

RESIDENCES SURVIVOR VOICE HEARING – OPENING

E ngā rangatira o te pae, o te tēpu, tēnā koutou katoa.

Ka huri noa ki te haukāinga Ngāti Whātua ki Orakei tēnā koutou

E ngā morēhu, tenei te mihi ki a koutou.

E ngā kaitautoko i tēnei kaupapa whakahirahira.

Tēnā koutou, tēnā koutou, tēna tātou katoa.

Greetings to the Commissioners and to those at the table, to the mana whenua and to the survivors, greetings to you, and to the supporters of this very important issue, greetings to us all.

Introduction

1. The Inquiry's residences team has been investigating abuse in care in children's homes, family homes (foster homes in state owned houses), and institutions operated by third party providers to the State. There are over 800 settings that this aspect of the inquiry relates to. During this hearing, survivors from nine key settings in this investigation will give evidence to you in person. At a later hearing, there will be evidence of the State response to the evidence of abuse in these settings.

2. The Interim Report notes that a cohort study commissioned by the Inquiry estimates about 655,000 people have been in certain types of care settings in NZ since 1950, and that up to 256,000 may have been abused. We are establishing figures for those in the residences settings, of which there is no current total.
3. A significant challenge for the Inquiry is determining the extent of abuse that occurred in State care during the period 1950-1999. We aim to provide that evidence, both in written statements, and oral evidence in this hearing, in a cross-section of settings to illustrate the breadth of abuse in care across gender, ethnicity, geography and time periods.
4. The evidence in this hearing ranges from the 1960s up until 1999. There was much social change in NZ over this time, resulting in large numbers in care, which I will shortly outline. However, the evidence reflects that while the trend to place children in homes to correct delinquent behaviour diminished from 1989, the broader experience of abuse in care did not change, and in fact some issues remain current.
5. The nine settings focused on for this hearing are: family homes throughout the country; Kingslea Girls' Home in Christchurch, Epuni in Wellington, Kohitere and Hokio Beach school in the Horowhenua, Ōwairaka and Bollard Girls' Home in Auckland. The later settings are third party providers, Whakapakari on Great Barrier Island, which did not close until 2004, and Moerangi Treks in the Ureweras. Survivors

were generally sent to a number of institutions, and they will speak to all of their experiences.

6. In this opening I wish to acknowledge the contributions to this inquiry, I will provide some brief social context that led to the significant numbers in State care, and to explain the nature of abuse that has been disclosed to the Inquiry.

Acknowledgements

7. I begin today by acknowledging:
 - (a) Mana whenua – Ngāti Whātua
 - (b) All of the survivors, including those who have engaged with the Inquiry. For most survivors, choosing to register with the Commission and share deeply personal accounts of abuse has been extremely challenging. Without these accounts, there is scant available evidence to the Inquiry.
 - (c) I wish to acknowledge the evidence of the following witnesses, noting that we and the broader Inquiry have interviewed and spoken to many more, and we could not reach all to obtain consent to be named:

Brent Mitchell

Sally Rillstone

Kevin England

Cheryl Menzies

Peter Brooker

Rawiri Geddes

Robert Carson

Bobby O'Connor

Pete Rose

Daniel Stretch

Melissa H

Susan Kenny

Graeme McCullough

Stephen Humphreys

Craig Wiari

Michael Rush

Goldie Clare

Nopera Pikari

Sharyn Shepherd

Terence McClure

George Trounson

Raewyn Davies

Wayne Keen

David Bagley

Lena Walker

Raewyn Lockhart

Gavin Heka

Michael Robb

John Wakefield

Tony Lewis

Mark Goold

Shane Tibbotts

Dallas Williams

- (d) Members of the Survivor Advisory Group
- (e) Those who have contributed significantly to a body of work, research, and literature in this area, and who have personally given their time to this investigation. These include Oliver Sutherland, a witness to the Inquiry, author of *Justice and Race*, Moana Jackson, also a witness to the inquiry and a tireless researcher and academic, Dr Elizabeth Stanley, who wrote *The Road to Hell* and has been a witness.
- (f) Core Participants and participants granted leave to appear.
- (g) Cooper Legal, who have worked with survivors over the past 20 years, and have provided a large number of witness statements, and who have generously provided consultation on an ongoing basis. There is a large body of lawyers on the Legal Assistance Panel who have provided legal assistance to those wanting to participate in the work of the Inquiry.
- (h) The Residences Investigation multi-disciplinary team, who have each worked phenomenally hard to connect with as many people

as possible throughout Aotearoa, and to obtain records of the survivors and witnesses, the residences, the government departments and the Police to ensure that the Commission has all of the evidence available. We have to date interviewed a large number of witnesses, and secured 120,000 documents, and we intend to continue this process throughout the life of the Inquiry. I acknowledge the Crown secretariat who have provided the documents to the Inquiry for this investigation alone, in response to numerous requests, often under urgency.

Terms of Reference

8. The Inquiry's Terms of Reference require it to consider:
 - a. The processes available to raise concerns or make complaints about abuse in care (10.2(c))
 - b. The process for handling and responding to concerns or complaints and their effectiveness (10.2(d))
 - c. The impact of abuse on individuals and their families, whanau, hapū, iwi and communities, including longer term and inter-generational impacts.
 - d. The circumstances that led to individuals being placed in care, including the appropriateness of such processes.

9. The evidence in this hearing will focus on all of these. The nature of the evidence, as to how individuals were placed in care, and how they were treated in care, requires some context to understand.

Social policy in the time of the scope 1950-1999

10. In 1954, two events occurred that prompted a major inquiry and change that led to a doubling of the numbers of children in care.
11. The first was the Parker-Hulme murder in Christchurch involving two teenage girls. The second was an adolescent sex ring in the Hutt Valley. The government intervened and held the Special Committee on Moral Delinquency which resulted in *The Mazengarb Report*. This report drew attention to high rates of offending amount young Māori which they regarded as a Māori failure to 'adjust' to modern urban life.¹
12. On the report's recommendation, and within what must be a legislative record, NZ enacted just 10 days later critical changes to the Child Welfare Act, to expand the definition of delinquency to sexual promiscuity.
13. Public concerns particularly fixated on the supposed increase of sexual misbehaviour among younger girls.² That is relevant, because in the evidence over the next week, female survivors will give evidence of

¹ Special Committee Report 1954, page 27

² (Soler, 1988)The opening of Fareham House (1944) to house 'difficult' Māori teenage girls was, at least in part, motivated by the belief that their supposed 'lax moral attitudes' not only made them susceptible to 'sexual delinquency' but may provoke the same in young Pākehā girls (Dalley, 1998; Labrum, 2002).

internal vaginal examinations on admission to the homes. The purpose of these was to check for sexually transmitted diseases, in girls as young as 9.

14. In 1958, Police established a Juvenile Crime Prevention division, – later the Youth Aid Section – “introduced to keep children out of Court” by way of warning or by a period of oversight by Social Welfare. Ultimately though, it had the opposite effect. Much of the evidence received by the Inquiry reflects that children were committing minor offences. However they were doing so against backgrounds of extreme poverty, traumatic family events, family violence and in some cases sexual abuse. The evidence will reflect that no inquiry was made as to the cause: the emphasis was on correction of the child.

The circumstances of going into care

15. Until later legislative changes in 1989, children could be sent to the residences for an array of reasons, including committing an offence³, persistent truancy, being “out of control” of his or her parent, neglect or ill-treatment, or as a result of an agreement between the DSW and the parents. This resulted in children with care and protection needs, perceived social delinquency and criminal offending being cared for in the state residences. There are issues of discriminatory practises in relation to how powers to send children to homes were exercised, to

³ If a child committed an offence which indicated he was beyond the control of a parent or guardian, the child could be placed by the Children and Young Persons Court in the guardianship of the Director-General of Social Welfare and into a Social Welfare Institution (Child Welfare Act 1964)

the disadvantage of Māori particularly. The emphasis after the 1954 amendment was a “corrective” function of children’s behaviour.

The disproportionate number of tamariki Māori in care

16. In order to understand the disproportionate numbers of Māori in State care that continue today, it is important to understand New Zealand’s own social history.
17. The Inquiry’s Terms of Reference also recognize that there is a disproportionate representation of Pacific survivors in care. However, as we will hear in this hearing, there was inadequate inquiry and recording of Pacific ethnicity. It is difficult to establish the number of children of Pacific descent in care. This will be examined in depth in the Inquiry’s Pacific hearing in July this year.
18. Few tamariki Māori lived in any sort of institution prior to the Second World War. Of 2500 children in Church-run facilities in 1940, none were Māori. Tamariki and rangatahi were raised by extended whanau. Whāngai adoptions were common. In 1945, 21% of our prison population was Māori.
19. However, post WW2, Māori moved to urban areas (shifting from 75% living rurally to 60% living in urban areas by 1965), and came under increasing Police focus. The post-war ‘baby boom’ saw the number of children and young people in Aotearoa New Zealand double between the end of the war and the early 1970s (Garlick, 2012). By 1966, Māori children under 15 were half the Māori population. Higher numbers of Māori children appeared in the children’s court.

20. In 1960 the Hunn report, by the acting head of Māori Affairs, was released. It found Māori suffered significant disadvantage against almost every social and economic measure.
21. The Hunn report reconfirmed the existing racial policy of Māori 'integration', recommending that the Government act quickly to speed up Māori 'integration' into Pākehā society. Pressure intensified on Māori to assimilate to Pākehā ways of living. Māori patterns of child-rearing came under strain. Māori were encouraged to turn to mainstream state agencies for welfare assistance.
22. At the same time another racial issue arose. From the 1960s and 1970s, there was migration of Pacific Island workers to fill shortages in the manufacturing sector. Economic downturn in the mid 1970s led to racist anti-Pacific sentiment throughout society. Overstayers, particularly Samoans and Tongans, were later targeted in police 'dawn raids' that began in 1974. You will hear from the first hearing witness, accounts of abuse on racist grounds by staff in the residences in the early 1970s.

The numbers in care grow, especially of Tamariki Māori in residences

23. Against the background of social hysteria over juvenile delinquency, rates of court appearances by children rose dramatically from the late 1940s to the 1970s, at rates far higher than the population growth. This drove a significant increase in the numbers of children and young people in state care as state wards. Between 1948 and 1972, the total

number of children in Child Welfare' s supervision or care doubled to 16,356.⁴There was pressure on the system.

24. By the mid to late 1970s, in most of our settings, evidence shows 70-80% of the residents were Māori, who made up just 8.6% of the population in 1976.⁵
25. Last Friday, the Waitangi Tribunal issued findings in *He Paharakeke* in relation to claims concerning the disproportionate number of tamariki Māori taken into State care by Oranga Tamariki.
26. The Tribunal reported that in 2017, Māori were 61.2% of children in care.⁶ The report refers to the evidence of former government statistician Len Cook.
27. While the total number of children entering State care has decreased since 2000, the proportion of Tamariki Māori in State care has actually increased. Between 2000 and 2018, the incidence of tamariki Māori aged 16 and under in State care rose from one in every 125 Māori children, to one in every 64. By 2012, Tamariki Māori were five times more likely than their non-Māori counterparts to enter State care.⁷
28. In the *He Pāraheke* report issued last Friday, the Waitangi Tribunal noted that the Crown rightly accepts that colonialization, structural racism and the ongoing effect of historical injustices have been significant contributing factors to these statistics. That too was the

⁴ Garlick, *Social Developments* pg 62-63.

⁵ The Māori population of Hokianga Beach School admissions was 44.3% in 1969. By 1978 it had grown to 80.43%. The Māori population of Kohitere was 36.3% in 1965. By 1978 it had grown to 73.7%. In 1985, the Māori population across six of the DSW's Auckland institutions reached 78% (Stanley, 2016, pp 38,207). The ACORD 1978 investigation of 8 Auckland state homes found that Māori and Pacific Islanders comprised 70-80% of the inmates of most homes. In 1971, just 15 of 59 female residents of Kingslea were non-Māori. The statistics kept for Pacific Islanders were unreliable.

⁶ This confirms the figures given in evidence in the Redress hearing by Oranga Tamariki.

⁷ *He Pāharakeke, He Rito Whakakīkinga Whāruarua*, pg 49, Statistical Appendix, section 11.3.1, figure 5.

evidence of Moana Jackson, lawyer and researcher, Ngāti kahungunu and Ngāti Porou, who presented in the Contextual Hearing to the Commission in late 2019.

29. Mr Jackson's evidence was the over-representation of Māori in negative social and economic spheres is inextricably linked to the failure of successive governments to honour Te Tiriti o Waitangi. He referred to, among other reasons, the closed adoptions arising from the Hunn report, the banning of te reo Māori in schools in 1867.

Late 1970s and 1980s – a period of change

30. By the late 1970s, the state residential system was widely acknowledged as being in a state of crisis (Garlick, 2012, p. 103). As noted, the numbers in care may have been as high as 600,000 over the scope of this Inquiry.
31. In 1978, the Auckland Committee on Racism and Discrimination (ACORD), Ngā Tamatoa and Arohanui Incorporated launched an inquiry into alleged cruel and inhumane treatment of young people in Auckland social welfare homes. The Commission heard evidence of this from Oliver Sutherland, a member of ACORD, at the Contextual hearing. ACORD's investigations were focused most closely on the Ōwairaka Boys' Home, but also considered the Bollard Girls' home and Wesleydale Boys' Home. ACORD's report uncovered a range of alleged human rights breaches.

32. The newly established Human Rights Commission investigated the alleged human rights abuses described in ACORD's report, issuing its own report in 1982, which confirmed some of ACORD's findings.
33. In 1988, a Ministerial Advisory Committee report was released - Puao-te-ata-tu (Daybreak). It found a culture of institutional racism in the care and protection system.
34. The Crown acknowledged to the Waitangi Tribunal, as reported in He Paharaheke last Friday, that it has failed to fully implement the recommendations of Puao-te-Ata-Tu.
35. The government passed new child welfare legislation in the form of the Children, Young Persons, and their Families Act 1989. The Act represented a significant attempt to shift responsibility for decision-making concerning children and young people back to families and whanau through Family Group Conferences (FGC).
36. However significant issues of abuse in care arose well after this legislative amendment. Our two later settings, Whakapakari, closed in 2004 and Moerangi Treks in 1999.

Themes for this hearing

37. The Terms of Reference define abuse as meaning physical, sexual, and emotional or psychological abuse and neglect (clause 17.1). It includes:

- a. Inadequate or improper treatment or care that resulted in serious mental or physical harm.
38. Abuse may have been carried out by anyone involved in the provision of care, including associates, contractors or others, and abuse by other children in care. (17.1(b)).
 39. The evidence that the Commission will hear over the next 7 hearing days is emblematic of the evidence gathered by the Commission to date as to the nature of the abuse in the residences settings:
 40. Physical, **sexual and emotional abuse and neglect** was most highly prevalent at the settings we have identified. However these themes are common to most residences within the Inquiry's scope. The nature of the evidence over the course of this hearing will be challenging to hear, and it is highly disturbing.
 41. Some of the worst examples of abuse occurred more recently at Moerangi Treks and Whakapakari (1998-2004). In these remote and isolated locations, the evidence includes serious and repeated rape, forcing children to dig their own graves, then shooting over their heads at gunpoint.
 42. There were **kingpin systems** in almost all the boys' homes, where the "kingpin" boy would mete out punishments to other children, a system encouraged and used by the staff of the homes to enforce discipline. This was combined with initiations into the homes known as "stompings" or "blanketings", where children were covered in blankets and kicked and stomped on.

Exercise, cleaning

43. The evidence will be that staff used unreasonable forms of punishment as disciplinary measures, including hours of very strenuous physical exercise, known as “PT”, forced participation in fights, and concerning cleaning exercises.

Vaginal examinations

44. In the 1960s and 1970s, routine internal vaginal examinations were conducted on girls as young as nine at Bollard and Kingslea (and all female residences), for venereal disease testing. The examinations were conducted each time girls were admitted to the homes, and each time they were returned to the homes after running away, often in a rough manner, often without explanation or warning, and with restraint by staff or the use of physical restraints. The evidence from our hearing witnesses will be that that these vaginal examinations stopped them from having regular smear tests for cervical cancer in adulthood.

Use of medical treatment and psychiatric admission:

45. At this hearing, there will be evidence from witnesses that shows the degree to which children were referred to psychiatric care for behavioural issues. The Department of Social Welfare was specifically empowered to send children to other institutions under the Child

Welfare Act. One of our witnesses will give evidence of being put on a trial of amphetamines in the home. Another witness was seen by Dr Pugmire of Lake Alice hospital in 1966 who prescribed a “heavy dosage of antischizophrenic drugs, more than it would be safe to prescribe on an outpatient basis”.

Solitary Confinement

46. The use of solitary confinement – called “secure” was common to most of our State based institutions. The secure unit at Kohitere was modelled on the unit from Arohata prison. At most of the institutions, every child was placed into solitary confinement automatically on admission, sometimes for an extended period, as well as for behavioural correction or after absconding. The use of solitary confinement in the residences was not regulated until 1986, but these practices amounted to a consistent breach of internal DSW guidelines. The current Oranga Tamariki Act (s 368) legislates for this practice to continue.
47. In 2017 Dr Sharon Shalev, an international expert in the use of seclusion and restraint, issued a report for the Human Rights Commission called “Thinking outside the box”. In this report, Dr Shalev noted that children and young people in Care and Protection residences could be held in Secure Care units which were identical to prison segregation units. As Dr Shalev noted, international human

rights law and principles of good practice call for a complete prohibition on the use of solitary confinement of children.

48. There is good reason for this. As Dr Shalev noted, the reported psychological effects of solitary confinement range from acute to chronic and include anxiety, panic, chronic depression, rage, poor impulse control, cognitive disturbances, perceptual distortions including hallucinations and psychosis. Emerging research shows that solitary confinement disrupts brain activity, potentially leading to changes in the structure of the brain.
49. In 2020, Dr Shalev issued a follow-up review for the Human Rights Commission called "*Seclusion and Restraint – Time for a paradigm shift.*" Dr Shalev noted that not a lot had changed in the intervening three years. In one facility, children were held in a secure room for over a week on 22 occasions in the six month period examined. Dr Shalev recommended to Oranga Tamariki that secure care rooms were inappropriate, and their use should stop.
50. The Inquiry has received a number of witness statements from people serving prison terms for very serious offences. We have noticed a trend, that those people who committed more serious offences, often have had extensive periods of secure in children's homes in their childhood. One witness, in prison for abduction and rape, experienced 320 days of solitary confinement over a 563 day period at the age of 13. The trajectory from solitary confinement to serious offending is one we intend to continue to investigate.

51. In this hearing, you will hear that almost all of our witnesses experienced the use of “secure”.

Lack of education

52. A consistent theme is the lack of education. This is probably the greatest consistent complaint of all of our witnesses. There was no education provided while a child was in secure. Despite documented reports of many of our witnesses being intelligent, good students, in some cases they were discharged from school early, in others education was non-existent. This was despite the fact that truancy was one basis upon which children could be sent to the homes.

The process to make complaints, and the response (TOR)

53. The ‘no narking’ culture at all residences was enforced by assaults, by or on behalf of staff.

54. Whakapakari and Moerangi/Eastland were state programmes approved under s396 of the Oranga Tamariki Act⁸ operating as wilderness camps, in remote locations. Given their remoteness, they were infrequently visited by state authorities.

⁸ Section 396 of the Oranga Tamariki Act (“s396”) provides for the Chief Executive of Oranga Tamariki (then CYFS) to approve entities as providers of Iwi Social Services, Cultural Social Services or Child and Family Support Services.

Current complaints system

55. On 14 August 2020, the Inquiry issued a s 20 notice to Oranga Tamariki requesting information in relation to children and vulnerable adults who made allegations of abuse in care in the residences.
56. Oranga Tamariki advised they were unable to comply with this request because complaints and allegations of abuse were not recorded centrally.
57. An expert Advisory Panel Report in 2015 resulted in a 2017 amendment to the OT Act which requires it to establish, amend or replace one or more complaints mechanisms to allow children in care to complain.⁹
58. The Inquiry then required Oranga Tamariki to produce a statement as to the background of taking complaints historically and currently.
59. Oranga Tamariki advised:
 - a. For the period 1950-2010, information about allegations of abuse “where recorded” were only held on individual case files.
 - b. In 2011, CYF established a manual review to report of numbers of children and young people with **findings of abuse** and found that the annual reports were produced with a flawed process and undercounted the incidence of abuse. The reports 2010-2015 do not measure abuse that occurred in the Residences, and they acknowledge this is one of the flaws.

⁹ Oranga Tamariki Act, s 7(2)(bad)

- c. Following an expert measurement group's input, a new "measurement approach" was adopted by OT on 1 July 2019, which only reports on "substantiated findings" of harm (physical, sexual, emotional harm and neglect).
60. Steven Groom of OT gave evidence to the Commission in the redress hearing. He advised that OT has an 0800 number to receive complaints, and there is a website option. Mr Groom acknowledged that children who don't have access to a computer or who have disabilities may find it difficult to access the information online.
61. You will hear evidence in this case about prolific paedophiles including a cook at Hokio called Ansell, and a housemaster, Alan Moncrieff-Wright, who was at Epuni and other homes, and others operating in Holdsworth. On the evidence collected by the Inquiry to date, there were many. There was no centralized register of complaints then, and there appears not to be now. That means if various children at different times are raising complaints about the same person, unless there is a substantiated finding, there is no centralized register of those complaints. The Commission may consider that this represents an ongoing serious risk to the safety of children and vulnerable adults in care.

Impacts of abuse

62. The evidence in this hearing will include the impact of abuse. Many of our witnesses have post-traumatic stress disorder, and have difficulty

remaining in relationships and employment. Some have physical disabilities and health issues from their time in care. One witness could not have children due to sexual abuse. Some witnesses became gang members. There are a very large number of witnesses who went to prison.

63. Māori and Pacific survivors also experienced 'cultural abuse' in care. Tamariki Māori were alienated from their whānau and cultural identity. Some tamariki Māori in care lost knowledge of their whakapapa and tribal affiliations, as well as Te reo Māori. The same occurred for Pacific Island survivors.

Public hearings in the overall work of the Inquiry

64. Given limited public hearing time, we have 16 witnesses and survivors who will give their evidence orally in this hearing. But public hearings are only one way of receiving evidence.
65. We emphasize that we will continue to gather written witness statements as evidence to the Inquiry, and that the opportunity to participate for survivors, and staff of the residences settings, is not over. We encourage all survivors and witnesses to contact us and come forward to give their account to the Royal Commission. The only way of obtaining evidence of abuse in care is from survivors.
66. All of the witnesses will describe their experiences of abuse in care, and their thoughts about an appropriate State response to this. Most seek an unqualified apology from the State.

67. Over the course of this hearing, Simon Mount QC, Kerryn Beaton, and I will be joined by Kingi Snelgar, Simon Waalkens and Julia Spelman. Some witnesses have been working with lawyers from the inquiry's legal assistance panel, who will lead their evidence. Representing these witnesses will be Sonja Cooper and Amanda Hill, and Katie Lane.

Opening statements

68. The Chair granted leave to counsel for Core Participants provide a 10-minute opening statement, introducing themselves and those they were representing at this Redress hearing. Parties who wish to make opening statements are:

- Rachael Schmidt-McCleave, counsel for the Crown agencies
- Mr Stone, representing Alfred Coster and Michael Rowley as core participants.
- Mr Jarvis is a further core participant.

69. The experiences of those in care powerfully portray that what happens in childhood matters to the way that each person's life unfolds. He tamaiti, he taonga – every child is precious. In the words of Dame Whina Cooper *"Take care of our children. Take care of what they hear, take care of what they see, take care of what they feel. For how the children grow, so will the shape of Aotearoa."*

70. The evidence in this hearing will outline how abuse in State care had a profound impact on each survivor's life, and in many instances, offering insight as to how that can be prevented.
71. No reira, tēnā koutou.