had clothes on they couldn't hold you, I don't
29 know, I was just a kid.

30 **Q.** Did you ever get it after the shower?

31 **A.** I just remember having baths, that's all, there were baths up there. I've lost a lot of my
32 memory on that place, it's just -- I forgot about it, I put it aside because when I got to
33 Nelson I started my fishing career, and the only people that believed me was the Salvation
34 Army and I just haven't looked back, apart from my medical issues. Where do you want to

1 go to next?

2 **Q.** Now could you go to paragraph 89?

3 A. I remember my father coming along once and he found out that I was -- where I was. He
4 came to see me. Nurse Denis Hesseltine told me later on a Sunday I was upstairs getting
5 zapped. He was bawling his eyes out, "I want to see my son", and that was the authority in
6 them days. "Sorry, you'll have to come back later", Denis Hesseltine told me later. He had
7 made a special effort to come and see me, he was bawling his eyes out and he left. He
8 wanted to do something and he couldn't, and he could hear me screaming, my father said
9 later, years down the track, as well. Nothing he could do.

10 When I was in Lake Alice I would write letters. One I wrote to Mr Corkran, one
11 of the head nurses, saying I wanted to know what was going to happen to me because I was
12 getting sick of asking and getting same answers. I wrote that I sometimes talked in the
13 group but I wasn't sure what to say which worried me because I didn't talk I would get
14 kicked out of group and might even get ECT.

15 Letter to Mr Corkran. I wrote an angry letter to Dr Leeks about how I wanted to
16 stay with my first father and that he could give me as much ECT and security in Villa 8 but
17 I would not change my mind.

18 How the ECT was administered as follows. Ready?

19 **Q.** Yeah, do you want to read that?

20 A. Yeah.

21 **Q.** Okay.

22 A. They would lay me on the bed forcefully because I would struggle. I knew what was
23 coming and I was petrified because it really hurt and didn't want it, so I would struggle for
24 my life.

25 Three nurses would hold me down, maybe four. Dr Leeks would come in and put
26 on white gloves, then the nurse at my shoulders would roll up a toweling flannel and force
27 it into my mouth across my mouth, so I was biting it.

28 Dr Leeks would put jelly stuff on my temples and for the first round shock
29 delivered. I honestly don't know how long it was because I was just living in hell. Stop,
30 readjust the dial upwards and second round delivered. Stop, readjust the dial upwards and
31 third round delivered. Stop and push a button and fourth round delivered and then
32 unconscious.

33 When the first round is delivered the pain is unbearable. You could see black
34 zigzags going through your head same as the second and the third rounds, black zigzags

1 still in your head excruciating pain. You just want to die. In the third round your teeth
2 were sore from the pressure of biting down and the fourth round bliss because you were
3 unconscious.

4 ECT to the knee caps, same as the above except the jelly was applied to the sides
5 of their knees. Readjust the dial upwards after the shocks. Jelly to the temple, zap
6 delivered, bliss unconscious. ECT to the scrotum, jelly to the scrotum, zapped; jelly to the
7 scrotum, zapped; jelly to the temple, zapped; bliss, unconscious.

8 I got this for bed wetting apparently doing it on purpose, they said. Assume it
9 occurred on a Friday, but I can't really recall. I am able to remember this occasion because
10 it was particularly painful because it required to wait for 10 to 15 minutes in the day room
11 during which time I was exceptionally scared. While I was held down prior to the
12 receiving ECT, Dr Leeks informed me that the reason for the ECT was to combat my
13 continuing wetting the bed. Dr Leeks said "I am sick and tired of you wetting the bed so I
14 am going to give you something to think about."

15 I was also exposed to three sets of ECT. It was first applied to my head, then my
16 knees, then my testicles, because prior to the ECT being applied to my testicles, I recall
17 biting down hard on the towel. On this occasion, Terry Conlan and Steve Hunt were not in
18 the room. I am reasonably certain that -- it will be, yeah, I'm reasonable certain GRO-B
19 was in the room but I cannot recall if Denis Hesseltine was present.

20 Modified ECT was done over in the girls' villa, modified ECT was quite different
21 from unmodified ECT. It was the same routine each time. By this I mean you would be nil
22 by mouth. You would also receive an injection before the ECT was given. So you were
23 asleep. When you woke up you would be given Milo and biscuits and you would be --
24 have a splitting headache. You would be dragged back by two nurses because you couldn't
25 walk properly.

26 I was supposed to have two lots of 24 ECT treatments. During the first block of
27 24 they stopped after I received 12 treatments. That's one each day. I am not sure why
28 they stopped. In the second lot of 24 treatments they stopped after 16. The modified ECT
29 was not pleasant but at least it was much better than unmodified ECT. Dr Leeks never gave
30 me modified ECT, I don't know who gave it to me, I was asleep.

31 **Q.** Paragraph 98?

32 **A.** I was given Paraldehyde for punishment. A nurse would give the injection for putting their
33 arm around my middle like a waist lock and bending me over to administer the injection to

1 my left or right buttocks. The Paraldehyde was really painful and made a smell like -- your
2 breath smell like the bark of a tree and I can still recall that smell even as an adult now.

3 Dr Leeks administered the Paraldehyde injections -- Dr Leeks never
4 administered -- Dr Leeks never gave the Paraldehyde injection, the nurses did. I recall
5 receiving Paraldehyde injections for pillow fighting, throwing an apple, saying something
6 cheeky to the nurses and when I ran away twice from Lake Alice.

7 While in Lake Alice I was administered --

8 **Q.** You don't need to read that list out Paul, it's a list of drugs unless you want to.

9 **A.** They've got no meaning to me. We were used as target practice for pillow fighting. There
10 would be three or four of us in the little medical room for pillow fighting. Pants down
11 facing the wall. And I know who done it now. GRO-B -- this is on the
12 nightshift -- GRO-B would throw the Paraldehyde syringe like a dart from
13 about one metre away to our buttocks. He would wait until he threw it to keep us guessing
14 when it would come. Then he would push us towards the wall so we couldn't move away
15 from the needle and he pushed the syringe in. Now these were heavy glass, they hurt.

16 **Q.** So he was throwing the injection like at a dart board?

17 **A.** Throwing the syringe, yeah, we were -- yeah.

18 **Q.** Then he'd come up and push the syringe in?

19 **A.** Go like that, he wouldn't do just one, one, one or four of us, he would tease us and say
20 "You", boom, and you hear the scream, then the next one, then he would go to the next one
21 and then come back. He was playing games with us all the time, just for pillow fighting.

22 I was put in seclusion many times. The rooms were about 3 metres square with a
23 thin mattress and no blankets. I often spent the night in these rooms. They had special
24 plywood shutters with small holes in them on the windows so you couldn't see out. The
25 room was very dark, the lights when turned out. There were photos in the room taken on a
26 visit to Lake Alice in the 2000s, the Lake Alice seclusion room that I took with TVNZ.

27 The school at Lake Alice. I went to school at Lake Alice and they issued school
28 reports each term, school report of me 9 May 75. I don't think I learned much because
29 except my teacher was Sheila Daly and I had a crush on her. I had Anna Natusch as a
30 teacher as well. I did not read more (sic) which is noted on the 19 December school report.
31 I also wrote on this report that I couldn't do much as the ECT affected me a lot and the
32 drugs I was on.

33 After my final discharge from Lake Alice in November 76 I was transferred to

1 Ferguson House, a halfway house in Palmerston North. I was given a final psychiatric
2 assessment by another Lake Alice Hospital GRO-B --

3 **Q.** You don't need to say that.

4 **A.** On 14 July 77. From his assessment, which was in my medical file, he considered my
5 attitude of suspicion and distrust was a paranoid schizophrenic condition and required
6 compulsory psychiatric treatment.

7 **Q.** Then "he failed to see".

8 **A.** He failed to see that my deep-seated issues of distrust was largely borne out of this.

9 **Q.** Psychiatric.

10 **A.** Psychiatric treatment and abuse I received at Lake Alice Hospital. I left for Australia and
11 started to -- where I was for eight months, I got mixed up with the wrong people with
12 results of conflict with the criminal justice system and I was deported back to New Zealand.

13 I got back to Palmerston North then flew to Nelson where I stayed with the
14 Salvation Army a lot. They taught me things I didn't know, such as personal hygiene.
15 They got me a job unloading fishing -- unloading fish at Sealords. That was the start of my
16 fishing career.

17 And they were the only ones that believed me up until then. No-one cared, the
18 Police, anybody, because they didn't believe us.

19 While I was unloading fish from a fishing boat I was offered work on a fishing
20 boat. I did that for two years. I was drinking at that time. Then with encouragement
21 I cleaned up and went into schooling and with great difficulty I managed to pass exams,
22 getting my skipper's ticket. I have been involved in the commercial fishing ever since. For
23 the last 11 years I've been employed as a skipper for a fishing company doing charter
24 cruises in the Hauraki Gulf. I have a lot to thank the Salvation Army for. I don't know
25 where I would be if I -- they hadn't got me working in that industry. It gave me confidence
26 and the start I needed. I also had a garage, a motor business in Glendene for a while, and
27 employed two people.

28 I have had two children from separate relationships and a 5 year old grandchild. I
29 am on my own now. I lost my sibling relationships after Lake Alice. That's my brothers
30 and sisters. No-one believed me, what I had been through like for me. I was not better not
31 to be around them. I have always found it hard to be intimate in a relationship.

32 For health. I was taking 16 Nurofen tablets per day to address my migraines and
33 blinding headaches. I attribute this to the ECT I got while at Lake Alice Hospital. I saw a

1 psychiatrist in 2002 about my headaches. It was only after the activity around Lake Alice
2 case came up. I put on a drug -- she put me on a drug which I took for a day but after
3 I started hallucinating on it I stopped it. I won't take drugs anymore, I won't ever seek
4 psychiatric treatment ever again. I never had counselling apart from that with a
5 psychiatrist.

6 I still have migraines frequently, I have learned to live with the pain. I also have
7 explosions in my head like a hand grenade going off right beside me. I've asked my partner
8 did she hear that and she said "No, you're making it up." This can happen daytime or
9 nighttime and happens when I am being asked or trying to remember things about Lake
10 Alice. I have to shake my head to get back to normal. I suffer panic attacks occasionally.
11 I control the bed wetting by not drinking anything in the evening and no coffee. My body
12 aches all the time and I have cramping in my joints. And I have cramp attacks, yeah, cramp
13 attacks I call them, where your legs are just aching all the time and they -- suddenly they
14 really sting. And there's nothing I can do about it.

15 In 2001 I was in Auckland and I heard about the Grant Cameron case action on the
16 radio. I found his number and called him but I was told I was two weeks too late. The
17 person on the phone advised me to get my medical files which I did. And he told me how
18 to do it. I then called Martin Johnson of the New Zealand Herald who run stories about
19 other Lake Alice claimants. Then Annette King announced there was going to be a second
20 round. Dr David Collins QC was assigned and he got in touch with me. I sent him my
21 medical file and he said he was up all night reading it. That was how the second round
22 started.

23 Months later I remember got a visit from David Collins and Judge Gallen when
24 they interviewed me. Initially I was told by David Collins that I would be receiving
25 114,000 as a payout, which I initially agreed to. And a letter of apology from the Prime
26 Minister, Helen Clark. The Herald stated that the Clark -- that Clark promised a
27 Crown-funded free lawyer. That's extra.

28 **Q.** Yeah, adding that in?

29 **A.** I was then later informed that I would be receiving -- I would be receiving would be 80,000
30 as there was around 34,000 taken off for legal fees. Huh? A Crown-funded free lawyer,
31 what the hell?

32 If I had been told that 30% of the determination I would receive would be taken
33 from the final determination, I would not have agreed to sign the agreements set out in front
34 of me by the Crown. I thought we were getting free legal advice. It was for this reason I

1 decided to contest the decision with a legal suit.

2 I'd just like to add that I had been going once with Christine Liddell from the
3 Crown Law Office, this is the legal team, and she said "Take the goddamn cheque, if you
4 take us to court you'll never win." So I took them to court. So I -- that's right. I rung up
5 David Collins who was going around with Judge Gallen around New Zealand seeing all of
6 us, and he said just "Take the damn cheque and we'll sort it out later." That sorting out later
7 never happened.

8 **Q.** Right, so you did take the cheque at the time?

9 **A.** Yeah, I didn't want to, but they said "Take it and we'll sort it out later", so I did. And
10 I shouldn't have.

11 **Q.** So then did you try and find a lawyer or did CCHR help you?

12 **A.** No, I done it all my own. So I worked out -- so I got the damn cheque and I brought up
13 the -- I bought my fishing boat for my future.

14 **Q.** Right.

15 **A.** So in the meantime I worked out how the hell am I going to do this, set them up with their
16 own game. So I looked at the contract and I said "Who's on the bottom of that?" Grant
17 Adams, choice. So I rang up the Ministry, Grant Adams, "Thank you for giving me my
18 cheque, I spent it well and I'd just like to say thank you, but why did they take a deduction
19 off me? Why was I lost 34,000?" "Oh we had to because of this blah blah blah", "Oh
20 okay." "Have a good day."

21 So a week later I wrote, five days later I rung him back and I said, "Mr Liddell I've
22 got to live with this for the rest of my life, I've got short-term memory loss, I can't
23 remember what you said, can you tell me again please." And he said blah blah blah and
24 I said "Can you sort of -- I wouldn't remember that next week, can you put that down in
25 writing?" "Yeah, sure." Two days later I got it in the mail and I thought Minister of
26 Health, headline, him signing on the bottom, held it for two days and I thought I'm proud of
27 that.

28 Then I thought I'll give Grant Cameron a ring, I told him what happened and he
29 didn't believe me. And I said -- so I faxed it to him because I had my own garage. Next
30 day he rung me back and said "I don't know how you got this, but I'm coming up
31 tomorrow."

32 So, yeah, so I called Steve up, CCHR and I said "Guess what's what happened, I'm
33 getting a visitor, Grant Cameron", "How come?" I told him what I'd done, I said "I think
34 I need a witness to this." So Grant Cameron arrived, Steve -- Grant Cameron arrived to my

1 workshop, Steve came from his house and Grant Cameron wanted to take us out to lunch,
2 so he did, and he told us both, and I had my witness, that he was going to do this case for
3 nothing, and because he thought he had a good case.

4 **Q.** This is a case against the taking of the legal fees by --

5 **A.** Yes.

6 **Q.** -- by the Government?

7 **A.** Yes. And so six years later after being told I cannot do it because I've got to have -- there
8 was -- we had hiccups, first of all Grant Liddell sent a letter saying that you can't take us to
9 court because you haven't got any property, you don't own any security and we want to get
10 paid straight away.

11 **Q.** Right.

12 **A.** So Grant Cameron signed over his property as a security if he lost the case he loses his
13 property, because he was -- I thought not many lawyers do that. So -- anyway, as hard as it
14 was, we went down to Wellington and -- a few times, CCHR followed that all the way, and
15 next minute the National Business Review are saying that I took on the Government,
16 Cabinet, and I thought what?

17 **Q.** So you went to the District Court, was it a District Court decision?

18 **A.** District Court in Wellington.

19 **Q.** Judge Broadmore heard the case?

20 **A.** Yes.

21 **Q.** And it was reported in the National Business Review and Judge Broadmore noted he did
22 not agree that what you ultimately received was objectively fair and that the Government's
23 decision to deduct 30% was a political decision rather than a principled or evidence-based
24 one. The judge also said he recorded Sir Rodney's comment that the plaintiff's experience
25 in the unit were amongst the worst he had encountered. And after you won that case, the
26 Government --

27 **A.** Hang on.

28 **Q.** Yeah.

29 **A.** So it took six months, I think it was with the good help of Tau Henare and Johnathan
30 Coleman fighting in the, not Cabinet, in the House and they finally paid me. But just to let
31 the survivors know from the first round, we got 65,000 back for costs, he employed a
32 counsel so he got 20, Grant Cameron got 20 and I got the rest, I got 23 out of my 34. So it
33 did cost me 40 grand to fund the second round, which I haven't been -- which I just wrote
34 off. But there'd been no extras for winning, I just thought what a joke. I had to fight six

1 years to get my court costs, my legal fees back, that they stole off me. It didn't make sense,
2 but I just -- just forgot about it, just get on with it.

3 Anyway, then I found out later on that David Collins was a partner of legal firm
4 Rainey Collins Wright & Co and they were engaged in doing Dr Leeks' affairs in 1994.
5 And then he got -- went into private practice when he left and then he was given to us by
6 Helen Clark as for the second round, well for a start that's conflict of interest. And then
7 when we hadn't even finished, he said "I can't talk to you anymore, Paul, I'm going away on
8 holiday for a week and I can't talk to you." "What do you mean?" "I'm going to be the new
9 Solicitor-General." So that's three-way conflict of interest. I'd like to get back to you later
10 about that with something else.

11 **Q.** Okay, shall we now go on to paragraph 123?

12 **A.** Dr Leeks was still practicing in Victoria, Australia, and he had been ever since he left
13 New Zealand. Therefore I filed a complaint with the other survivors, yeah, GRO-B
14 and me, to the Medical Practitioners Board of Victoria, because we wanted to knock out his
15 income, urging them to investigate Dr Leeks and his practice in the 70s. By this time I was
16 working with CCHR and they had been working on the Lake Alice issue since '76.

17 The Medical Board took three years to do the investigation and evidence
18 -gathering. In 2006 the board prepared a formal hearing. There were 39 allegations against
19 Dr Leeks of infamous conduct in a professional respect while practising at Lake Alice in
20 the 70s. On the eve of the date set for the formal hearing, Dr Leeks resigned all forms of
21 practice and the board accepted this and therefore the hearing never took place. Their
22 reasoning was that he had undertaken -- he undertook an agreement with them that he would
23 never practice again. And I had my wish whether I talk to the Victoria Medical Board that
24 the public were protected from him in Australia.

25 **Q.** How did you feel when you found out that there would be no hearing?

26 **A.** Well, at least I put him out of business. So Accident Compensation claim. The
27 Government talked about the wellness package for the victims of Lake Alice, I know that
28 was done by Helen Clark, for ill treatment but nothing happened. And I and some others
29 applied for Accident Compensation due to the ongoing effects of medical mistreatment and
30 tortures and for the suffering that we were doing on a weekly daily basis, every day living
31 is hard.

32 I filed a claim in 2005 along with evidence of the ill treatment and abuse that
33 happened at Lake Alice. By 2006 it was decided that the claim was not valid and that ACC

1 would not be covering any compensation for psychological or physical injuries I suffered as
2 a consequence of Lake Alice psychiatric abuse.

3 In the process of evaluation of my ACC engaged two psychologists(sic) to look at
4 what happened. They had access to my medical records and my statements as well and the
5 Government apology and other documents.

6 **Q.** So the first one was from someone called GRO-C and her report says?

7 **A.** Her report says?

8 **CHAIR:** It's right at the bottom of the page, it says the report mentions, see the word "mentions",
9 then on to the next page.

10 **A.** Oh, GRO-C report of 12 December mentions the use of unmodified ECT
11 because in some countries it is cheaper than medication and still in use in a-- lot in India
12 and Thailand. Psychological report of Dr GRO-C Psych to ACC,
13 12 December 2005. This is similar to Dr Leeks' explanation on his use of unmodified ECT
14 in the case of the Niuean, yeah, inquiry in 77. At no point in her report did she
15 acknowledge that the ECT and the drugs was given as a form of punishment and ill and
16 degrading treatment. I didn't know anything about this.

17 **QUESTIONING BY MS JOYCHILD CONTINUED:** Who wrote this for you?

18 **A.** Nothing to do with me.

19 **Q.** Right. Who prepared this for you?

20 **A.** This is just information gathering with the help of CCHR.

21 **Q.** Right. So although you don't know about it, it's likely to be correct?

22 **A.** If it's done -- yeah, it will be correct but it's beyond my knowledge.

23 **Q.** Okay.

24 **A.** Transparent.

25 **Q.** I think your document is in the bundle.

26 **A.** Yeah.

27 **Q.** So...

28 **A.** Just to help with what happened with my ACC claim because the best is yet to come.

29 **CHAIR:** You're saying, Ms Fairchild -- I did it again didn't I.

30 **MS JOYCHILD:** No problem, I'm often called Lovechild as well.

31 **CHAIR:** I'll try not to go that far. Sorry, Ms Joychild. The point is that this psychologist's report
32 is in the file and we've got that, so...

33 **A.** It would have been pulled out of my stuff from the UN stuff.

- 1 Q. Yes, that's right.
- 2 A. We had a lot of people, people helping.
- 3 Q. I'm sure you do.
- 4 A. Meanwhile I lost my education at 12.
- 5 Q. That's right.
- 6 A. I wouldn't -- yeah.
- 7 Q. I just want to reassure you that we do know that it exists, that's fine.
- 8 A. Okay.
- 9 **QUESTIONING BY MS JOYCHILD CONTINUED:** So Paul, we'll forget about 128 because
- 10 that's commenting on another report which you said is outside your knowledge. But it is in
- 11 the bundle of documents. So basically ACC declined you.
- 12 A. Not yet.
- 13 Q. Okay, let's keep going.
- 14 A. Let me do that.
- 15 Q. 129.
- 16 A. Here we go. Right. What really happened to the injury was psychologist provided the
- 17 report to ACC saying he wasn't really involved in either my case or -- what happened, they
- 18 turned my case down and I appealed it, and then we found out that a guy called Victor
- 19 Soeterik was claiming that he --first of all he didn't know me, because it was Zentveld, it
- 20 wasn't Dixon, and then there was another report and then --
- 21 Q. This document was put up yesterday on the screen, wasn't it, Mr Soeterik wrote to ACC
- 22 and said he had very little to do with you?
- 23 A. Yeah. First of all. And then must have been a few months, six months, the minister for
- 24 ACC, she turned my case down after the appeal using Dr Victor Soeterik's knowledge of
- 25 me, so turned down my case and that sort of do they want their cake and eat it, so I had the
- 26 best of both worlds. But they used -- the problem is they used Victor Soeterik, he was ACC
- 27 accredited psychological on the team and I thought how dare they, at Lake Alice and now
- 28 this. So --
- 29 Q. Right, but he --
- 30 A. It's all right, we're used to everything being stacked against us, but it's just incredible.
- 31 Q. Just for a correction, yesterday he did write to ACC --
- 32 A. Ruth Dyson, she turned it down. Now I've tried to track that letter down and I can't find it.
- 33 ACC haven't got it on their today's file, their old files, and we tried at the ACC Minister's
- 34 office and they cannot find it.

- 1 **Q.** So --
- 2 **A.** And you had something to do with that.
- 3 **Q.** Let's just clarify. For the record, after ACC turned you down --
- 4 **A.** Yeah.
- 5 **Q.** -- you went to the minister and asked her to do a personal review?
- 6 **A.** Yes.
- 7 **Q.** And although we can't find that, you recall that at the time?
- 8 **A.** Yes.
- 9 **Q.** She turned it down based upon what Victor Soeterik had said?
- 10 **A.** Yes. His clinical knowledge of me as a child, but now I'm an adult and he's still saying no.
- 11 I guess that's the power of the State.
- 12 **Q.** And I think I just want to clarify, I do not believe we have any documentation that shows
- 13 that Victor Soeterik was an ACC accredited psychologist?
- 14 **A.** No, he was on the team. I think Mike Wesley-Smith might have it, I haven't talked to him,
- 15 he might have it.
- 16 **Q.** It's not in your document --
- 17 **A.** I gave him the box with all my stuff in it.
- 18 **Q.** Okay.
- 19 **A.** And some of it I didn't get back.
- 20 **Q.** Okay, so we'll read from paragraph 130.
- 21 **A.** He also wrote that as far as can recollect Dr Leeks from time to time enlisted unmodified
- 22 ECT treatment to adolescents and nursing staff at Lake Alice were also at times authorised
- 23 to use Paraldehyde injections for poorly controlled adolescents and adult patients.
- 24 But this downplays the severity of what happened and the regime of abuse and
- 25 torture of us kids. The ECT wasn't time to time, it was dished out every week and the same
- 26 with the Paraldehyde which you could get any day of the week.
- 27 With these reports to ACC by people who were part of the abuse at Lake Alice, if
- 28 only by virtue of knowing about it and not stopping it, the two people from the same
- 29 profession as Dr Leeks, it is little wonder why ACC claim he has not been approved. They
- 30 did not want to open the floodgate door because to do this we would be -- to admit that the
- 31 psychiatric treatment at Lake Alice with drugs and ECT caused lasting damage. I
- 32 understand that Ruth Dyson, the ACC minister, reviewed the ACC decision to use -- and
- 33 used the Victor Soeterik report as a reason why she held up their decision.
- 34 **Q.** Now we'll move to your complaint to the Police, if you want to have a drink of water, Paul,

1 or have a pause, you're doing very well but we've still got a bit to read.

2 A. With the Medical Practitioners Board of Australia investigation now closed, the remaining
3 course of action was to file a criminal complaint with the New Zealand Police. They were
4 already investigating complaints laid by CCHR and Grant Cameron on behalf of 41
5 claimants, 41 Lake Alice victims since 2002. CCHR helped compile my complaint which
6 was filed in 2009.

7 Steve Green of CCHR and I visited Detective Malcolm Burgess and handed him
8 the complaint. To assist Burgess with his investigation I informed him about the Lake
9 Alice statements that were obtained by Crown Law for the Cameron case. He was not
10 aware of these. There were 36 statements and through my MP, Tau Henare, we put
11 pressure on Finlayson, Attorney-General, to release them to the Police. However, they
12 were released -- they released six of them and maintained the rest under confidential legal
13 privilege.

14 Later in -- Police finally get hospital child abuse papers New Zealand Herald, 1
15 November. In other words the story. Later in 2009 the Police conducted their investigation
16 saying they could not mount a criminal prosecution which might be successful. Police gave
17 factors of the time since the Lake Alice events took place. Unavailability of witnesses and
18 the likelihood of a defence there was already -- had already been investigations as reasons
19 not to mount a prosecution.

20 In 2015 I applied to the Police for a copy of the report of the investigation
21 regarding my complaint of ill treatment and torture. This report included how the Police
22 considered a charge would be considered in relation to an occasion with.

23 Q. Ectonus?

24 A. Ectonus Therapy was used on me in 1974.

25 Q. Let's go to paragraph 140.

26 A. Despite this finding, the Police still did not prosecute. After the decision by Detective
27 Malcolm Burgess I was interviewed on the Radio New Zealand on 30 March interview. In
28 the interview I said that I was -- this was good because we can now take the case to the
29 United Nations, my idea. The United Nations was the highest in the world. Anyway,
30 GRO-B, the Wellington lawyer who picked -- for the Minister of Health who picked up on
31 some of the Lake Alice survivors in the mid 1990s also came to the same radio show. His
32 position was the Police were correct in not prosecuting and doubting the United Nations
33 could do anything further. He thought the Lake Alice victims should be happy with the

1 progress they had made and should move on. GRO-B

2 Paul's wasting his time going to the UN. In 2014 I laid a complaint with the
3 Whanganui Good Health. This is very important for the Crown as well. In 2014 I laid a
4 complaint with the Whanganui District Health Board concerning mental illness diagnosis
5 which has been made when I was 13 years old admitted to Lake Alice Children's
6 Adolescent Unit. I sought correction of information about the flawed diagnosis when I was
7 admitted to the unit. This was based on the reports by Judge Gallen, Sir Rodney Gallen and
8 Professor Walter whose report was produced by the Police from Australia who conducted
9 the investigations into the treatment of children of Lake Alice and found that many of us
10 were not actually mentally ill.

11 Freezing records. I think I'm the only one who I've got my frozen medical records
12 and this is how it works. The State has not thought of your children, for insurance
13 purposes, nothing. So if your children go into care, or diagnosed by a psychiatric doctor,
14 and with insurance, they say oh have you got any medical history in your family?
15 Psychiatric. No. Was your parents in psychiatric hospitals? No. But if you have a claim,
16 crash a car, house burnt down, they can turn down your claim. And this has not ever been
17 mentioned in the conversation of survivors, and it affects -- affected generations of your
18 family members and it needs to be looked into, because what happened at Lake Alice, like
19 I said, was flawed diagnosis and this is part of -- we've got to live with this for the rest of
20 our lives.

21 Why do we have to keep paying? Why doesn't the State do it automatically? So if
22 your children have something wrong and a doctor comes along, problems at school, a
23 psychiatric person can use your parents or your -- or us as the excuse to -- and it's not fair, it
24 needs to be changed. So I've got my files frozen and I hope that could be a
25 recommendation with this Commission for all the others, they have a right to have this.

26 **CHAIR:** Just to be clear, Paul, you got Whanganui Health Board to correct the record, your
27 record, is that what you're saying?

28 A. To be truthful, Victor, he done it.

29 **Q.** He did it.

30 **QUESTIONING BY MS JOYCHILD:** I think they refused to.

31 A. No, they done mine only.

32 **CHAIR:** Yes.

33 A. But the others, all the other claimants should have a right, because based on the response

1 from Helen Clark said it was, in her apology, it should be solely based on that for a start,
 2 admitting liability, just because we signed a contract saying we lose all that way of -- so we
 3 can't claim anymore, there has to be something given back to us. And if maybe the
 4 Commission could have that in their report please.

5 **Q.** So what you're saying is that you would like, as part of the redress --

6 **A.** Yes.

7 **Q.** -- for Lake Alice survivors is to have their records corrected where they've been incorrectly
 8 diagnosed with mental illness?

9 **A.** Yes, because a doctor can come along [**Applause**] in the future --

10 **MS JOYCHILD:** That's a popular recommendation.

11 **CHAIR:** I think it is by acclamation. Yeah that's right, so if insurance companies or other people
 12 are looking into you, they can't rely on the --

13 **A.** Looking into your kids.

14 **Q.** And into your -- yes, looking into your own children.

15 **A.** Yeah. I've got another problem at the moment, GRO-B.

16 GRO-B

17 GRO-B

18 It's going to be another generation.

19 **Q.** Another generation --

20 **A.** I hope not.

21 **Q.** We've heard what you've said about the medical records and we will take a note of that.

22 **A.** Thank you.

23 **QUESTIONING BY MS JOYCHILD CONTINUED:** We'll now move on to the United
 24 Nations. Paul, I've got a note saying that Steve Green has arrived and would like to sit with
 25 you. Steve was the person who went to the United Nations with Paul. So would you like
 26 Steve to sit with you? [**Steve Green joins**]

27 **CHAIR:** The words crowded house spring to mind here but that's fine, there's always room for
 28 one more.

29 **A.** So freezing the records was another one of our skills, thanks to Victor and myself with our
 30 good skills. The woman at Good Health held all the mental health records from the
 31 adolescent unit. They refused to investigate the matter but agreed to accept a written
 32 correction from me, for my claim.

33 **QUESTIONING BY MS JOYCHILD CONTINUED:** Can I pause there, Paul, I think we've

1 done that, we should start at paragraph 146 because you've only got 10 minutes left.

2 A. I need 5 minutes for me.

3 **CHAIR:** Don't worry about the time, we can always go over. Mr Green, welcome.

4 **MR GREEN:** Thank you, I apologise for being late.

5 **CHAIR:** That's perfectly all right, you're welcome, the team is growing.

6 **QUESTIONING BY MS JOYCHILD CONTINUED:** So you're now at paragraph 146 and
7 you're talking about the United Nations.

8 A. I'd just like to do one more thing, which is very detrimental to all of us survivors, that we
9 all had to go through. It was highlighted by Dr Leeks who made the diagnosis and
10 considering children and adolescents in his care were murderers, rapists and liars and that
11 we had shown no remorse for what happened at Lake Alice.

12 So after we knocked Dr Leeks' income off him with the Victorian Medical Board,
13 we done the Police thing, we done the freezing of files, it wasn't just going to be for me but
14 we had to do a test so I was a test dummy, but job done, so it was proven that we can do it.

15 So Steve Green, the director of CCHR, had made a submission about the Lake
16 Alice Child and Adolescent Unit to the United Nations against torture in 2009, 2012, 2015.
17 But basically in layman's terms we gatecrashed their party, which was the six periodic
18 review, because we got permission to be there they didn't expect us to be there, but it was a
19 periodic review not a case against the Torture Committee.

20 **Q.** Right.

21 A. This was the right time to go as the next review was four years later and we would have
22 been too late. So we did some fund-raising and we eventually done fund-raising on a
23 fishing boat which was mine. So then we flew to Geneva and attended the UNCAT, United
24 Nations Committee Against Torture sessions. Steve and I held two private sessions with
25 the Committee and I got to tell my story. I was thanked for turning up. One of the
26 Committee members said that many victims of torture are dead and we do not get to talk to
27 them, so we appreciated you attending. Wow.

28 Una Jagose, the Crown Solicitor, was representing the New Zealand Government.
29 At one point she said New Zealand Police do not shoot people, they just taser them. I stood
30 up and shook my head in disapproval so as she and others in the room would notice. Then
31 the spokesman for the Prime Minister's office took over, apologising that Una Jagose didn't
32 have it quite right.

33 While we were there we got to meet and talk to Felice Gaer who was and is a key
34 person in the Committee Against Torture. She was very interested in our case.

1 The UN Committee Against Torture in 2015 concluded observations that the
2 New Zealand Government had failed to investigate or hold any individual accountable for
3 the nearly 200 allegations of torture, ill treatment against minors in Lake Alice. By 2017
4 there was no independent investigation of what happened at Lake Alice, it did not look
5 good for the Government was going over to do one. So I got with Victor Boyd, the
6 researcher for CCHR, and we looked at the possibility of putting a formal complaint into
7 the United Nations against torture.

8 In order to do such a complaint, we had to have everything, we had to exhaust all
9 remedies within the country. We agreed to this, so Victor put it together, research and the
10 documents along with the new CCHR director, Mike Ferriss. The formal complaint was
11 filed on 10 July 2017 stating that the treatments at Lake Alice was degrading and tortuous
12 and that the New Zealand Government had failed to properly investigate these. The
13 New Zealand Government responded to the complaint trying wriggling out of their
14 responsibility to properly investigate which occurred at Lake Alice, even claiming there
15 was not a public interest to do so. New Zealand Government response, yeah.

16 CCHR responded showing how the New Zealand Government were really
17 dodging the issue by offering lots of information but no substance. No investigation had
18 taken place and no-one had been made accountable of the ill treatment and torture.

19 Under the Convention Against Torture they were obligated to. The UN
20 Committee Against Torture upheld our complaint and we were sent the findings on 29
21 December 2019. Their 16 page decision vindicated everything we had been claiming as
22 victims of torture abuse in the psychiatric hospital, that the Government acted irresponsibly
23 in not properly investigating what happened at Lake Alice and therefore in breach of its
24 obligations under articles 12, 13 and 14 of the Convention and directed the New Zealand
25 Government to remedy the breach.

26 **CHAIR:** Just take a deep breath would you, Paul, so our typist can catch up.

27 A. No-one from the Government contacted me through(sic), deadly silence, and as of today,
28 still nothing. I don't think they saw it coming. A lot of supporters did call me and message
29 me giving congratulations and saying really well done. With over 40 years of stonewalling
30 and whitewashing and millions of dollars in defence, the New Zealand Government needs
31 to show some heart and tell the truth and do what the UN Committee Against Torture have
32 urged and to uphold the law throughout in all this country.

33 The gutless ambitions of Crown Law who work for the Government with
34 seemingly unlimited resources should fall into line with what this Commission

1 recommends and to support the victims of State abuse, not to work with conflicts of interest
2 to the advantage of the State.

3 They should be not working for the best interests of the Government but to allow
4 survivors who have little or no resources to obtain proper redress and to make it possible to
5 prosecute those people responsible for the abuse. The first step is not discarding the claims
6 of abuse but to really investigate them.

7 How much blood has to be spilled before real justice can be obtained. Certainly
8 40 years is too long and people have died in the process, some directly related to the abuse
9 they received. Their blood is on the hands of the Government. So do the right thing and
10 tell the truth.

11 **Q.** I'll just pause you there. Paul has something else he wants to present. It's now 1 o'clock,
12 I've been given a note by the Crown saying that they do have more time if you want to wait
13 and do the rest of it after lunch, because one of their witnesses will not be giving evidence
14 this afternoon.

15 **CHAIR:** We're going to leave it up to you, Paul. We can either take a break, have lunch and
16 come back and finish, or you can carry on now while you're here and get it over and done
17 with, it's entirely up to you.

18 **A.** I was wondering if that the Una Jagose Crown Law thing, so they could think about it over
19 lunch, if it could come up on the screen, would it be possible now before we go to lunch?

20 **QUESTIONING BY MS JOYCHILD CONTINUED:** It's going to be on the screen because it's
21 part of your 3 minute video.

22 **A.** Yeah, but that's separate so I can ask the questions.

23 **Q.** Okay.

24 **A.** Did you get a copy of that to read it?

25 **Q.** Not yet.

26 **CHAIR:** Okay, so what you're saying is you'd like to have a break, let them have a look at it first,
27 then we'll come back and do it, is that what you're saying?

28 **A.** Yeah, over their lunch.

29 **Q.** What a good idea.

30 **A.** Because it's pretty personal.

31 **Q.** Okay, that's probably a good idea.

32 **A.** Because I was wondering later if they could respond sometime, not to me or after, or maybe
33 Monday with Una Jagose.

34 **Q.** Exactly, I get it.

1 A. What it is, it says the youngest was 4 years old. So far in this Commission I've seen a 6 and
2 a 9 year old being minimum age; it's not.

3 **Q.** So let's do that. If this is all right with you Paul?

4 A. Yeah.

5 **Q.** We'll take the break, Crown can have a look at what you're going to be saying in advance,
6 which I think is very fair of you to give them the opportunity, then we'll come back and
7 listen to that afterwards, and we'll do it that way. Is that all right with you Ms Feint?

8 **MS FEINT:** Yes, absolutely.

9 **CHAIR:** Thank you. Let's take the lunch adjournment, we will come back at 2 o'clock I think.

10 **Adjournment from 1.00 pm to 2.25 pm**

11 **MS JOYCHILD:** Good afternoon Commissioners.

12 **CHAIR:** Good afternoon Ms Joychild.

13 **MS JOYCHILD:** There are three small components Mr Zentveld wants to do by way of finishing
14 his evidence. First, which Mel will hand you, is a document which hasn't had enough time
15 to be put up as an exhibit and also it's not a complete document, but when you've got it Paul
16 will talk about the significance that he sees in it.

17 **CHAIR:** Perhaps if you can just identify what it is for the record.

18 **QUESTIONING BY MS JOYCHILD CONTINUED:** It's an e-mail from Alex Sie who was
19 Tau Henare's secretary. Tau was an MP at the time and it was from the secretary to Tau
20 and it was about Lake Alice. I'll read it and then you can -- Paul can talk to it. Una Jagose
21 Crown law says "Ministerial waiver presenting police from seeing the affidavits of staff
22 members taken in 1978 (youngest child receiving ECT was 4) is held by the MOH and
23 Crown Law."

24 Paul, would you like to comment on that?

25 A. I think that was very important. They were doing a good turn, I don't know if they were
26 breaking the law, but to me, I've seen that all around the world. So that is an admission by
27 Una Jagose and I felt yesterday it needed to be presented to the Commission because it's a
28 Government memo, and two, we also had a meeting with David Collins while he was
29 Solicitor-General paid us a visit, on some of his time off and he said to Steve Green and
30 with Victor Boyd, these two here, the youngest was -- so that compliments it.

31 **CHAIR:** When you said the youngest was, you held up 4 fingers.

32 A. He did. So to me yesterday was okay, but when you're saying the youngest was 6 to 8
33 years old, well, I think 4 is very, very bad because I've led this charge right from the start
34 and I've been brought up where to me all kids are precious and all children are precious.

1 **Q.** We're very grateful to you.

2 **A.** And this should have never happened.

3 **Q.** We're grateful to you having whoever seized it, for finding it and for showing to us, very
4 important evidence.

5 **A.** Otherwise it would have been chucked out of the bin when they moved on from being the
6 MP for Te Atatu to moving on to the Māori Council.

7 **Q.** Thank you very much for that.

8 **A.** Thank you.

9 **QUESTIONING BY MS JOYCHILD CONTINUED:** The second aspect of the finish of your
10 evidence is Paul would like to show a 3 minute video, and then he'll speak to it.

11 **[Video played]. [Applause]**

12 **A.** Thanks very much. That has been our journey.

13 **CHAIR:** Splendid. I especially like the one of you on your fishing boat.

14 **A.** We work all weathers.

15 **Q.** Isn't that a metaphor for you.

16 **A.** Well, it's been my saviour actually because I take 9,000 people out a year and we haven't
17 cancelled and we work all weathers, but we don't fish in the rough, we take from 5 year
18 olds upwards. That's my healing, that's what's kept me going.

19 **MS JOYCHILD:** The final --

20 **CHAIR:** But wait there's more.

21 **QUESTIONING BY MS JOYCHILD CONTINUED:** Paul's going to make just a small
22 additional statement.

23 **A.** Thank you. I would like to acknowledge CCHR for the belief in us. They believed us,
24 and they cared. The children of Lake Alice, I support their efforts to seek justice which is
25 why I joined forces with them. There were other staff being psychiatrists at Lake Alice
26 including Dr Pugmire. They were indirectly or directly complicit through their silence and
27 therefore culpable. Any one of these, any one of them could have spared and prevented
28 hundreds of children being abused, if those Government employed hospital staff had
29 reported what we know they witnessed or knew about.

30 There needs to be some kind of legislation that must reflect the culpability and
31 accountability to prevent such children abuse happening in the future. I must compel those
32 who observe children and adolescents being harmed in mental health and other child
33 institutions to report child endangerment, plus it needs to protect the whistleblowers but
34 also hold people account if they fail to act. I saw some of the children that were

1 complaining that were being raped in other institutions and then they would get punished
2 by the staff for -- that's got to change. The system has to change, there has to be a
3 protection for them somehow.

4 **CHAIR:** You mean to complain safely?

5 A. Yes, without getting punished for complaining. This is what this basically is all about from
6 institutions and Lake Alice. There needs to be -- did I read that? Thank you. From this
7 psychiatric horror must emerge protections to ensure no child will endure what we have.
8 For those of us who have suffered at the hands of Selwyn Leeks, a psychiatrist employed
9 by the State, one way to help us heal is to criminally charge him so that he knows that there
10 is recognition of the fact that what we -- what he did was criminal. The Royal Commission
11 cannot file such charges itself but it should certainly recommend and strongly endorse for
12 protection. My strongest belief is all children are precious. **[Applause]**

13 There's one more little stage, a summary of the -- the wellness package that Helen
14 Clark, that she suggested when she was Prime Minister was a very good package and as
15 soon as National got in they dumped it, they canned it, and then all they did was have two
16 of the MPs just going downhill and rape our compensation packages, and there was
17 evidence only last week I think was in the news, Sonja Cooper on TVNZ, they screwed
18 them right down to \$5,000. Come on, where's the humanity in that?

19 So I have a question for the Commission. That is, for myself and others, so my
20 win at the UN is for me, plus also the rest, but the Crown want to put me into together as a
21 controlled group, so are they going to try and do the -- do what history has told us in the
22 past, and try and get us down to a minimum package.

23 Do we have to spend \$1 million to fight our compensation package if that ever
24 arises from this Commission? Doing-- lawyers that have no experience in this past taking
25 one or two years to catch up while we fight people like Crown Law and Una Jagose's
26 tactics. Do we have to have a psychiatric report as adults to claim our compensation and
27 the right for justice in the way of a compensatory -- proper compensation instead of another
28 ex-gratia payment, that the fees will be taken off us again? A watchdog should be set up
29 for survivors to watch not us but for our -- on behalf, like another group to be -- that's on
30 the outside and not against us.

31 But also, yeah, that was what I was worried about. And the last thing, a
32 conciliating trauma team. I'm actually quite shocked that people come out for 40 years,
33 they've held it within, they're lucky they haven't committed suicide, but some have. This
34 has been horrible for all of us in the 40 to 50 years that it's been going on, and this is -- it's

1 just not humane how the Government can continue to keep this going. It is wrong.

2 I have my beliefs, I don't want beliefs they've got, but it's just -- where's the
3 support for victims, you know, we're the victims, we're not the perpetrators. I hope, but I
4 believe, this Cabinet have set up a new group, this task force with secretary(?) and I believe
5 that they could be doing a good job. And I want to thank them as well and I hope for the
6 future that they can do the job for us instead of trying to save the Government money at our
7 expense.

8 And there's one more thing. On Monday I'm waiting for -- to get back, I contacted
9 the local iwi down in Marton because we want to do some healing of our own. The money
10 won't do it, going down to the Police to be show ponies for them to tell us they're not going
11 to charge for anything, we don't want to do that, because that's just continuing -- what if
12 they say no? Then we're going to make our journey all the way back and it's been hard
13 enough as it is, the Police should bring their judgment to this Commission.

14 But anyway, we're going to do a wellness -- a healing and a blessing for Lake
15 Alice as soon as things have been confirmed with the owners and the local iwi we'll be
16 taken over, hopefully, and if any of the Commissioners want to come, or any of the staff
17 you are most welcome, but this is the thing, we don't want any Government help, we don't
18 want any commissioners help, we're used to doing things on our own and we'll continue
19 because this is all about the trust, and thank you for believing and thank you for caring.

20 **CHAIR:** Thank you. Can I just pick up on something you've just said there, because as I hope
21 you know and everybody else knows, the Commission is going to be producing a report by
22 the end of the year into redress. Now redress means everything that people, survivors feel
23 they need and looking at ways of making it easier for survivors to get what they need from
24 all sorts of abuse, but including Lake Alice. I'm interested to hear what you -- a little bit
25 more, because you're talking about this UN, a minimum package, costing \$1 million to
26 fight the package, etc. Can you tell us, and if you can't do it now we will we'd love to hear
27 from you at later stage, even sit down, talk about it and write it down, what you see as the
28 package.

29 I think we hear you very clearly on support for survivors, a conciliatory trauma
30 team, those sorts of things, but in terms of money and other ways of helping survivors,
31 what do you see as being non-argumentative ways of giving satisfaction to survivors?

32 A. Okay. On the Australian Royal Commission the legal fees for mandatory for the lawyers
33 over there were 10%, this is me having an interview with another Australian survivor.
34 Their legal fees were 10%, mandatory over here was 40% for all lawyers for their fees,

1 Mr Grant Cameron, because he underestimated at \$6.5 million, he took 30%.

2 **Q.** So it's capping lawyer's fees where lawyers are involved capping the amount that they are
3 take out of the settlement, is that what you're saying?

4 **A.** Yes, now -- and so did MSD, they underestimated their package that they needed more for
5 MSD payments for compensation for other things.

6 The other thing that worries me is, when Amy Adams was Minister of Justice she somehow turned
7 the word "ex-gratia payments" into the word "compensation". When I looked last there's
8 two different meanings, but somehow they've turned it and I think the UN's answered that
9 call.

10 The other one was fighting \$1 million, because this is how long it takes, at least
11 two years to get a new lawyer to learn all about what's happened here and it's just -- you're
12 paying them.

13 **Q.** To bring themselves up to speed?

14 **A.** Yeah, and yet Crown Law, if I want someone from the Commission here as my lawyer, not
15 allowed to because it's called conflict of interest. But throughout all our history from the
16 starting with David Collins being Dr Leeks' lawyers and then Helen Clark giving him to
17 the -- us to the survivors of the second round, and then going to be Solicitor-General and
18 then going to a High Court appellate judge where the Police will not ask him what
19 happened to you here, when he's been on all sides, because he's now appellate judge which
20 hides him so he's not allowed to be interviewed by the Police, it's just -- it's showing us that
21 no-one cares and if we have a chance to fight with a -- because we've got to fight for our
22 compensation yet, this is the next stage.

23 **Q.** That's what I'm asking you about really.

24 **A.** This is what I'm worried about. And how many times do we need to go to court? In the
25 meantime there's the hard fight with Una Jagose through Grant Cameron's fight, through,
26 what's her name.

27 **Q.** Cooper Legal?

28 **A.** Cooper Legal, 98 claimants at \$10,000 a pop to get a psychiatric report as adults to get in
29 the door to what happened to them as kids. And also the property security, if you don't own
30 property, we want to get paid straight away, this is all the tactics of Crown Law, it's been
31 going on for a long time so they can't deny it. We're victims, we're not the enemy. It's got
32 to stop.

33 **Q.** Is there an alternative in your mind to going to court? Is there an alternative that doesn't
34 need so many lawyers and the legal process?

1 A. I wish there was, but this is the system.

2 Q. Well, I'm saying to you, this is the opportunity because we're writing a report on
3 alternatives to going to court, and we'd love to hear from you and your people about what
4 you see as good alternatives. I don't expect you to tell us right now.

5 A. I can tell you right now.

6 Q. All right.

7 A. Learning on the Australian version. A lot of the survivors went to Catholic schools and
8 they were boarding schools as well. So the Australian Commission come along and said
9 we're only worth this much, we'll pay this much. But in the meantime in the background,
10 the insurance companies for the churches and their health board, education board, they have
11 all have insurers companies, they paid out the survivors, and one survivor I was with, one
12 I met, he got \$1 million, half each, then a top-up with the Government. And that was for,
13 how long was he in there for Kelvin?

14 **KELVIN:** Two or three years.

15 A. Two or three years, yeah. And it makes sense, and I'm a tax payer, I pay over \$500 a week
16 in tax during the summer, I do over 100 hours a week, that's what's kept me going. But,
17 you know, there's got to be a point. Our Prime Minister is the commander in chief, as we
18 say, you know, we vote for them and it's like these State officials, they're in the jobs
19 lifestyle(?) and they've got to stop doing what they're doing. This has got to be for New
20 Zealanders, not for them.

21 And so there is many ways we can do this compensation thing so it's -- you can't
22 blame the Government for everything. At the moment the Medical Council, I would be
23 going for the insurance company for what was achieved yesterday. You know, they've got
24 to share the blame. And most State-owned enterprises are insured. I'm not a rocket
25 scientist and I lost my education at 12 but even I know that.

26 Q. I think in summary we could say this. There's got to be a better way.

27 A. Yes.

28 Q. There's got to be a better way.

29 A. Just keep Anne Tolley out of it.

30 Q. We'll keep the names out of it. I don't have anything else I want to ask you, I'm going to
31 ask my colleagues.

32 **COMMISSIONER ALOFIVAE:** Not any questions for you but just to say that I'm so impressed
33 with your tenacious warrior spirit, it's absolutely to be admired, thank you so much.

34 **[Applause]**

1 **CHAIR:** And the last word goes to Commissioner Gibson.

2 **COMMISSIONER GIBSON:** I'll go straight to thanks, and first a lot of people have got a lot to
3 thank you for, Paul. It's a privilege to be given the thanks on behalf of the Inquiry but
4 there's so many people have can thank you for. I think you talk about protection of
5 children, I didn't pick up much of the video but was that you at the start as a child and was
6 that --

7 A. That was a little bit younger.

8 **Q.** Rural Taranaki?

9 A. Yes.

10 **Q.** Yeah, I know the --

11 A. Rahutu.

12 **Q.** I know it well. Yeah, it's very famous for fighters for human rights who have been
13 incarcerated.

14 A. I was just on a dairy farm.

15 **MS JOYCHILD:** He's fighting for the cows.

16 **COMMISSIONER GIBSON:** Yes.

17 A. I didn't ask for a lot did I. Anyway, there was someone in my opening that I never really
18 wanted to thank my way but I'd like to do it now, I know it's going to be embarrassing, but
19 if Judge Coral Shaw could ask up Rosslyn Noonan please.

20 **CHAIR:** Of course. I summons Rosslyn Noonan to the front. Please come forward. **[Applause]**.

21 **[Flowers presented]**

22 A. I'd just like to say thank you for Roslyn, for all her hard work making this happen up there
23 with Jacinda and she worked so hard to get this Commission going, so this is a little thank
24 you from myself and all affected survivors.

25 **MS NOONAN:** I'd just like to say that Paul and the survivors are the heroes here, they really are,
26 and we need to find a way to recognise them properly through this Commission but also
27 beyond that. Kia ora koutou, ngā mihi nui ki a koutou. **[Applause]**

28 **CHAIR:** Commissioner Gibson's still going he tells me.

29 **COMMISSIONER GIBSON:** Thanks Rosslyn, thanks for -- you talked about being strong and
30 stubborn, I also think tenacious and you have the patience of a fisherman.

31 You said -- you started off this hearing speaking almost the first word there, you've
32 been the last survivor and I don't think even once this hearing's gone this is the last word
33 we'll hear from you on it. I think you articulated probably better than ever that's been heard
34 in Aotearoa New Zealand, torture is what's happened there, clear and graphically.

1 and Adolescent Unit at Lake Alice Psychiatric Hospital. This resulted in unacceptable
2 delays in the investigation and meant that not all allegations were thoroughly investigated.
3 The Police wish to apologise to the Lake Alice survivors for these failings. The Police are
4 committed to assessing policy and how national investigations are resourced and are
5 committed to ensuring that this not happen again.

6 The New Zealand Police acknowledge with the benefit of hindsight that the scope
7 of the investigation between 1977 to 2010 should have included the use of Paraldehyde as
8 punishment.

9 **Q.** And then there's an agreed statement of facts in relation to the investigation period between
10 2002 and 2006 and that's the period to which Lawrence Reid Detective, I don't know his
11 rank, Detective Lawrence Reid's investigation related?

12 **A.** Yeah. In relation to the investigation period 2002 to 2006, in 2002 Police received from
13 Grant Cameron 34 statements from survivors who wanted the Police to investigate their
14 complaints of abuse. It appears 14 or 15 of those statements may have been lost. It is
15 unknown when these 14 or 15 statements were lost but the schedule prepared by Mr Reid in
16 2005 only contains 20 statements. It is unknown whether any investigative steps were
17 taken in respect of these complaints but it appears unlikely. Those statements have since
18 been forwarded to Police in 2006.

19 **Q.** Thank you.

20 **A.** A 2018 review of the 20 statements held by Mr Reid revealed 11 of the 20 contained
21 allegations of sexual and physical assaults. No file was entered in LES, the Police
22 document locator database, at the time. As a result, a number of file documents were not
23 saved and can no longer be located.

24 A 2018 review of the material available from 2003 to 2006 found the following
25 investigative steps undertaken were:

26 An opinion sought from Crown Law in respect of one complainant, Mr Halo;

27 Inquiries by Mr Reid to establish whether staff members were still alive;

28 Interviews of Mr Halo and Ms Natusch by Inspector Taare;

29 Alleged offending and named suspects schedule was prepared based on the 20
30 statements held;

31 Basic Police checks on named staff.

32 Correspondence via letter with Victor Boyd from Citizens Commission of Human
33 Rights New Zealand;

34 Correspondence via letter with Director-General of Health Doctor Karen Poutasi;

1 Correspondence via letter with CLAS;

2 Discussions with Health and Disability Commissioner Denise Brett.

3 In 2003 a case law memorandum recorded the Detective Superintendent's view
4 that he did not consider at that stage that the investigation was warranted, given the
5 historical nature of the allegations, and the context of the conduct occurring in the
6 psychiatric facility where ECT was administered.

7 In 2004 Police received a legal opinion in respect of the Hake Halo complaint
8 from Nicola Crutchley, Deputy Solicitor-General. Paragraph 48 of that opinion advises
9 Police to conduct further inquiries in order to establish whether there should be a detailed
10 investigation. Paragraphs 49 to 55 then detail a number of suggested inquiries.

11 Those other investigative steps suggested by Crown Law at paragraphs 49 to 55 of
12 the opinion were not undertaken until 2006.

13 Police did not actively progress the complaints they had until 2006 as Mr Reid
14 believed that the totality of the Crown Law opinion, together with the fact an unnamed
15 sexual abuse suspect was deceased, indicated a successful prosecution was unlikely.

16 Police acknowledge, with the benefit of hindsight, the scope of the investigation
17 was too narrow.

18 **Q.** Thank you very much Detective Superintendent. So that statement of facts takes us up to
19 the period 2006 and then we're going to move to Malcolm Burgess' and my friend Ms
20 Hughes is leading his evidence.

21 **CHAIR:** Very well, thank you.

22 **MS FEINT:** We'll change places and you can step down now.

23 **CHAIR:** Yes, you may step down Detective Superintendent.

24 Good afternoon Ms Hughes.

25 **MS HUGHES:** Good afternoon ma'am.

26 **CHAIR:** Welcome to the Commission.

27 **MS HUGHES:** Thank you. I have been asked by Counsel Assisting to read into the record the
28 statement of Retired Superintendent Reid. Does the Chair require that to occur, or are you
29 happy the statement exists on the record in any event?

30 **CHAIR:** This is not something I've been alerted to do so I need to hear from our counsel. What's
31 the situation Ms Finlayson-Davis?

32 **MS FINLAYSON-DAVIS:** I think there's been a misunderstanding. It was the statement that's
33 just been read out from Detective Sergeant Fitzgerald.

34 **CHAIR:** Yes, that's right, and the other statement is taken as read but it's not going to be called.

1 **MS HUGHES:** Thank you ma'am, I was a bit perplexed as to the requirement in any event.

2 **CHAIR:** Yes, okay.

3 **MS HUGHES:** If the witness could be affirmed please.

4 **MALCOLM JAMES BURGESS**

5 **CHAIR:** Absolutely. Mr Burgess, welcome and thank you for coming. Do you solemnly,
6 sincerely, truly declare and affirm that the evidence you give to the Commission will be the
7 truth, the whole truth and nothing but the truth?

8 A. I do.

9 **Q.** Just talk into the microphone, please be aware of speed and noticing we've got signers.

10 **QUESTIONING BY MS HUGHES:** Do you confirm your full name is Malcolm James Burgess?

11 A. Yes.

12 **Q.** You reside in ?

13 A. Yes.

14 **Q.** You are retired?

15 A. Yes.

16 **Q.** And prior to your retirement you were a Police Officer?

17 A. Yes.

18 **Q.** You have completed a brief of evidence dated 6 April 2021?

19 A. Yes.

20 **Q.** Are there any amendments or corrections you wish to make to that brief?

21 A. There is one small amendment. At paragraph 3.8 it currently reads, "on 11 March 2002
22 Detective Superintendent Bishop, the then National Crime Manager, wrote to
23 Superintendent Graham Emery, who I believe was at the time the Chief Legal Advisor."
24 We should delete from "Superintendent Graham Emery" to "that time" and just leave "the
25 Chief Legal Advisor". It's not clear that he was writing to Mr Emery.

26 **Q.** Other than that correction, are you content with the balance of your brief?

27 A. Yes.

28 **Q.** So I want to talk to you about the circumstances in which you came to seek a legal opinion.
29 Do you agree that the Solicitor-General's guidelines require two factors to be met before a
30 prosecution can be undertaken, evidential sufficiency and public interest identified?

31 A. Yes.

32 **Q.** And both Messrs McArthur and Hall say they weren't required to consider evidential
33 sufficiency. Why was that?

- 1 A. I had considered evidential sufficiency and was satisfied, I was personally satisfied that
2 there was evidential sufficiency in seven of the cases.
- 3 Q. So why did you seek an opinion from Mr McArthur who worked for Police rather than the
4 Crown?
- 5 A. Pretty standard practice to seek a legal opinion from Police Legal, that's what they're there
6 for.
- 7 Q. And the information you provided to Mr McArthur included your preliminary report
8 regarding the various complaints, regarding the misuse of the ECT?
- 9 A. Yes.
- 10 Q. And what limitations did you put on him accessing your files?
- 11 A. None.
- 12 Q. And so assuming that Mr McArthur's opinion had supported prosecution of Dr Leeks, what
13 steps did you intend to take?
- 14 A. It would have required additional investigation, particularly interviewing the complainants
15 whom I had identified, there were sufficient evidence to proceed with. And other
16 investigative steps, it would also have required commencing a prosecution and extradition
17 proceedings.
- 18 Q. And that's obviously in relation to Dr Leeks?
- 19 A. Yes.
- 20 Q. What instructions did you give Mr McArthur regarding the need for a peer review of any
21 opinion he wrote?
- 22 A. I'd indicated to him that if he reached a view that the public interest test wasn't met, that he
23 should seek a peer review, I wanted some independence regarding the legal opinion.
- 24 Q. And what direction, if any, did you give Mr McArthur as to who the peer reviewer should
25 be?
- 26 A. None.
- 27 Q. At paragraph 6 and 7 of Mr McArthur's brief he says, and this is quoting you, "Each of the
28 complaints has been considered on its own, on its individual merits. It may be that
29 combined charges would enable other charges to be considered." He then goes on to say
30 that you didn't explain or elaborate what was meant by that statement. Can you do so now
31 please?
- 32 A. It was a rather clumsy identification of the potential for a propensity application. I could
33 have expressed it better.
- 34 **CHAIR:** Sorry, for a --

- 1 A. An application around propensity.
- 2 Q. Propensity, okay.
- 3 **QUESTIONING BY MS HUGHES CONTINUED:** And in paragraph 9 of his brief he records
4 that you told him that you had adopted a very conservative test when reviewing evidence.
5 What did you mean by that?
- 6 A. I had looked for those cases that I thought were most likely to be successful and I'd applied,
7 I think it's five criteria, to selecting those cases with a view to those being the cases that
8 would then be further investigated and prosecuted.
- 9 Q. Do you recollect what the five criteria were?
- 10 A. There needed to be a coherent account from the survivor, they needed to identify the
11 perpetrator, the presence of corroboration through medical notes or witness statements.
12 Because of the particular charge I was looking at they had to be under 16 years of age at the
13 time. And I'm sorry right at the minute the fifth one escapes me.
- 14 Q. If it returns to your memory you'll no doubt tell us what it is.
- 15 A. I will.
- 16 Q. So Mr McArthur, at paragraph 16, says that he cannot remember if he had access to
17 Professor Walter's report. What do you say?
- 18 A. I had made reference to Professor Walter's report in my report to the legal advisor. I felt
19 that I had considered Professor Walter's report in reaching my conclusions around
20 evidential sufficiency.
- 21 Q. Professor Walters was a medical expert who gave you advice regarding the use of ECT on
22 children and on Aversion Therapy?
- 23 A. Yes.
- 24 Q. So you took that together with your own investigation of the files to conclude that seven of
25 them merited prosecution?
- 26 A. Yes.
- 27 Q. Paragraph 67 Mr McArthur records that you did not tell him of the charges before the
28 Medical Practitioners Board of Victoria. What do you say to that?
- 29 A. My report did reference the fact that Dr Leeks had been facing disciplinary charges and that
30 they had essentially fallen over because he had relinquished his practising certificate.
- 31 Q. So what relevance did you think that matter had in relation to your inquiries?
- 32 A. Not a great deal really, it was -- it had never advanced, it had never progressed beyond
33 them initially bringing their disciplinary charges.
- 34 Q. And at paragraph 73 to 74, Mr McArthur describes it as extraordinary to have been asked

1 for an opinion on only the public interest part of the test and nothing asked regarding the
2 evidential sufficiency. If he'd expressed that view to you, what would you have done?

3 A. I would have invited him to consider evidential sufficiency.

4 **Q.** So at the point that you've asked for a legal -- for legal advice, you have already satisfied
5 yourself that there's evidential sufficiency in relation to seven charges?

6 A. I believed I had, yes.

7 **Q.** So why didn't you lay the charges in relation to those seven complaints?

8 A. Well, essentially because the second leg of the test is the public interest requirements under
9 the Solicitor-General's guidelines and the advice I got, both initially and under peer review,
10 was that the prospect of a successful prosecution was -- there couldn't be.

11 **Q.** And but for that legal advice, what would you have done?

12 A. If the advice had said that the public interest test was satisfied we would have continued the
13 additional inquiry with a view to prosecution and extradition.

14 **Q.** Finally, Mr Burgess, the question of hindsight, with the passage of time and assuming that
15 you had been properly resourced, is there anything that you would have done differently?

16 A. Look I think the resourcing issue is a very live one. I don't think it was ever intended that
17 the preliminary inquiry was going to take three years, but the reality was that with the
18 resources available, that in fact is what occurred. I think allegations like this need to have
19 an investigation team assigned that can consider the full scope of all of the allegations
20 rather than perhaps prioritise and focus on the ones that seem most likely to be successful.

21 **Q.** Thank you, would you remain there and answer questions.

22 **QUESTIONING BY MS FINLAYSON-DAVIS:** Good afternoon Mr Burgess. My name is
23 Emma Finlayson-Davis, I'm one of the Counsel Assisting the Inquiry. I'm going to try and
24 follow a chronological approach to my questioning so that we can understand the course of
25 the investigation between 2006 through to 2010. We can plot some of those key decisions,
26 perhaps understand some of the context around them, and then examine in a bit more detail
27 what the effects of those decisions were.

28 So I'm going to take you back to the beginning of your investigation and ask you to
29 have a look at -- we're going to bring it up on the screen, the investigation plan that you
30 prepared in June of 2006, that's NZP050. While that's being brought up, it may be
31 self-evident in the title, Mr Burgess, but an investigation plan sets the framework for an
32 investigation, it identifies in a general sense the allegations you're going to be investigating,
33 and it sets out the steps that you're going to take to investigate them. Is that a sort of a
34 rough summary of an investigation plan?

- 1 A. It is, yes, I think it also identifies some of the resources that you might require.
- 2 Q. Of course.
- 3 A. And any other significant factors that might require attention.
- 4 Q. So we've got that up now, and perhaps I should have read in the date. That's just at the top
5 right-hand corner, I'm sorry. So this was a plan initiated 20 June 2006?
- 6 A. Yes.
- 7 Q. And this is a document that you prepared; is that correct?
- 8 A. Yes.
- 9 Q. And if we can bring up those investigation objectives there again. If you can read those out
10 for us Mr Burgess?
- 11 A. Certainly. The investigation objectives:
- 12 "Number 1, to conduct a criminal investigation into the allegations by 35
13 complainants that they were subjected to unlawful electroconvulsive therapy while patients
14 at Lake Alice Child and Adolescent Unit between 1972 and 1977.
- 15 Second objective was to investigate specific allegations of sexual assaults and/or
16 violations by named suspects during the same period.
- 17 3, to establish whether there is evidence of criminal liability on the part of any
18 person that can be properly put before the courts in 2006.
- 19 To ensure that the investigation is carried out within the best practice guidelines.
20 And to ensure the investigation team meets all legal responsibilities and
21 obligations."
- 22 Q. Thank you. If we go now to page 3 of that document. If I can take you to the far left
23 column entitled "Tasks" and then a subheading of "Complainants"?
- 24 A. Yes.
- 25 Q. That lists four tasks in relation to the complainants and again, perhaps you could read those
26 out for us?
- 27 A. Yes. "Number 1, locate and confirm interest in ongoing investigation;
28 2. record evidential statement;
29 3. consider medical examination;
30 4. consider the need to provide victim counselling or support during the interview
31 process."
- 32 Q. Those steps are in line with the relevant sexual assault guidelines that were in place from
33 2003; is that correct?
- 34 A. I believe so.

1 **Q.** I guess that ties back to your objective 4 that we've just gone through that the investigation
2 was to be carried out within best practice guidelines?

3 **A.** Yes.

4 **Q.** Were any of those steps taken, Mr Burgess?

5 **A.** No, this investigation plan was accompanied by a report recommending the establishment
6 of an investigation team to carry out those requirements. There was no team established
7 and the decision was made to carry out a preliminary inquiry with a somewhat narrower
8 scope.

9 **Q.** We'll come to those documents next. I guess for our purposes at this point in time, this was
10 the intention, at least from your point of view, that these steps would be undertaken?

11 **A.** That was my intention, yes.

12 **Q.** And if I can take you to the far right column, heading "Timings and other relevant
13 comment. When must it be done." We've got paragraph 1, "complainants not to be
14 approached until some evidential basis for their complaints is established through witness
15 interviews", and paragraph 2, "currently in receipt of statements prepared for civil hearings,
16 statements provide general information but are not specifically targeted at criminal
17 offending."

18 **A.** Given the limitation that you've identified in paragraph 1, namely that these
19 statements were prepared for a different purpose, can you help us understand what the
20 purpose, or why you took the approach that you did in paragraph 1 which was to say that
21 they weren't to be interviewed. I guess asking that again, why wasn't an interview of the
22 complainant the first step in your process of the complainants?

23 **A.** We already had the factual statements. We'd had a four or five-year delay between when
24 they were first provided to Police and when I took receipt of them. I was not sure that the
25 complainants, survivors would necessarily welcome an approach in the first instance. And
26 it seemed to me to be prudent to try and get some factual basis, some additional factual
27 basis that might provide corroboration to their statements before we went back to them to
28 have a more in-depth interview.

29 **Q.** Why did you think the complainants may not be wanting to be approached or interviewed?

30 **A.** I had a concern that some of them would have moved on, some of them perhaps with the
31 passage of time had decided that they no longer wanted to be involved in the proceedings.
32 I didn't want to be cold calling people to see where they were at, you know, several years
33 down the track from when they first provided their statements, and I wanted -- if we were
34 going to go back and talk to people, I wanted to be able to go to them with a sound factual

- 1 basis which would indeed support their allegations.
- 2 **Q.** In the ordinary course of investigation into physical and sexual harm, one of the first steps
3 would be an interview of a complainant, would it not, in an ordinary investigation?
- 4 **A.** Yes.
- 5 **Q.** And one of the purposes of that is not only to obtain their full account, but also to identify
6 lines of inquiry for the purposes of obtaining corroborative evidence?
- 7 **A.** Yes.
- 8 **Q.** Do you recall that one of the complainants, Mr Banks, asked you to be interviewed?
- 9 **A.** Yes.
- 10 **Q.** Perhaps if we can pull up that letter, that's NZP1252_0001. We'll see if we can get that a
11 bit bigger. That's a letter, the name has been redacted?
- 12 **A.** Yes.
- 13 **Q.** But Mr Banks did give evidence, or gave his statement with anonymity in this hearing.
14 This was a letter dated 21 November 2006, sent by you, and if perhaps we can just call out
15 that paragraph "I have copies".
- 16 "I have copies of your statements made in 2001 and 2005 regarding your Lake
17 Alice experience. I also have material provided by a Mr Boyd on your behalf. I do not
18 have any intention at this stage to seek further information from you by way of an
19 interview."
- 20 That was in response to a message you had received looking at the first paragraph
21 on 20 November. Is that correct?
- 22 **A.** It appears to be so, yes.
- 23 **Q.** So at this stage you have one complainant getting in touch and specifically asking for an
24 interview. We've also, or you refer to it as well in your statement, know that you had a
25 meeting with Mr Zentveld who we've just heard from in May of that year, I believe, May,
26 or perhaps April 2006?
- 27 **A.** I think it was April 2006.
- 28 **Q.** And he certainly let you know that he wanted the Police to investigate his complaint?
- 29 **A.** Yes.
- 30 **Q.** So you're aware at least of two complainants who made clear to you their desire to be
31 interviewed by the Police and for their complaints to be taken further. In relation to
32 Mr Banks, and you may know this from a review of the file. Were you aware that in fact a
33 family member had written on his behalf in 2005, written to the Police also asking what
34 was happening with his complaint? That's obviously before your time.

1 A. I'm not sure I am aware, or was aware.

2 Q. You mentioned I think before, in answer to one of my questions, that you prepared a report
3 that went to the Assistant Commissioner at that time, Peter Marshall?

4 A. Yes.

5 Q. And that was a report where you set out your initial thinking about the investigation. And I
6 think if we can bring that up, that's NZP316. And if I can take you, Mr Burgess, to page 4
7 of that document, paragraph 4. Starting with -- sorry, it's not paragraph 4, paragraph 6 my
8 apologies. And starting midway through "The circumstances." This paragraph you note:

9 "The circumstances in which the ECT was applied strongly suggest the treatment
10 is being given as a punishment to modify behaviour. Whilst no expert opinion has been
11 sought on the subject to date, the use of ECT in this matter is inconsistent with the
12 description provided to the Commission of Inquiry or the Ombudsman Inquiry in 1977."
13 You go on to note that, "ECT in either form is applied to the head. In addition to recording
14 the application of ECT, the statements record allegations of electric shocks being applied to
15 other parts of the complainants' bodies."

16 I'm interested in your comment that the description -- rather, sorry -- "the use of
17 ECT in this matter is inconsistent with the description provided to the earlier inquiries in
18 1977." Do you recall what you meant by that?

19 A. I'm not entirely sure. I think what I meant was that advice had been given to both of those
20 inquiries by Dr Leeks and that the allegations that had been made by the complainants were
21 different.

22 Q. I want to take you to another section of that report under "Credibility of complainants". I
23 believe that is page -- we've got that already. This is your initial view again of the material
24 as you read it at the time. You say:

25 "That said, there is significant corroboration of the complainants' allegations in the
26 medical notes and patient files. It is also anticipated that some of the staff from Lake Alice
27 will provide evidence that corroborates the allegations."

28 I won't take you any further through the document, but you go on to talk about the
29 various sections of the Crimes Act that might apply. You note that the application of
30 unmodified ECT as punishment, or the application of electric shocks, might justify the
31 consideration of section 195 of the Crimes Act, which is a wilful ill treatment of a child in
32 your custody or control. You also note the relevant sections of the Crimes Act that applied
33 in the 1970s in respect of sexual offending.

34 So if I could summarise the position in relation to your thinking at this point in

1 time, and that is 22 June 2006, you've drafted an investigation plan to consider misuse of
2 ECT, allegations of sexual offending against any member of staff, you've noted that you've
3 got significant corroboration on the file already and you've turned your mind to what the
4 charges might be in respect of the allegations, both in terms of the misuse of ECT and also
5 in terms of sexual offending. Is that a fair summary of where we've got to at this point in
6 your investigation?

7 A. Yes.

8 **Q.** You've also identified in that document, and I think you identified it earlier in your
9 investigation plan, the resources that you'd need for such an investigation, and you touched
10 on this I think earlier in respect of questions you were asked by your counsel. You assessed
11 the resources that you would need as a detective sergeant or --

12 A. Yes.

13 **Q.** Yes, a detective sergeant, four investigators and one analyst. Now we know, and you've
14 mentioned it already, that a decision was made not to commit a full inquiry team to this
15 investigation. Who made that decision?

16 A. It was a decision reached following conversations between myself and Superintendent
17 Perry and endorsed by the Assistant Commissioner investigations.

18 **Q.** And the Assistant Commissioner at that stage was Commissioner Marshall; is that correct?

19 A. Assistant Commissioner.

20 **Q.** Assistant Commissioner Marshall?

21 A. Yes.

22 **Q.** You've mentioned Detective Superintendent Perry. Why was that decided, what did you
23 understand the basis for that decision to be?

24 A. The level of resource that would be required given the other investigative pressures that
25 were currently confronting Police, and the need to have a focused inquiry perhaps that
26 addressed the concerns about Dr Leeks specifically, as the first step in determining whether
27 a more significant inquiry might be useful.

28 **Q.** What was your response to that decision?

29 A. I was part of that decision.

30 **Q.** So help us understand how we get from your initial assessment of the file and your
31 investigation plan to a decision to not carry out the investigation plan you've only prepared
32 a matter of weeks earlier?

33 A. I think most of the elements of the investigation plan found their way into the preliminary
34 inquiry. Unfortunately the resources didn't and therefore the inquiry was not done as

1 expeditiously as it should have been.

2 **Q.** Let's have a look at the next document, we're moving forward three weeks or so to 12 July
3 2006. This is a memorandum prepared by Detective Superintendent Perry. I think at that
4 stage his title was National Manager Crime; is that correct?

5 **A.** Yes.

6 **Q.** And we've already mentioned Assistant Commissioner and that's Assistant Commissioner
7 Marshall. And that was prepared, as I said, on 12 July 2006. At the stage that this decision,
8 or the scope decision is being made, we've heard in terms of the material read out by
9 Detective Superintendent Fitzgerald that the Police had initially received 34 statements
10 from Grant Cameron?

11 **A.** Yes.

12 **Q.** In the period between 2002 through to 2006 it would appear 14 of those statements and
13 corresponding files have been lost?

14 **A.** Yes.

15 **Q.** And so when you inherit the file, you receive 20 statements and corresponding supporting
16 evidence; is that correct?

17 **A.** I believe so. I went back to Grant Cameron to gather the additional statements and I'm not
18 sure entirely when in the timeframe that that was.

19 **Q.** And those were to get the additional 14 that had been lost?

20 **A.** It was to get the statements of any of the survivors who had previously indicated an interest
21 in a criminal inquiry.

22 **Q.** I think you note in your report later on in the investigation that you were aware there was
23 initially 34 statements?

24 **A.** There were several numbers floating around in terms of how many statements there were.
25 I only know that I received a tranche of statements. I didn't consider they were complete
26 and it seemed to me wise to go back to Grant Cameron and see what additional information
27 he could give me.

28 **Q.** But you must have had some idea of the numbers to know that it wasn't complete, what you
29 received in 2006?

30 **A.** Yes, there were various documents on the file that suggested at different times there were
31 different numbers of statements, that didn't tally with the number I received, so therefore
32 I set about trying to find the additional ones.

33 **Q.** We're just going to bring up paragraphs 2 to 4 of this document if they can be called out.
34 It's quite lengthy but I will read it out, Mr Burgess, and then I have some questions for you.

1 "It is clear that a comprehensive investigation into all matters arising from these
2 allegations will face a number of significant problems. It is apparent that there are
3 allegations of multiple offending by both staff and patients over the period that the Child
4 and Adolescent Unit was in operation. Difficulties arising from the historical nature of the
5 complaints are compounded by the fact that a significant number of the potential
6 complainants/offenders are either dead, suffering from psychiatric illnesses, or fall into
7 both victim/offender categories. It would also appear that while some staff working at the
8 unit could be potential witnesses, it is also probable that those same staff are parties to
9 offences against section 195 of the Crimes Act (wilful ill treatment of a child).

10 I have spoken with Detective Superintendent Burgess on this matter and he has
11 confirmed that the overriding consideration of the individuals he has spoken to concerning
12 activities within the unit have been the actions of Dr Selwyn Leeks and a desire to bring
13 him before a court.

14 With those considerations in mind, I would propose that any investigation should
15 focus solely on the activities of Dr Leeks. This would be on the basis of a top-down driven
16 approach as opposed to a bottom-up approach. In essence, this approach would focus on
17 assembling a case against Dr Leeks based on a small number of cases which would reach
18 the prima facie standard. It is clear that the establishment of viable cases against the doctor
19 will depend to a significant degree on the integrity of the complainant and the amount of
20 corroborative evidence which any investigation would uncover."

21 And we perhaps don't need to keep reading, but that refers to a logical starting
22 point and lines of inquiry. We've established that you had a small amount of statements at
23 this time, perhaps 20. Where did the evidence of psychiatric illnesses come from?

24 A. I don't know.

25 **Q.** One of the things that we've heard a great deal of in this hearing is that in fact very few of
26 the survivors or complainants did in fact at any stage have psychiatric illnesses.

27 A. I don't know the answer, I didn't write the report. I can only assume that an assumption was
28 made that because people had been in the Lake Alice Unit there might be some background
29 of psychiatric illness.

30 **Q.** Why would that be a relevant factor for the Police?

31 A. I guess it goes to the certainty that you have around the statement of a complaint. This is
32 getting into the realms of speculation, but if somebody has a diagnosis and they are -- that
33 suggests they are delusional, you would need to think about how you might progress an
34 allegation with that diagnosis in the background. I'm no psychiatric expert, but there are

1 going to be some illnesses that are going to have an impact on how certain an investigator
2 can be about the allegation that they're inquiring into.

3 **Q.** Is that something that you are trained in as police officers, the impact of psychiatric
4 illnesses?

5 **A.** No, I think it's just one of the many things you take into account when you're assessing a
6 complainant, what makes up the whole of this person and their story and what issues,
7 strengths, weaknesses there might be that you need to either probe or be aware of as you
8 progress your inquiry.

9 **Q.** It's noted there, and I appreciate this isn't your document, but it's clearly been prepared
10 following discussions with you, that you had spoken to survivors and they had advised you
11 that investigating Leeks was the overriding priority. What survivors or complainants had
12 you spoken to to form that view?

13 **A.** I had spoken to Mr Zentveld and two representatives from CCHR. I'm not -- I don't now
14 recall any other folk that I might have spoken to before this report was created. It was
15 certainly very clear from my conversations with Mr Zentveld and the CCHR
16 representatives that their primary concern was Dr Leeks and the application of electric
17 shocks by way of punishment.

18 **Q.** We have learned from that memorandum that the investigation plan or the investigation
19 scope, as you had identified right at the beginning, which was the misuse of ECT, sexual
20 offending, all staff members being considered, shrunk down to focus on Dr Leeks and a
21 focus presumably on the misuse of ECT.

22 I want to suggest that this change or narrowing in scope had four key effects and if
23 I go through them and then invite your comment at the end, Mr Burgess. The focus
24 became, number one, the focus became the misuse of the ECT machine, number two, only
25 Dr Leeks was to be investigated, so no consideration to other staff members' involvement in
26 the misuse of an ECT machine. 3, as I've just mentioned, there wasn't going to be any
27 investigation into allegations of sexual or physical offending by other staff members. And
28 4, the use of Paraldehyde injections as punishment was not going to be investigated.
29 Would you accept that those were the flow-on effects of the decision made to narrow the
30 scope of the investigation?

31 **A.** Yes, with, I guess, a proviso, that some -- certainly in regard to Paraldehyde I absolutely
32 accept your proposition, and yes, the scope did narrow to focus primarily on Dr Leeks and
33 the application of either ECT or some other shock treatment. The sexual offending was
34 considered and on my assessment of the material that I had available, I considered there

1 were evidential issues that precluded a successful prosecution on the allegations contained
2 in the files that I had.

3 **Q.** We'll come to that in a moment, but I've just noticed the time, Madam Chair, is it
4 appropriate to take an afternoon adjournment? I'm conscious of the signers at least and the
5 stenographer?

6 **CHAIR:** Yes, I think we should take a break but we'll make it 10 minutes and we'll proceed after
7 that. Thank you.

8 **Adjournment from 4.01 pm to 4.17 pm**

9 **CHAIR:** Yes, Ms Finlayson-Davis.

10 **QUESTIONING BY MS FINLAYSON-DAVIS CONTINUED:** Thank you Madam Chair. Just
11 before the afternoon tea adjournment we were touching on the aspect of sexual allegations
12 and I think you had said, and perhaps correct me if I got this wrong, that they weren't
13 necessarily excluded from your investigation. Was that the effect of your evidence?

14 **A.** I think my evidence was that I considered the sexual allegations and formed a view about
15 the prospect of successful prosecution.

16 **Q.** We've heard during the course of this hearing, Mr Burgess, about serious sexual offending
17 perpetrated against children repetitively in the child and adolescent unit. Now of course it's
18 very important that we focus on what you had before you when you were investigating this
19 matter. But if we focus once again, we go back to the 20 statements that you had at the
20 beginning of your investigation. Were you aware that contained within those 20 statements
21 was two allegations of sexual violation by rape, six allegations of sexual violation by
22 unlawful sexual connection, and that was in different forms, including by anal connection,
23 or sodomy as it was known in those times, five allegations of indecent assault, and five
24 children who received electric shocks to their genitalia and in one respect, in respect of one
25 survivor to her breasts and that these allegations were made in respect of children aged
26 between 10 and 16 at the time.

27 **A.** I can't say with certainty what allegations I knew about at that early stage. What I can say
28 is that over the course of the time that I was inquiring into this I became aware of multiple
29 allegations, some of them as you've described, of sexual, pretty -- some pretty horrific
30 sexual matters and they formed part of the consideration in terms of where to from here.

31 **Q.** And I think you've stated it in your statement and you've repeated it again in evidence today
32 I think in your statement both at paragraph 3.23 and paragraph 6.16. You state,
33 "I considered the sexual offending allegations but was unable to progress any of them.
34 Some were so vague that the details of the offending and the alleged offender could not be

1 established. In two cases the identified staff member was dead, in one case the complainant
2 was dead. Some allegations were not sufficiently credible to pursue, given conflicting
3 evidence from the medical notes and no other corroborating evidence."

4 That's just reading out your paragraph 6.16, and I think you've given evidence to
5 that effect just prior. I'm not going to put the examples up given the sensitivity of the
6 material, but I think you've acknowledged that whilst some of the allegations in the
7 statements you received from Grant Cameron were vague, there were equally statements
8 where explicit details were given of children being raped or sodomised, with surrounding
9 details which could have been followed up by the Police. Would you accept there was
10 some examples of that within the material you received?

11 A. There were certainly allegations and some pretty severe allegations of sexual assault of
12 varying kinds. The degree to which they could be followed up depended on a range of
13 factors. As I've said in my earlier -- in my statement, whether the offender could be
14 identified, whether the offender was still alive, and in at least one case the complainant was
15 no longer alive. So there were a range of factors that had to be taken into account. As an
16 investigator, it's necessary to look at the information you have and determine whether you
17 believe that is capable of sustaining a charge or a prosecution. And this applies to, I guess,
18 any offence, it's the what, what happened, who did it, and, you know, is that in fact
19 unlawful. So those are the sorts of things that you have to satisfy.

20 Q. Surely one remedy, if the statements had been too vague, would have been to conduct an
21 evidential interview with a survivor, or survivors?

22 A. That may have provided additional information in some cases, yes, I accept that.

23 Q. Because as we've gone through and you've acknowledged, these statements were prepared
24 for a different purpose, weren't they, they weren't, as you've acknowledged, at a level of
25 detail that you would require for a criminal investigation?

26 A. I think that's fair, I think you would inevitably re-interview complaints, complainants if you
27 believed you could sustain a charge, yes.

28 Q. It's somewhat circular, isn't it Mr Burgess, because how could you form the view as to
29 whether a charge could be sustained if you haven't interviewed the complainant in the first
30 place?

31 A. I accept your point. This Inquiry was conducted on the basis of what we had from the civil
32 hearings. We took those statements at face value, we looked at opportunities to corroborate
33 them, and yes, if we had reached a view that they warranted further investigations and/or
34 prosecution, we would clearly have had to go back and speak to the complainants.

1 **Q.** I think I covered this earlier, but one of the problems for the Police with not having
2 interviewed the complainants is that you didn't identify lines of inquiry that you could have
3 followed up?

4 **A.** That's possible, yes.

5 **Q.** And another opportunity to have gained corroborative evidence might have been if you
6 interviewed the staff members as suspects and put to them some of the allegations?

7 **A.** If there were cases involving an identified staff member where we could have put that
8 allegation to them, and it was appropriate to interview them as a suspect, then I have no
9 doubt we would have.

10 **Q.** I want to bring up a letter you wrote, I think it's to a Detective Drew who was assisting you
11 with your investigation. This is NZP321_0004. Just while that's being brought up,
12 Mr Burgess, this letter was setting out for Detective Drew some background to the
13 investigation, and I think you were tasking him with interviewing some of the staff
14 members.

15 **A.** Yes, Detective Superintendent Drew and I was asking him to task some staff --

16 **Q.** Right.

17 **A.** -- to carry out the investigation.

18 **Q.** Sorry, I've given the wrong reference, it's 061. So we just see there and orientate ourselves
19 to the document. This was a letter written 22 March 2007 to Detective Superintendent
20 Drew. If we go to the end of the letter, confirm this is a letter you prepared, albeit it doesn't
21 appear signed, and if we can go back to the section entitled "Interview Format", and that
22 will be on page 3. And if we could call out those two perhaps under the heading "Interview
23 Format". I'll just read this out for the record:

24 "It is envisaged that this interview will record the witness' general knowledge of
25 events at the Lake Alice Child and Adolescent Unit. Their recollection of any
26 investigations conducted around 1974 to 77 by the Police or other investigators would be
27 helpful. The witnesses should be referred to the list of patients and invited to comment in a
28 general way regarding their knowledge of the individual patient and any psychotic
29 condition that the patients might have displayed during their stay at Lake Alice. A
30 spreadsheet recording the individual complainants and the general nature of their
31 allegations is attached and should assist in this regard.

32 It is not intended at this stage to complete a detailed interview of each individual
33 regarding any specific allegations made against them by the complainants. Should that be
34 necessary at a later stage, it will be completed with reference to specific nursing records

1 and statements of complaint."

2 So the approach taken by the Police was to speak to the staff members and talk to
3 them generally about the unit and not the allegations that might be held by the Police
4 against them?

5 A. At the time that was -- that report was done, it was intended that we had information in a
6 more general way. I don't believe that we had specific allegations to put to those staff
7 members at that time. I guess I was also conscious that if we got to the point of putting
8 specific allegations to those staff members, we would be looking to caution them and they
9 might very well invoke their right not to talk to us.

10 Q. In relation to the specific allegations point, the only material you had through the course of
11 your investigation was the Grant Cameron statements, if we can refer to them in that way?

12 A. Sorry, can you repeat that?

13 Q. So in terms of any allegations against the staff, the only material you were working with
14 through the period of your investigation was the statements they had provided to Grant
15 Cameron for the purposes of the civil proceedings; is that correct?

16 A. Those were the only statements I had. Obviously I took account of the medical records and
17 nursing notes that were available.

18 Q. And I've gone through with you some of the sexual allegations that were contained within
19 those statements. But that is what you were working from in terms of your investigation,
20 you were working from those statements?

21 A. Yes.

22 Q. Now again, we have heard during the course of this hearing about a nurse called Howard
23 Lawrence. I want to again take you back to the material that the Police had in relation to
24 Howard Lawrence at the time of your investigation. And if you'd take it from me these are
25 the allegations in those Grant Cameron statements as they relate to Howard Lawrence and
26 if I can just set those out for you.

27 One survivor described being sodomised by Howard Lawrence, although it's noted
28 that that survivor was deceased by the time you inherited the file. Several described
29 physical assaults by him, one spoke of having his head grabbed and bashed into walls, one
30 survivor, and this is Mr Banks, described him as the worst staff member of all and that he
31 would press his knuckles into his forehead and rubbing them hard to signify the ECT
32 treatment we would get if we stepped out of line. He also described Howard Lawrence as
33 being one of the staff members to give him electric shocks to his thighs and genitals.
34 Another survivor described getting a shot of Paraldehyde from him for scratching his car.

1 Still more described him as nasty and sadistic.

2 That material is all contained in the Grant Cameron statements. When he is
3 interviewed during the course of your investigation, none of that is put to him for comment.

4 I want to bring up a document and I wonder if you can help us with whether this is
5 a document from your investigation or from perhaps the time before you inherited the file.
6 We can see there it's entitled "Allegations against Howard Lawrence." And I'm having
7 trouble reading that. They are -- some of the allegations I've read out are contained within
8 this document, and there are ones that I've read out that are not contained, but starting first
9 of all with, do you recognise this document?

10 A. Yes.

11 Q. Was that a document you prepared?

12 A. I believe so.

13 Q. So again, we see there eight allegations, one assisted in the administration of unmodified
14 ECT and it gives between date range, sodomised in the strong room after administering
15 Paraldehyde, number three, sodomised and performed oral sex on him in the upstairs staff
16 toilets eight or nine times, 4, assisted in the administration of unmodified ECT, 5, assisted
17 in the administration of unmodified ECT, 6, gave ECT on arms and legs, 7, gave ECT on
18 testicles, and 8, threw syringe into buttocks. Why weren't these allegations put to
19 Mr Lawrence during your time investigating this matter?

20 A. The first three allegations I think relate to the man that was dead --

21 Q. Deceased?

22 A. -- before we took receipt of the file. The analysis of the medical notes and other
23 information to corroborate the allegations of ECT treatment did not provide, they were
24 pretty much non-existent, they didn't provide any corroboration of the accounts, and as I
25 think I said earlier, by this stage the inquiry was very much focused on the actions of
26 Dr Leeks and his application of ECT. Had we advanced to a more fulsome investigation,
27 after seeking legal advice and there were obvious charges that could be put to the likes of
28 Mr Lawrence, then that would have taken place. In the first instance, I guess I wanted him
29 on record to tell us what he was prepared to tell us without allegations being put to him.

30 Q. Is that standard Police procedure to speak to someone, knowing you had these serious
31 allegations against them, and invite them to comment on that time period without letting
32 them know that this was in existence?

33 A. It was probably being a little bit -- I wanted an account from this person about Lake Alice
34 prior to putting any specific allegations to him or anyone else. It's hard to say that you will

1 do things in a particular way. Ordinarily if I was at a position where I thought there was
2 sufficient evidence for Mr Lawrence to be cautioned and have the allegations put to him,
3 then that's what we would have done. I didn't believe we were at that stage and I wanted a
4 general account on the record.

5 **Q.** I'm not sure if you're aware, but Mr Lawrence was obviously alive during the course of
6 your investigation?

7 **A.** He was, yes, I believe he's now dead.

8 **Q.** But he passed away shortly after?

9 **A.** Yes.

10 **Q.** So an opportunity to go back to him ceased?

11 **A.** Yes.

12 **Q.** The next --

13 **CHAIR:** Sorry, can I just ask a brief question, you said the nursing notes, I wasn't quite sure what
14 you meant, that the nursing notes either didn't exist or they didn't have sufficient in them.
15 Did you mean either or both of those?

16 **A.** Both Madam Chair. Depending on who the patient was, some had almost no medical notes,
17 as I'm sure you've been made aware, some had some medical notes. The medical notes
18 seemed to be a useful way in which we could attempt to corroborate allegations and
19 therefore where they were available we placed some reliance on them.

20 **Q.** Thank you.

21 **QUESTIONING BY MS FINLAYSON-DAVIS CONTINUED:** The next effect of the decision
22 to narrow the scope that I want to examine in a bit more detail is the decision to focus
23 solely on Dr Leeks and this is in relation to the misuse of an ECT machine. Because it's
24 clear, isn't it, that staff weren't investigated for their misuse in relation to allegations of
25 misuse of the ECT machine.

26 **A.** I'd have to go back to the file really to know. My recollection is that the staff member that
27 was principally identified as using the ECT machine was dead, otherwise it was pretty
28 much Dr Leeks.

29 **Q.** And we know too from the memorandum that was drafted by Detective Superintendent
30 Perry that I took you to some time ago, that the Police had already turned their minds to
31 what we call in the criminal law "party liability", but it had decided not to investigate that
32 because you preferred to have the staff members as witnesses. Do you recall that part of
33 the memorandum?

34 **A.** We were very much focused on what we saw as the main event.

1 **Q.** This decision was something that the United Nations Committee Against Torture were
2 critical of and I want to bring up the paragraph that covers that and ask you your comment.
3 So this is paragraph 9.6 of the UNCAT decision. Paragraph 9.6:

4 "The 2010 Police report -- and that is the report that you prepared, Detective
5 Burgess, and we'll get to that a bit later on -- further mentions that the charges were only
6 considered in relation to the guilt of the main suspect, Dr Leeks, concluding that there was
7 unlikely to be sufficient evidence to successfully prosecute a charge of wilful cruelty to a
8 child. The Committee expresses concern that the authorities have not tried to find out if
9 anybody else could be held responsible for the alleged violations, which raises doubts as to
10 the effectiveness of the Police investigation, which should be capable of identifying those
11 responsible for the violations."

12 Do you have any comment to that observation or criticism by the United Nations
13 Committee?

14 **A.** I guess I can only repeat what I've already told you, which is we focused the inquiry very
15 much on the activities of Dr Leeks rather than a broader examination.

16 **Q.** We come to the last effect of the decision to narrow the scope of the investigation and that
17 is the decision not to investigate the use of Paraldehyde as punishment. Now we've heard
18 this afternoon Detective Superintendent Fitzgerald's acknowledgment that with the benefit
19 of hindsight the scope of the investigations by the Police should have included the use of
20 Paraldehyde as punishment. And I should clarify, that is the investigations between 1977
21 and 2010. So we've got that acknowledgment from the Police today.

22 But again, just to put some context to the decision not to investigate those
23 allegations, and again, going back to those 20 statements that you had from Grant Cameron,
24 would you accept from me that we've reviewed those 20 statements and 15 of the 20
25 survivors allege that they were given Paraldehyde as punishment?

26 **A.** I'll accept that, yes.

27 **Q.** Five of those survivors were able to name the staff who administered the injections, six
28 survivors were not able to name the staff but had corroborating nursing notes. So again,
29 that was material that wasn't investigated as we know.

30 **A.** No, I think I've acknowledged from the outset that Paraldehyde investigation -- allegations,
31 sorry, were not investigated. I was a resource of one with some assistance from the folk
32 who were speaking to the staff. I made a decision to go for what I saw was essentially the
33 main event and focus the inquiry on that. Had we progressed to a fuller inquiry it's possible
34 that some of the Paraldehyde matters might have been considered. That was not my

- 1 intention though.
- 2 **Q.** So through this part of the questioning I've been referring back to the 20 statements that
3 you had at 2006. Of course by 2009 you mention in your statement provided to the
4 Commission you'd got up to 41 complainants, or 41 statements?
- 5 **A.** Yes, I think that happened relative -- well, progressively, but the bulk of the statements
6 were obtained relatively early in the inquiry.
- 7 **Q.** And as those statements came in, presumably the number of allegations of sexual
8 offending, Paraldehyde use, misuse of the ECT machine by staff must have increased as
9 you got more and more material coming in, would you accept that?
- 10 **A.** Certainly some of the number of allegations would have increased. Some of the statements
11 did not disclose any form of criminal offending, so yeah, I can't -- there's not a linear sort of
12 progression to this that I can say we went from this number to this number. I guess
13 logically it suggests there were more, but I can't tell you how many.
- 14 **Q.** At any point in your investigation, did you review the evidence and think perhaps we
15 should reconsider the decision made to narrow the scope to Dr Leeks and the misuse of an
16 ECT machine?
- 17 **A.** I honestly can't recall. I don't think I did.
- 18 **Q.** And presumably if you didn't consider it, you didn't raise it with, for example, the Assistant
19 Commissioner or Detective Superintendent Perry and say "Hey, we need to reconsider our
20 approach, it's much bigger than I initially thought"?
- 21 **A.** No, I don't -- as I said earlier, I don't think any of us contemplated that a preliminary
22 inquiry was going to take as long as it did and potentially encompass as many people as it
23 did. Did I go back to them? No, I didn't, in fact they probably weren't the people in those
24 roles anyway.
- 25 **Q.** Right, well, whoever was in --
- 26 **A.** Whoever was in them, I didn't go back to them.
- 27 **Q.** -- equivalent roles. I want to turn to the next criticism that UNCAT have made of the
28 Police investigation and that is at paragraph 9.4 of their decision, if I can bring that up.
29 And I think this is one of the criticisms you address in your statement to the Commission,
30 so we'll go to what you say about that after. I think if we can highlight -- let's see if I can
31 find it. I can't just see it in the paragraph now, sorry Mr Burgess, let me -- if we come
32 down to the Committee, it's five lines up from the bottom. I think it might continue over
33 the page, but let's start with that part.
- 34 "The Committee therefore expresses concern that despite repeated investigations

1 into the same matter, Police acknowledgment of evidence of the application and the State
2 parties' acknowledgment before the Committee of the seriousness of a historic complaints
3 of torture, while admitting the continuing public interest in the matter, they made no
4 consistent efforts to establish the facts of such -- I think it goes over the page -- sensitive
5 historical issue involving the abuse of children in State care. They have also failed to
6 expressly acknowledge and qualify the alleged treatment inflicted on the complainant."

7 And at 9.5 the following paragraph, gosh perhaps I won't read the whole
8 paragraph, but three lines down, and this is really the essence of it, "However, the State
9 party has not demonstrated that it made sufficient efforts to clarify the facts."

10 Now you address this criticism at paragraph 6.37 of your statement.

11 A. I don't think I do.

12 Q. I've brought up the wrong -- you have noted paragraph 9.4. Perhaps if we address the item
13 that you have -- the sentence that I have not brought up, but is clearly in that paragraph,
14 perhaps a bit earlier on. So perhaps if you could read out your response to the criticism?

15 A. Certainly. "The UNCAT Committee notes that my 2010 report, quote, 'did not clarify
16 whether the alleged treatment was indeed applied as a punishment' (paragraph 9.4)." I do
17 not think that statement is accurate. To my mind it was reasonable to infer that electric
18 shocks were administered as punishment in certain circumstances, by which I mean when
19 administered in response to the victim's misbehaviour in order to modify that behaviour.
20 However, the disputed issue was whether that could be said to be an accepted form of
21 medical treatment in the early 1970s, ie Aversion Therapy as Dr Leeks and other Lake
22 Alice staff alleged. I am not at all sure that further investigation would have resolved that
23 issue since there were differing medical opinions on the topic at least in relation to the early
24 1970s time period under investigation."

25 Q. Thank you Mr Burgess. Now I note, Madam Chair, I'm about to embark on a reasonably
26 lengthy new topic in relation to that statement, I wonder if that's an appropriate point to
27 adjourn?

28 CHAIR: I think it probably is, and you are prepared to stay over night, aren't you, not in this
29 room. Really I'm asking, you are prepared to come back in the morning?

30 A. Yes, of course.

31 Q. I think in light of that it's unwise to embark on anything new and we will take the
32 adjournment following our karakia me te waiata.

33 **Hearing closes with waiata and karakia mutunga by Ngāti Whātua Ōrākei**

34 **Hearing adjourned at 4.55 pm to Friday, 25 June 2021 at 10 am**