

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY  
CHILDREN'S RESIDENTIAL CARE 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)  
Dr Andrew Erueti  
Ali'Muamua Sandra Alofivae

**Counsel:** Ms Anne Toohey, Mr Simon Mount QC, Ms Kerry Beaton,  
Mr Kingi Snelgar, Mr Simon Waalkens and Ms Julia Spelman  
for the Royal Commission  
Ms Rachael Schmidt-McCleave and Ms Juliet White for the  
Crown  
Ms Katie Lane for a survivor  
Mr Stone and Ms Watene for survivors

**Venue:** Level 2  
Abuse in Care Royal Commission of Inquiry  
414 Khyber Pass Road  
AUCKLAND

**Date:** 3-11 May 2021

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**TRANSCRIPT OF PROCEEDINGS**

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**[10.00 am]**

**CHAIR:** Tēnā koutou katoa. Nau mai haere mai, whakatau mai ki tēnei whare, ki tēnei hui tūmatanui. Papa Tem, tēnā koe e te rangatira koutou ko Ngāti Whātua Orakei. E kaha pupuri i te mauri o enei hui, ka nui te mihi, ka nui te mihi ki a kōrua, ki a koutou katoa. Koutou ngā mōrehu kei konei ā tinana ma te ipurangi hoki, tēnei te mihi.

Welcome, greetings to you all. Te mana whenua, thank you for coming and blessing us every day with your presence. I want to acknowledge all of the survivors who are here either in person or who are watching online. I also wish to acknowledge their representative groups, one of whom is appearing today, the New Zealand Collective of Abused in State Care Charitable Trust, to our members of the Royal Commission Survivor Advisory Group at least one of whose members is in the room today, welcome to you.

I want to welcome the core participants today. We have the Crown, we have Toni Jarvis as one of our core participants who is present today as well. And of course to our stakeholders who I know are watching us anxiously, the Royal Commission forum and I know there are representatives of you in the room today, thank you for coming and showing your interest and you are most welcome as well.

And finally may I just welcome the general public, whether you are here today just as an onlooker or whether you are watching online. This week's hearings for me and for the Commissioners is very important because it is a chance where we hear only survivor voices and only about the residences. When I say "only", I don't diminish it. This is a time for us to concentrate on the experience of survivors who endured abuse in care through their lives and to learn of the impacts that that abuse had. So it's a very important hearing from the point of view of educating and revealing and shining light on what has happened in our past.

Nō reira, hurinoa i to tātou nei whare ara tēnā koutou, tēnā koutou, tēnā ra tātou katoa. May I introduce my fellow Commissioners today. First of all Dr Andrew Erueti.

**COMMISSIONER ERUETI:** Tēnā koe. Tēnā koutou katoa. Tēnei te mihi nui ki a koutou. Mauria mai o koutou mana, o koutou tikanga, o koutou whakaponu ki waenganui i a mātou hei maramatanga mo te ao. E ngā kaiwhakahaere o tēnei hui, ka nui te mihi ki a koutou katoa. E te iwi a huihui nei ki te manaaki, te karanga o te ra, tēnā hoki koutou. Kia ora

**CHAIR:** And Ali'imua Sandra Alofivae.

**COMMISSIONER ALOFIVAE:** Good morning. Fa'atalofa atu i le pa'ia ma le mamalu o le

1 aofia. Malo lava. Fa'afetai lava mo le omai e lagolago mai mo le galuega mo lenei vaiaso  
2 atoa.

3 **CHAIR:** Thank you. I will now take appearances.

4 **MS TOOHEY:** Ata mārie e te tiamana. Tēnā koutou e ngā Kōmihana, tēnā koutou katoa. May it  
5 please you Commissioners. I appear ko Anne Toohey ahau. With me, as part of the  
6 Counsel Assist team for the week is Simon Mount QC, Kerryn Beaton, Kingi Snelgar,  
7 Simon Waalkens and later in the week will be Julia Spelman from the Counsel Assist team.  
8 Also joined with me are members of the in-house team, Gina De Graaff, our senior  
9 solicitor, Nicky Wynne and Rachel Opie.

10 **CHAIR:** Thank you Ms Toohey.

11 **MS SCHMIDT-McCLEAVE:** Tēnā koutou, Madam Chair, ngā Kōmihana.

12 **COMMISSIONER ERUETI:** Tēnā koe.

13 **MS SCHMIDT-McCLEAVE:** Ko Ms Schmidt-McCleave ahau, kei konei mātou ko Ms White  
14 mo te Karauna.

15 **CHAIR:** Kia ora, thank you.

16 **MS LANE:** Good morning Commissioners, counsel's name is Katie Lane, I appear as an  
17 independent counsel for survivor Toni Jarvis.

18 **COMMISSIONER ERUETI:** Tēnā koe.

19 **CHAIR:** Kia ora Ms Lane.

20 **MR STONE:** E te tēpu tēnā koutou katoa. Ko David Stone tōku ingoa. I appear today with my  
21 learned friend Ms Watene. We appear today on behalf of Michael Rowley, Alfred Coster  
22 and I acknowledge his older brother who's here today as well and the New Zealand  
23 Collective of Abused in State Care Charitable Trust. I te tepu tōku tuakana i te takuta Dr  
24 Erueti kaiwhakawa te koka a tēnā koutou ki a rātou hoki koutou Ngāti Whātua koutou e  
25 huakina te harinei tēnei ata. Tēnā koutou te Papa Ngāti Whātua te whare, tēnā tatou.

26 **COMMISSIONER ERUETI:** Tēnā koe, tēnā korua.

27 **CHAIR:** Tēnā korua. Thank you Ms Toohey.

28 **OPENING STATEMENT BY MS TOOHEY**

29 **MS TOOHEY:** E ngā rangatira o te pae, o te tepu, tēnā koutou katoa. Ka huri noa ki te hau kainga  
30 Ngāti Whātua ki Orakei tēnā koutou. E ngā mōrehu, tēnei te mihi ki a koutou. E ngā  
31 kaitautoko i tēnei kaupapa whakahirahira, tēnā koutou, tēnā koutou, tēnā tātou katoa.

32 Greetings to you Commissioners, to all of those here today, to the mana whenua,  
33 very importantly to the survivors and survivor groups and to supporters of this very  
34 important kaupapa issue, greetings to us all.

1           The Inquiry's residences team has been investigating abuse in care in children's  
2 homes, family homes, which are foster homes run in State-owned houses, and institutions  
3 operated by third party providers to the State. There are over 800 settings in this aspect of  
4 the inquiry.

5           During this hearing, survivors from nine key settings will give evidence to you in  
6 person. At a later hearing there will be evidence of the State response to the evidence of  
7 abuse that we will hear. The interim report notes that a cohort study commissioned by the  
8 Inquiry estimates that there were 655,000 people in certain types of care settings in  
9 New Zealand since 1950, and that up to 256,000 may have been abused. We are  
10 establishing figures for those in the residences settings of which there is no current total.

11           A significant challenge for the Inquiry is determining the extent of abuse that  
12 occurred in State care during the period 1950 to 1999. We aim to provide that evidence  
13 both in written statements and in the oral evidence in this hearing in a cross-section of  
14 settings to illustrate the breadth of abuse across gender, ethnicity, geography and time.

15           The evidence in this hearing ranges from the 1960s right up until 1999, although our  
16 settings do go to 2004 in this hearing. There was much social change in New Zealand over  
17 this time, which I will explain shortly, which resulted in very large numbers of children in  
18 care. The evidence reflects that while the trend to place children in homes diminished after  
19 the 1989 change to legislation, the broader experience of abuse in care did not change and  
20 some issues remain current.

21           The nine settings focused on for this hearing are family homes throughout  
22 New Zealand, Kingslea Girls' Home in Christchurch, Epuni in Wellington, Kohitere and  
23 Hokio Beach School in the Horowhenua, Ōwairaka Boys' Home in Auckland and Bollard  
24 Girls' Home in Auckland.

25           The last two settings are third party providers known as Whakapakari on Great  
26 Barrier Island and Moerangi Treks in the Uruweras. Survivors were generally sent to a  
27 large number of institutions, not just one, and they will speak to all of their experiences.

28           In this opening I will first acknowledge some contributions to the Inquiry, I will  
29 then provide some brief social context and then explain the nature of abuse that has been  
30 disclosed to this Inquiry and that will be heard in this hearing.

31           I begin today by acknowledging mana whenua, Ngāti Whātua. Importantly, all of  
32 the survivors, including those who have engaged with the Inquiry. For most survivors,  
33 choosing to register with the Commission and sharing their deeply personal accounts with  
34 you, Commissioners, in private sessions, with the Inquiry teams and here, has been

1 extremely challenging. Without these accounts there is scant available evidence of abuse in  
2 care.

3 I wish to acknowledge the evidence of the following witnesses noting that we, in the  
4 broader Inquiry, have interviewed and spoken to so many more. These are the ones we  
5 could reach in time to obtain consent to be named. Brent Mitchell, Sally Rillstone, Kevin  
6 England, Cheryl Menzies, Peter Brooker, Rawiri Geddes, Robert Carson, Bobby O'Connor,  
7 Pete Rose, Daniel Stretch, Melissa H, Susan Kenny, Graeme McCullough, Stephen  
8 Humphreys, Craig Wiari, Michael Rush, Goldie Clare, Nopera Pikari, Sharyn Shepherd,  
9 Terence McClure, George Trounson, Raewyn Davies, Wayne Keen, David Bagley, Lena  
10 Walker, Raewyn Lockhart, Gavin Heka, Michael Robb, John Wakefield, Toni Lewis, Mark  
11 Gould, Shane Tibbotts, Dallas Williams and Lindsay Eddy.

12 I also acknowledge members of the Survivors Advisory Group and those who have  
13 contributed significantly to a body of work, research and literature in this area. These  
14 include Oliver Sutherland, who is here today, who's been a witness to this Inquiry. He is  
15 author of Justice and Race and he has featured, as I'll outline in a moment, in ACORD;  
16 Moana Jackson, tireless researcher and academic and Dr Elizabeth Stanley who wrote The  
17 Road to Hell.

18 The core participants and participants granted leave to appear. Cooper Legal, Sonja  
19 Cooper and Amanda Hill who have worked with survivors over the past 20 years have been  
20 working hard to provide a large number of witness statements for this Inquiry, and have  
21 provided consultation on an ongoing basis. They will be here later in the week to lead  
22 some of the witnesses.

23 There is also a large body of lawyers on the legal assistance panel, some of whom  
24 are here, who have provided legal assistance to those wanting to participate in the work of  
25 the Inquiry.

26 Finally, the residences investigation multidisciplinary team of the Inquiry who have  
27 each worked phenomenally hard to connect with as many people as possible throughout  
28 Aotearoa to obtain records of survivors and witnesses. We have 125,000 documents  
29 received for this aspect of the Inquiry alone. I also acknowledge the Crown Secretariat in  
30 responding under urgency to meet those requests to provide those documents. We have  
31 today interviewed a large number of witnesses and we intend to continue this process  
32 throughout the life of the inquiry.

33 Briefly, the Inquiry's terms of reference require it to consider these matters which  
34 are relevant to this particular hearing; the processes available to raise complaints or

1 concerns - that is still a relevant factor today, the process for handling and responding to  
2 concerns or complaints, the impact of abuse on individuals and their families, whanau,  
3 hapū, iwi and communities, including intergenerational impacts, the circumstances that led  
4 to individuals being placed in care are a highly relevant factor in evidence that will be heard  
5 during this hearing. The nature of the evidence that will be heard over the next seven  
6 hearing days, which will be challenging, requires some context to understand, how did this  
7 happen?

8 So, I'll briefly outline how this did happen in New Zealand. In 1954 two events  
9 occurred in New Zealand that prompted a major inquiry and brought about social change  
10 that would see the numbers in care double over the next 20 years. The first was the Parker-  
11 Hulme murder in Christchurch involving two teenage girls. The second was an adolescent,  
12 what was referred to as a sex ring in the Hutt Valley. The Government intervened and held  
13 a special committee on moral delinquency which resulted in the Mazengarb Report. This  
14 report drew attention to high rates of offending among young Māori which they regarded as  
15 a Māori failure to adjust to modern urban life.

16 On the report's recommendation, and what must be a legislative record, ten days  
17 later critical changes were enacted to the Child Welfare Act to expand the definition of  
18 delinquency to sexual promiscuity. Public concerns fixated on the supposed increase of  
19 sexual misbehaviour among young girls. I mention that in particular because in the  
20 evidence over the next week you will hear evidence of female survivors as young as 9 who  
21 experienced compulsory internal vaginal examinations on entry into the homes. The  
22 purpose of these was to check for sexually transmitted diseases.

23 In 1958 the Police established a juvenile crime prevention division later called  
24 Youth Aid, which was introduced to keep children out of court by way of a warning or by a  
25 period of oversight by Social Welfare. Ultimately, though, it had the opposite effect.  
26 Much of the evidence received by the Inquiry reflects that children were committing minor  
27 offences prior to going into care. However, as you will hear, they were doing so against  
28 backgrounds of extreme poverty, traumatic family events, family violence and in some  
29 cases sexual abuse. The evidence will reflect that no inquiry was made as to the cause of  
30 these offences. The emphasis from the Mazengarb Report was on correction of the child.

31 So right up until the 1989 changes to the legislation, children could be sent to the  
32 residences for an array of reasons; committing an offence, persistent truancy, being -  
33 this- was the main one --- being out of control of his or her parent or not under proper  
34 control, being neglected or ill-treated-, or sometimes as a result of an agreement between

1 Social Welfare and parents. This resulted in children with care and protection needs,  
2 perceived social delinquency and some who had committed criminal offences being cared  
3 for all together in the State residences. There was no difference in where a child was sent  
4 based on reason.

5 There are issues of discriminatory practices in relation to how powers to send  
6 children to homes were exercised to the disadvantage of Māori and, as we will hear,  
7 Pacific Island children.

8 I come now to the disproportionate number of tamariki Māori in care. In order to  
9 understand the disproportionate numbers of Māori in State care that continue today it is  
10 important to understand again how that happened. I note here that the Inquiry's terms of  
11 reference also recognise there is a disproportionate representation of Pacific children in  
12 care.

13 However, as we will hear in this hearing, there was inadequate inquiry and  
14 recording of Pacific ethnicity in the homes. It is very difficult to establish the number of  
15 children of Pacific descent in care and this will be examined in depth in the Inquiry's  
16 Pacific hearing in July this year. So, forgive me for not speaking to those figures now.

17 Few tamariki Māori lived in any sort of institution prior to the Second World War.  
18 Of 2,500 children in church run facilities, which were the main kind of facilities prior to the  
19 war in 1940, none were Māori. Tamariki and rangatahi were raised by extended whānau,  
20 whāngai adoptions were common. Another statistic in 1945, 21% of our prison population  
21 were Māori.

22 However, post-World War II, two things happened. Māori moved to urban areas,  
23 they were 75% living rurally. That changed to 60% living in urban areas by 1965 and that  
24 meant they came under increasing Police focus.

25 The other thing that happened was that there was a baby boom after the war and the  
26 number of children and young people in Aotearoa New Zealand doubled between the end  
27 of the war and the early 1970s. By 1966 Māori children under 15 were half the population  
28 and higher numbers of Māori children appeared in the children's court.

29 In 1960 the Hunn Report was issued authored by the acting head of Māori Affairs.  
30 It found Māori suffered significant disadvantage against almost every social and economic  
31 measure. The Hunn Report reconfirmed the existing racial policy of Māori integration,  
32 recommending that the Government act quickly to speed up Māori integration to Pākehā  
33 society. Pressure intensified on Māori to assimilate into Pākehā ways of living. Māori  
34 patterns of child rearing came under strain. Māori were encouraged to turn to mainstream



1 State agencies for welfare assistance.

2 At about the same time another racial issue arose. From the 1960s and 1970s there  
3 was migration of Pacific Island workers to fill shortages in manufacturing sector.  
4 Economic downturn in the mid-1970s led to racist anti-Pacific sentiment throughout  
5 society. Overstayers, particularly Samoans and Tongans, were later targeted in Police  
6 dawn raids that began in 1974. You'll hear from the first hearing witness today accounts of  
7 abuse on racial grounds by staff in the residences from the early 1970s.

8 Against this background of social hysteria over juvenile delinquency, rates of court  
9 appearances by children rose dramatically from the late 1940s to the 1970s but at rates far  
10 higher than the population growth. This drove a significant increase in the numbers of  
11 children who became State wards. Between 1948 and 1972 the total number of children in  
12 Child Welfare supervision or care doubled to 16,356. There was most definitely pressure  
13 on the system.

14 Last Friday the Waitangi Tribunal issued findings in He Paharakeke in relation to  
15 claims concerning the disproportionate number of tamariki Māori taken into State care by  
16 Oranga Tamariki. That's a current statistic going back I think until 2012. However, in our  
17 scope, by the mid to late 1970s in most of our settings evidence shows that 70 to 80% of the  
18 residences were Māori children and at that time they made up just 8.6% of the population  
19 and that's from the 1976 census.

20 The Waitangi Tribunal last Friday reported that in 2017 Maori were 61.2% of  
21 children in care. While the total number of children entering State care has decreased since  
22 2000, this is from the evidence of former Government statistician Len Cook, the proportion  
23 of tamariki Māori in State care has actually increased. Between 2000 and 2018 the  
24 incidents of tamariki Māori aged 16 and under in State care rose for every 125 Māori  
25 children to 1 in every 64. By 2012, tamariki Māori were five times more likely than their  
26 non-Maori counterparts to enter State care.

27 In the He Paharakeke report issued last Friday, the Tribunal noted that the Crown  
28 rightly accepted that colonisation, structural racism and the ongoing effect of historical  
29 injustices have been significant contributing factors to these statistics to the  
30 overrepresentation of tamariki Māori in care. That too, you will recall, was the evidence of  
31 Moana Jackson, lawyer and researcher, Ngāti Porou, who presented in the contextual  
32 hearing to the Commission in late 2019.

33 Mr Jackson's evidence was that the overrepresentation of Māori in negative social  
34 and economic spheres is inextricably linked to the failure of successive Governments to

1 honour Te Tiriti o Waitangi. He referred to, among other reasons, the closed adoptions  
2 arising from the Hunn Report and the banning of Te Reo Māori in schools.

3 By the late 1970s, the State residential system was widely accepted to be in a state  
4 of crisis. In 1978, the Auckland Committee on Racism and Discrimination, ACORD, Ngā  
5 Tamatoa and Arohanui Incorporated launched an inquiry into cruel and inhumane treatment  
6 that was alleged to be happening with young people in Auckland in Social Welfare homes.  
7 The Commission heard evidence about this from Oliver Sutherland, a member of ACORD,  
8 at the contextual hearing. These investigations were focused most closely on Ōwairaka but  
9 also considered Bollard and Wesleydale Boys' Home. ACORD's report uncovered a range  
10 of human rights breaches.

11 Soon after this the newly established Human Rights Commission investigated the  
12 alleged human rights abuses described in ACORD's report and issued its own report in  
13 1982 which confirmed some of those findings.

14 In 1988 a Ministerial Advisory Committee report was released, Pua Te Atatu  
15 (Daybreak). It found a culture of institutional racism in the Care and Protection system.  
16 The Crown acknowledged to the Waitangi Tribunal, as reported last Friday, that it has  
17 failed to fully implement the recommendations of Pua Te Atatu.

18 The Government passed new Child Welfare legislation in the form of the Children  
19 and Young Persons and Their Families Act 1989. This represented a shift back to family-  
20 based decision making and Family Group Conferences. However, significant issues of  
21 abuse in care arose after that legislation, well after. Our two later settings, Whakapakari  
22 closed in 2004 and Moerangi Treks in 1999, are examples of some of the worst abuse that  
23 have been reported to this aspect of the Inquiry.

24 We come now to the themes for this hearing that emerge from the evidence. The  
25 terms of reference define abuse as meaning physical, sexual and emotional or psychological  
26 abuse and neglect. It includes inadequate or improper treatment or care that resulted in  
27 serious physical or mental harm. Under the terms of reference, abuse may have been  
28 carried out by anyone involved in the provision of care, including associates, contractors  
29 and abuse by other children in care, and as you will hear, that is what occurred.

30 Evidence that the Commission will hear over the next seven hearing days is  
31 emblematic of the evidence gathered by the Commission to date as to the nature of the  
32 abuse in the residence settings. Physical, sexual, emotional abuse and neglect was most  
33 highly prevalent at the settings we have identified for this hearing. However, those themes  
34 are common to most of the residences that we are considering.

1           The nature of the evidence over the course of the hearing will be challenging and it  
2 is disturbing. As I said, some of the worst examples of abuse occurred more recently at  
3 Moerangi Treks and Whakapakari. These are remote and isolated locations. The evidence  
4 includes serious and repeated rape, forcing children to dig their own graves and shooting  
5 over their heads.

6           In almost every setting there was a kingpin system where the kingpin boy, the head  
7 boy would mete out punishments to other children. That was a system encouraged by the  
8 staff of the residences to enforce discipline. There was also an initiation into the homes in  
9 almost every setting known as stompings or blanketings where children were covered in  
10 blankets and kicked or stomped.

11           The evidence will be that staff used unreasonable forms of physical training as a  
12 disciplinary measure, very strenuous physical exercise for many hours. There were forced  
13 participation and fights by staff, and there were some concerning chores such as cleaning  
14 that you will hear about.

15           As I alluded to earlier in the 1960s and 1970s there were routine internal vaginal  
16 examinations on girls as young as 9 at Bollard and Kingslea. They were at most of our  
17 female children's homes for venereal disease testing. The examinations were conducted  
18 each time girls were admitted to the homes but also each time after they had absconded.  
19 They were conducted often in a rough manner, often without explanation or warning, and  
20 with restraint by staff or the use of physical restraints. The evidence from our hearing  
21 witnesses will be that these vaginal examinations stopped them from having regular smear  
22 tests for cervical cancer later in life.

23           At this hearing there will be evidence from witnesses that shows the degree to  
24 which children were referred to psychiatric care for behavioural issues. The Department of  
25 Social Welfare was specifically empowered under the Act to send children to other  
26 institutions. One of our witnesses will give evidence of being put on a trial of  
27 amphetamines in the home. Some of our witnesses were sent to psychiatric hospitals,  
28 prescribed psychiatric drugs as children.

29           A major theme for our part of the Inquiry is the use of solitary confinement. This is  
30 referred to then and now in children's homes as the use of "secure". The secure unit at  
31 Kohitere, for example, was modelled on the unit from Arohata Prison. At most of the  
32 institutions every child was placed into solitary confinement, which is what "secure" was,  
33 automatically on admission; sometimes for an extended period, or for behavioural  
34 correction or after absconding. The use of solitary confinement in the residences was not

1 regulated until 1986, but these practises amounted to a consistent breach of internal  
2 guidelines that existed before that. The current Oranga Tamariki Act legislates for this  
3 practice to continue.

4 In 2017 Dr Sharon Shalev issued a report for our Human Rights Commissioner  
5 called "Thinking outside the box". In this report Dr Shalev noted the current practice in  
6 Care and Protection units for children to be held in secure care units which are identical to  
7 prison segregation units. So these are locked cells with a toilet, with no access to, at least  
8 in the 1970s, no access to education and no access to other people.

9 As Dr Shalev noted, international human rights law and principles of good practice  
10 call for a complete prohibition on the use of solitary confinement for children. There is  
11 good reason for this. As Dr Shalev noted, the reported psychological effects of solitary  
12 confinement range from acute to chronic. They include anxiety, panic, chronic depression,  
13 rage, poor impulse control, cognitive disturbances, perceptual distortions including  
14 hallucinations and psychosis. You will hear from our witnesses of experiencing those very  
15 things.

16 Emerging research shows that solitary confinement disrupts brain activity,  
17 potentially leading to changes in the structure of the brain. Three years later in 2020  
18 Dr Shalev issued a follow-up report to the Human Rights Commission called seclusion and  
19 restraint time for a paradigm shift. Dr Shalev noted that not a lot had changed in the  
20 intervening three years. In one facility children were held in a secure room for over a week  
21 on 22 occasions in a six month period. Dr Shalev recommended to Oranga Tamariki that  
22 secure care rooms were inappropriate and their use should stop.

23 The Inquiry has received a large number of witness statements from people serving  
24 prison terms for very serious offences. We have noticed a trend that those people who  
25 committed more serious offences have often had extensive periods of secure in children's  
26 homes in their childhood. One witness, in prison for very serious offences, experienced  
27 320 days of solitary confinement over a 563 day period when he was 13. The trajectory  
28 from solitary confinement to serious offending is one that we intend to continue to  
29 investigate.

30 In this hearing you will hear that almost all of our witnesses, regardless of age,  
31 gender or race, experienced the use of secure. The consistent theme across the evidence is  
32 the lack of education. This is probably the greatest consistent complaint of all of our  
33 witnesses. There was no education provided while a child was in secure. The education  
34 experiences in the homes generally varied but were generally substandard.

1           Some of our witnesses are documented to have been intelligent and a good student  
2 but in some cases they were discharged from school early on the application of the Social  
3 Welfare Department. This was despite the fact that truancy was one basis upon which  
4 children could be admitted into the homes.

5           Finally, I wish to speak to complaints. Much of the evidence in the hearing relates  
6 to attempts to complain or a lack of an ability to complain about abuse that was happening  
7 in care. Some of the later examples relate to Whakapakari and Moerangi in later settings.  
8 It was most definitely a no narking culture in all of the residences which was enforced by  
9 assaults by or on behalf of the staff. You'll hear some stark examples of those from our  
10 later hearing witnesses.

11           On 14 August 2020 the Inquiry issued a section 20 notice to Oranga Tamariki  
12 requesting information in relation to children and vulnerable adults who made allegations  
13 of abuse in care in residences. Oranga Tamariki advised they were unable to comply with  
14 this request because complaints and allegations of abuse were not recorded centrally. An  
15 expert advisory panel report in 2015 resulted in a 2017 amendment to the Oranga Tamariki  
16 Act which requires it to establish, amend or replace one of the complaints mechanisms to  
17 allow children in care to complain.

18           The Inquiry then required Oranga Tamariki to produce a statement as to the  
19 background of taking complaints, both historically and currently. Oranga Tamariki advised  
20 firstly for the period 1950 to 2010 information about allegations of abuse, where recorded,  
21 were only held in individual case files. To clarify what that means, that means that if  
22 person A made a complaint about adult A, the complaint is only held on person A's file. So  
23 if a subsequent person makes a complaint about adult A, there is no record on the adult's  
24 file of a previous complaint having been made.

25           In 2011, Child Youth and Family established a manual review to report of numbers  
26 of children and young people with findings of abuse which is different, of course, to a  
27 complaint of abuse. They found that the annual reports were produced with a flawed  
28 process and undercounted the incidents of abuse. It was acknowledged that the reports of  
29 2010 to 2015 do not measure abuse that occurred in the residences and that that is a flaw.

30           Following an expert measurement group's input, a new measurement approach was  
31 adopted by Oranga Tamariki on 1 July 2019. Our understanding of the statement from  
32 Oranga Tamariki is this only reports on substantiated findings of harm, physical, sexual,  
33 emotional harm and neglect.

34           Steven Groom of Oranga Tamariki gave evidence to the Commission in the redress

1 hearing. He advised that Oranga Tamariki has an 0800 number to receive complaints and  
2 there is a website option. He acknowledged that children who don't have access to a  
3 computer or who have disabilities may find it difficult to access the information online.

4 You will hear evidence in this hearing of prolific paedophiles, including a cook at  
5 Hokio home called Ansell, a housemaster Alan Moncrief-Wright who was at Epuni and  
6 other homes. There are others you will hear about in this hearing. There was no  
7 centralised register of complaints then, and on our understanding of what's been provided  
8 by Oranga Tamariki there appears not to be now.

9 That means that if various children at different times are raising complaints about  
10 the same person, unless there is a substantiated finding, there may not be a centralised  
11 register of those complaints. The Commission may wish to consider whether this  
12 represents an ongoing serious risk to the safety of children and vulnerable adults in care.

13 The evidence in this hearing will also consider the impact of abuse. Many of our  
14 witnesses have Post Traumatic Stress Disorder. They have difficulty remaining in  
15 relationships and employment. Some have physical disabilities and health issues from their  
16 abuse in care. Some witnesses went on to become gang members. You will hear from one  
17 of those during the hearing. There are a very large number of witnesses who went to prison  
18 and that trajectory to prison is something that we are continuing to investigate.

19 Māori and Pacific survivors also experience cultural abuse in care. Tamariki Māori  
20 were alienated from their whānau and cultural identity. Some tamariki Māori in care lost  
21 connection to their whakapapa and tribal affiliations as well as Te Reo Māori. The same  
22 occurred for Pacific Island survivors.

23 Given the limited public hearing time we have 16 witnesses and survivors who will  
24 give their evidence orally in this hearing. But public hearings are only one way of  
25 receiving evidence. We emphasise we will continue to gather written witness statements as  
26 evidence to the Inquiry and that the opportunity for participation for survivors for staff at  
27 the residences settings is not over. We encourage all survivors and witnesses to contact us  
28 and come forward to give their account to the Royal Commission. The only way of  
29 obtaining abuse in care is from survivors.

30 All of the witnesses will describe their experiences of abuse and their thoughts  
31 about an appropriate state response to this. Most seek an unqualified apology from the  
32 state.

33 The Chair granted leave to counsel for core participants to provide an opening  
34 statement introducing themselves and those they are representing at this redress hearing. I

1 understand Ms Schmidt -McCleave will open for the Crown and Mr Stone will have a brief  
2 opening. Mr Jarvis is also here but I understand he will not be providing an opening.

3 Finally, the experiences of those in care powerfully portray that what happens in  
4 childhood, matters to the way each person's life unfolds. He tamaiti he taonga. Every child  
5 is precious. In the words of Dame Whina Cooper, take care of our children, take care of  
6 what they hear, take care of what they see, take care of what they feel, for how the children  
7 grow so will the shape of Aotearoa.

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

11 **CHAIR:** Tēnā koe Ms Toohey. Thank you. I'll now call upon the Crown to provide their  
12 opening. Thank you Ms Schmidt -McCleave.

### 13 **OPENING STATEMENT BY THE CROWN**

14 **MS SCHMIDT-McCLEAVE:** Morena koutou katoa. The Crown thanks the Commissioners for  
15 this opportunity to present this brief opening statement for this phase of the public State  
16 residences hearing.

17 I wish to begin by acknowledging, on behalf of the Crown, the survivors, the  
18 survivors' groups, whānau, supporters of survivors and all the members of the public who  
19 are watching and following this hearing. I particularly wish to acknowledge the māia, the  
20 kaha, the strength and courage of those who have come forward to give their kōrero to this  
21 Commission.

22 The importance of these voices is recognised by the Crown. Their contribution to  
23 the important work of this Commission cannot be overstated. The Crown agencies engaged  
24 in responding to the Royal Commission, and whom I represent, are listening carefully to the  
25 evidence in this hearing. Some will be represented here in person this week and we have  
26 people from different agencies through the week, and some are listening remotely.

27 For clarity, the agencies listening particularly closely this week are the Ministry of  
28 Social Development, Oranga Tamariki, the Ministry of Health, the Ministry of Education,  
29 New Zealand Police, and the Crown Law Office.

30 The principles that Cabinet approved for the Crown's engagement with this Royal  
31 Commission indicated that the various agencies should be joined up, so when I refer this  
32 week to the Crown and today I'm referring to all the Crown agencies who have had a role in  
33 State care.

34 As in previous hearings of this Commission, the Crown welcomes the opportunity

1 to hear first-hand from survivors and to learn from what they say about their experiences in  
2 State residences. The Crown will not be seeking to question any survivor witness, nor to  
3 have any question put to survivor witness through Counsel Assisting. Rather, the Crown's  
4 objective in this phase of the hearing is to actively listen and supply information to assist  
5 this Inquiry to fulfil its terms of reference.

6 In the second phase of this hearing the Commission will hear from Crown witnesses  
7 who are best placed to assist the Commission in relation to the evidence given at this first  
8 phase.

9 Tēnā koutou katoa.

10 **CHAIR:** Kia ora Ms Schmidt-McCleave. Ms Lane, Mr Jarvis is with you, does he wish to make  
11 any submission?

12 **MS LANE:** No submission thanks ma'am.

13 **CHAIR:** Thank you very much, welcome to Mr Jarvis for being here today. And finally, Mr  
14 Stone.

15 **MR STONE:** Ma'am, I have copies of my opening statement which I could hand to the Registrar.

16 **CHAIR:** That would be helpful, thank you.

17 **OPENING STATEMENT BY MR STONE**

18 **MR STONE:** Last week I was asked by Mr Thomas Powell if I'd like to give an opening  
19 statement to which I said obviously said yes, I would. I went on the Facebook page of the  
20 Trust that I act for letting them know I'd be giving an opening statement today asking those  
21 affected for their thoughts on what it is they would want said if they were here today and  
22 they did that. And this opening statement is a collection of their respective posts, minus  
23 quite a few adjectives.

24 Two years ago I started researching into why my late grandfather's eldest brother  
25 never received his World War II medals. I never knew that along the way I would uncover  
26 133 other soldiers from C company of the 28th Māori Battalion who also never received  
27 their medals. Just over two weeks ago that research led to the New Zealand Defence Force  
28 presenting in person to the descendants of those soldiers, the original World War II medals  
29 belonging to them. It didn't matter that the war had finished 75 years ago. Those families  
30 wanted those medals presented to them and there were three main reasons for it.

31 Firstly, it was about recognition. Recognition of what their tīpuna had endured and  
32 had done for our country. Secondly it was about mana and honouring those soldiers  
33 according to our tikanga. And thirdly, because it was the right thing to do. It mattered not  
34 that 75 years had passed. The passage of time had not ameliorated the need to be



1 recognised, nor the need for the restoration of mana. Nor did it remove from the Crown the  
2 need to do the right thing.

3 The same can be said here. It doesn't matter that decades have passed for some  
4 survivors, which in some instances is over 50 plus years. The survivors who elect to come  
5 forward do so for the same reason as the families of those soldiers. The recognition of what  
6 happened, the restoration of mana and because it's the right thing to do.

7 Recognition. They need the same thing; recognition. Recognition that what  
8 happened to them was wrong. Recognition that what happened to them should never have  
9 happened. Recognition that they have been let down by those who were meant to be there  
10 to care for them.

11 Mana. They came forward in the hope that their mana will be restored and, to be  
12 clear, they had it ripped from them in the most horrible of ways, as described by my learned  
13 friend just now. This includes not only their mana but their dignity and their self-respect.

14 But the truth is very few will come forward. That is because many of them don't  
15 trust this Inquiry and view it as a waste of time. They know too that this Inquiry can't give  
16 back that which was taken from them. It can't give back their childhood, it can't give back  
17 their innocence, nor can it repair the hate, the trauma, the pain, the drugs, the domestic  
18 violence, the broken relationships and all the downstream prejudice that comes with being a  
19 victim of State abuse. It can't do any of that.

20 So what can this Inquiry give the survivors? It can give them a voice and this is  
21 important because many feel that they have no voice. With that voice they want to be  
22 heard. This too is important because they've never had that. But they don't want to just tell  
23 their story, they want something tangible to come from the telling of their story.

24 From telling their story they want follow up. They want to know that as a result of  
25 coming forward, things will change. In particular, they want justice. They want those  
26 responsible for their abuse to be held to account. And they want more than just an apology.  
27 They want that apology from the people who harmed them. They want it from the  
28 perpetrators.

29 They want the way in which the historical claims process is administered  
30 completely changed. They want it to be more mana enhancing. They want to bring their  
31 whānau with them, those who supported them when the Crown didn't. It has to be more  
32 than just a ticking of the box exercise. They want tikanga to be part of the process, just as  
33 the Army did for the first time in its history when they incorporated tikanga Māori when  
34 they presented those medals, survivors of Māori descent want tikanga involved in how their

1 cases are managed.

2 When we had our medals presentation in Gisborne, we didn't get every family come  
3 forward. We had exactly half come forward. But after the presentation when all Māoridom  
4 found out about the kaupapa, many more came forward because they too wanted the same  
5 thing, to honour and recognise their tīpuna.

6 And the New Zealand Collective of Abused in State Care Charitable Trust hopes the  
7 same thing will happen here. It is genuinely hoped that with the formation of the trust more  
8 and more survivors will come forward and more and more survivors will use this process,  
9 which is only the beginning of what the Trust will implement in respect of priorities, policy  
10 design and leading survivors forward.

11 In particular is after care, which is sorely needed. Just like the soldiers who didn't  
12 get the rehabilitation they needed upon returning from war, the survivors too didn't get the  
13 help they needed. And this Inquiry is part of that rehabilitation.

14 It is hoped that the common cause of wanting recognition and restoration of mana  
15 will be enough to bind the thousands of survivors together. It is hoped that this process  
16 may be the beginning of that process. And that perhaps is the greatest gift this process can  
17 give survivors; hope. Hope that people will come together, hope that they will get the  
18 recognition they need. Hope that their mana will be restored. Hope that they will get a  
19 voice and be listened to. Hope that they will get justice. And that's why they will now join  
20 this process.

21 Ma'am that is my opening statement.

22 **CHAIR:** Tēnā koe Mr Stone. Tēnei te mihi ki a koe.

23 **COMMISSIONER ERUETI:** Mr Stone, tēnā koe. I saw on the news a few weeks ago the medal  
24 ceremony and acknowledged all the mahi you're doing in getting recognition of the mana  
25 and the status of our Māori war veterans, it was very moving. And I recognise what you  
26 say in the statement about the suspicion and lack of trust of yet another authority figure  
27 wanting to engage with survivors to talk about their experience, so acknowledge the mahi  
28 that you're doing with the charitable Trust to assist us and bringing more Māori forward to  
29 participate in this process so ka nui te mihi ki a koe. Tēnā koe, thank you.

30 **MR STONE:** Dr Erueti, thank you. I should also acknowledge; my learned friend made a  
31 reference to the Waitangi Tribunal's findings on Friday. That came as a direct result of the  
32 application for urgency which my team submitted, and it must be acknowledged that you  
33 were there from the very beginning. Thank you.

34 **CHAIR:** Kia ora. So that brings our opening submissions to an end. Is there anything else that

1 anybody else would like to contribute before we take our break and before we call the first  
2 witness? Is there anything else required? We are a handsome 15 minutes early and I think  
3 it's appropriate that we take the morning adjournment. Thank you.

4 **Adjournment from 10.59 am to 11.18 am**

5 **CHAIR:** Yes Ms Toohey.

6 **MS TOOHEY:** Good morning Commissioners. We have with us Mr X, the first witness for this  
7 hearing.

8 **CHAIR:** Thank you, I'm going to ask Sandra Alofivae to greet you.

9 **MR X**

10 **COMMISSIONER ALOFIVAE:** Good morning Mr X.

11 A. Good morning.

12 **Q.** Fa'atalofa atu i le pa'ia ma le mamalu o lau susuga, fa'atasi ma lou...e ua lagolago mai  
13 malosi atu ia te oe mo lenei aso. Fa'afetai fo'i mo lou aiga ma nisi o mafai ona omai e  
14 fesoasoani ia oe i lenei itula. Nofo ma lou iloa o lea fo'i matou te au malosi ia te oe.

15 **CHAIR:** Before we start, I'm going to ask you if you'd take the affirmation. Are you ready for  
16 that?

17 A. Yes.

18 **Q.** Mr X, do you solemnly, truly, declare and affirm the evidence that you'll give to the  
19 Commission will be the truth, the whole truth and nothing but the truth?

20 A. I do.

21 **CHAIR:** Thank you Ms Toohey.

22 **QUESTIONING BY MS TOOHEY:** Good morning. You are going by a different name in this  
23 hearing, Mr X. Can you tell us when abouts you were born Mr X?

24 A. Can you repeat that?

25 **Q.** When were you born?

26 A. 1958.

27 **Q.** And you currently live in Christchurch?

28 A. Yes, I do.

29 **Q.** I want to ask you first about your early life. You've put in your statement about growing up  
30 with your grandparents here in Auckland.

31 A. Yes.

32 **Q.** Can you tell us about that?

33 A. Yes, being in a Samoan family of course, you know, it's pretty strict back in the day. Yeah,  
34 everything was strict, but for myself and my brother it was sexual abuse and the violence