

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY
MARYLANDS SCHOOL**

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

Counsel: Ms Katherine Anderson, Mr Simon Mount QC, Ms Kerry Beaton QC, Ms Jane Glover, Ms Anne Toohey, Ms Kima Tuiali'i, Ms Julia Spelman, Mr Winston McCarthy, Ms Echo Haronga, Mr Michael Thomas and Ms Kathy Basire for the Royal Commission
Ms Rachael Schmidt-McCleave, Ms Julia White and Mr Max Clarke-Parker for the Crown
Ms Sonja Cooper, Ms Amanda Hill, Mr Sam Benton, Ms Alana Thomas and Mr Sam Wimsett as other counsel attending

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

Date: 9 February 2022

TRANSCRIPT OF PROCEEDINGS

1 [10.00 am]

2 **CHAIR:** Tēnā tatou katoa. I'm going to invite our kaikarakia who will be giving us our karakia
3 via AVL. Kei a koe Wiremu. **[Karakia tīmatanga and waiata by Ngāti Whātua**
4 **Orakei]**

5 E ngā mana, e ngā reo, e ngā hau e whā, tēnā koutou katoa. Rau rangatira mā,
6 koutou kua tae mai ki ēnei whakahaerenga, tēnei te mihi mahana ki a koutou katoa. Ko
7 Coral Shaw tōku ingoa. Ko au te tiamana o te Kōmihana. Nō reira, tēnā koutou, tēnā
8 koutou, tēnā rā tātou katoa.

9 I just wanted to open this very important hearing before we hear from all our
10 counsel and core participants who will address us beforehand. I want to stress how
11 important this is. It's particularly important for the survivors of the institution of Marylands
12 and the Hebron Trust who are going to come and speak to us about their experiences while
13 they were in care in those institutions.

14 I want to acknowledge them, but I also want to acknowledge those survivors who
15 have not made it, who are either not with us now or for their own reasons are unable to join
16 us in this hearing. We acknowledge them, we acknowledge their history, we acknowledge
17 their suffering, and we say to them this hearing is for you.

18 I want to welcome all of those who are here today, either in-person, thank you for
19 coming in these difficult times, and I also wish to acknowledge all of those who are
20 watching through the livestream, or if you're watching later, watching it as a recorded
21 version. It's critically important that as many people in this country see the evidence that's
22 going to be given, to hear the history, and to understand what has happened to people in the
23 past.

24 You will notice that there are only two of us sitting here today. I will introduce
25 Ali'imuamua Sandra Alofivae in a moment, but in the past, we have had hearings where
26 there have been five, four, or three. This is the first hearing we've had where we've been
27 reduced to only two. You will understand, I hope, that this is not a reflection of the
28 importance to which we accord the kaupapa of this hearing. It is a reflection of our time.
29 Know that the other Commissioners are still able and are watching remotely and will be
30 variously participating in the hearing through sending messages and contacting us. So,
31 although we're not all physically here, we are actually participating as well.

32 So just to round off for me before I invite submissions. Thank you very much for
33 those who are coming. We really appreciate that and it's going to be a tough couple of
34 weeks, but this is, as I say, important and we are here, Commissioner Alofivae and I, to

1 listen and learn. Can I just introduce Commissioner Alofivae and invite you to say a few
2 words.

3 **COMMISSIONER ALOFIVAE:** Mālo le soifua maua ma le lagi e mamā. Fa'atalofa atu i le paia
4 ma le mamalu o lou afia, ua mafai ona fa'atasi mai i lenei aso, fa'atasi mai ē, e pa'i mai i le
5 vaiaso atoa. Good morning, everybody, it's lovely to see everybody here despite our
6 restricted conditions, and looking forward to working with you all this week.

7 **CHAIR:** Ms Anderson.

8 **MS ANDERSON:** Thank you Madam Chair. Just checking, I think, given that most people
9 present in the room have been here previously, that we don't need to formally take
10 appearances, that they're a matter of record.

11 **CHAIR:** I think perhaps we should. I think it's important just for the record that we do,
12 everybody stands and introduces themselves, I think that's a very good idea. So, we'll start
13 with you.

14 **MS ANDERSON:** Thank you, Madam Chair. I'm Katherine Anderson, I appear with the
15 members of the investigation team, Kima Tuiali'i, Counsel Assist Jane Glover and Echo
16 Haronga, and with Senior Counsel Assisting, Simon Mount, in relation to this case study.
17 And I'll make reference in my opening to the many hands that have contributed to where
18 we've arrived at today.

19 **CHAIR:** Yes, thank you. And we'll just go around the room so that everybody knows who's
20 here. Morning Ms McKechnie.

21 **MS McKECHNIE:** Kia Ora ma'am, good morning. Counsel's name is Sally McKechnie, I appear
22 with James Meagher and Hugh Morrison, Commissioners. Next week we will be joined by
23 Sam Hart joining the legal team. We're also joined, Commissioners, by Bishop Michael
24 Gielan in the public gallery today. The other bishops have been unable to travel to
25 Auckland.

26 **CHAIR:** Yes.

27 **MS McKECHNIE:** And the Chair of Te Rōpū Tautoko, Mrs Fyfe, is also here. St John of God,
28 as you'll appreciate, ma'am, because of the border restrictions are unable to enter
29 New Zealand so they are all watching on livestream from Australia.

30 **CHAIR:** Good, thank you. Who else do we have here, we have the Crown of course.

31 **MS SCHMIDT McCLEAVE:** E te Kaiwhakawā me te Kōmihana, tēnā koutou katoa. Ko Ms
32 Schmidt McCleave tōku ingoa. Kei konei mātou mo te Karauna. Good morning,
33 commissioners, counsel's name is Ms Schmidt McCleave and I appear on behalf of the
34 Crown. Also present this morning is Ms Julia White from the Crown Secretariat and I also

1 acknowledge Mr Mike Scott who's here from the Ministry of Education and of course many
2 other Crown representatives who are watching online. Tēnā koutou katoa.

3 **CHAIR:** Kia ora. Tēnā koe.

4 **MS THOMAS:** Tēnā koutou. Matua rā, e te tungāne a Wiremu, to tātou kaikarakia, e tika ana kia
5 mihi i a koe. Tēnā koe i ō kupu, tēnā koe e hā aro ake ai te manu aute o whakapono ki
6 runga i ngā rangi tuangāhuru kia purea ai tātou e ngā hau o wairua mākohakoha, e ngā hau
7 o wairuatapu, ā, i runga i tēnā, e te tungāne, tēnā koe. Tēnā tatou i whakarauika mai nei i
8 roto i tēnei ruma i tēnei rā. E te tiāti, e te tiamana, kōrua tahi ngā wāhine toa, he pai te kite i
9 a kōrua anō i tēnei rā. Nōku te waimarie te āwhina i tēnei taha ētahi o ngā mōrehu kua tū ki
10 roto i tēnei wiki. Ko Ms Thomas tōku ingoa. E mihi ana ki a korua.

11 **CHAIR:** Tēnā koe. Is there anybody else who wishes to make an appearance? I think we have
12 someone online, Ms Oosterhoof.

13 **MS OOSTERHOOF:** Yes, tēnā koutou katoa, counsel's name is Ms Oosterhoof and I appear with
14 Ms Marsland via video link on behalf of the Survivors Network of Those Abused by
15 Priests, also known as SNAP Aotearoa. Thank you for the opportunity to appear here
16 today. Our apologies that we could not be there in person. However, Commissioners
17 appearing before you in person are representatives from SNAP, Dr Christopher Longhurst
18 and Mr O'Malley. Tēnā koe.

19 **CHAIR:** Thank you Ms Oosterhoof.

20 **MR CLEARWATER:** Kia ora whanau. Ken Clearwater, I am former national advocate for
21 Male Survivors of Sexual Abuse, and I'll be talking later on about the 25 years I've spent
22 working with the victims from Marylands, kia ora.

23 **CHAIR:** Very good to see you, Mr. Clearwater, we're looking forward to hearing that evidence
24 later on. Is there anybody else who wishes to register their appearance? Right, so we now
25 know who's who in the room, at least on this side of the matters. Thank you very much for
26 all attending. I just want to say no apologies for not being here. This is no fault of
27 anybody's except a nasty virus, so if you are not here and you're online, you are still here
28 with us.

29 Thank you, Ms Anderson, I'll invite you to open on behalf of the Commission.

30 **OPENING SUBMISSIONS BY THE ROYAL COMMISSION**

31 **MS ANDERSON:** Thank you. Tēnā koutou katoa, tēnā tatou kua haere mai nei,
32 i whakarongohia e tātou, i te karanga o tēnei kaupapa.

33 Commissioners, victims and survivors, survivor advocates, members of the public,
34 I welcome you all to this livestream to public hearing concerning the abuse of disabled

1 boys, at risk boys and at-risk youth in the care of the Hospitaller Order of St John of God,
2 which I'll refer to alternatively as The Order, or St John of God, or the St John of God
3 Brothers.

4 This case study is, of course, part of the Inquiry's broader investigation into abuse in
5 the care of the Catholic Church. As I said in my introduction, I'm Katherine Anderson
6 leading this case study and the investigation into the abuse in the care of the Catholic
7 Church.

8 In addition to those that I mentioned in entering appearance, I want to acknowledge
9 Lucy Wesley-Smith, and the many members of her team who have helped us arrive where
10 we are today, able to put this hearing on, albeit in slightly Covid influenced circumstances.

11 I wish to begin by acknowledging the abuse survivors present in the room and those
12 watching on the livestream. Also all those other survivors of abuse in the care of the State
13 or faith-based entities who have come forward and engaged with this Royal Commission.
14 I acknowledge also, importantly, those survivors who have passed on and are no longer
15 with us and those who have not yet come forward who for various reasons are unable to do
16 so. I acknowledge the family members and friends supporting survivors and members of
17 survivor advocacy groups.

18 I acknowledge Ngāti Whātua, Mana Whenua of this place and who are virtually
19 guiding us as we proceed through this hearing.

20 I note the high level of interest in this investigation into abuse in care of the
21 Catholic Church, over 300 Catholic survivors have registered directly with the Inquiry and
22 many others are supported through the legal assistance panel. Some of these survivors have
23 also experienced abuse in the care of the State.

24 We know that for many of the survivors whose voices will be heard in the coming
25 days, it has been and is very important to them to be able to speak publicly about their
26 experiences and the impact of abuse on them. This case study is, of course, only the visible
27 tip of the iceberg of this investigation. We have sourced and reviewed many, many
28 documents from Government departments, institutions, the Catholic Church and
29 individuals. Dozens of statements have been taken from witnesses with something to tell
30 us and we will continue this work after this hearing.

31 To those who engage and have engaged, we acknowledge your contribution to this
32 task. Importantly an enduring record of abuse in the care of this order is being created and
33 will be reported and inform the Inquiry's findings and recommendations. Finally, we
34 appreciate and acknowledge all those participating in this hearing via the livestream given

1 Covid considerations have meant there is no general public attendance at this hearing.

2 I'm going to outline just a little bit of the background relating to the Order of St
3 John of God. It's what is known as a Catholic religious institute and different language is
4 sometimes used calling it either an order, a congregation or an institute. Its members are
5 not ordained priests although some may be. Members of this particular order are known as
6 Brothers. Through the making of vows they commit themselves to life within the Order of
7 St John of God and difference in language, whereas ordained priests are referred to as
8 "clergy", members of institutes and orders such as this are known as "religious".

9 The Order first established its presence in New Zealand in 1955. At that time, it
10 opened Marylands School, a private residential school for boys with learning difficulties
11 and later it opened a hospital. These are in Christchurch. The Order announced a formal
12 withdrawal from the school in November 1983 and in 1984 the school formally was taken
13 over by the State and renamed Hogben School.

14 The Brothers ran Marylands School from 1955 until 1983. The school started in old
15 buildings already named Marylands and previously used by the Pipcus Fathers. The first
16 sight was in Halls Road, Middleton, Christchurch. The school moved to the Halswell Road
17 premises in 1967.

18 We're just going to display on the screen here, it's not necessarily a picture from
19 1967 but it's a picture that gives a sense of the layout of the school. It gives you a sense of
20 the scale of the environment and, as we'll come on later to the sort of proximate location of
21 the St Joseph's orphanage.

22 Around 537 boys, many with disabilities and many not Catholic, attended the school
23 from all over New Zealand in that 29-year period. There is an absence of ethnicity records,
24 and we are continuing our work to obtain a better understanding of how many Māori and
25 Pacific children attended Marylands.

26 With the closure of Marylands School, the Brothers of St John of God continued
27 running their Christchurch Hospital. From 1986, however, The Order and the then Catholic
28 Bishop of Christchurch developed a new St John of God activity, focused on at-risk youth
29 referred to as street kids in Christchurch. This was known as Hebron Trust although the
30 formal establishment of the trust occurred some years later.

31 Brother McGrath of St John of God Order returned to Aotearoa from Australia in
32 1986 and established and ran this activity. As I've indicated, Marylands School was located
33 close to St Joseph's Orphanage, run by the Sisters of Nazareth, a different religious
34 institute. There was movement of children between the orphanage in Marylands.

1 Residents of that orphanage have also reported abuse by St John of God Brothers and by
2 persons where it was simply not known whether it was a Brother or another person.

3 Now we know that two of the St John of God Brothers, that was Bernard McGrath
4 and Rodger Moloney, were convicted and jailed in New Zealand relating to abuse of those
5 in their care. Other Brothers were charged but successfully opposed extradition to
6 New Zealand to face the charges. Others were charged but the prosecutions were unable to
7 proceed to trial for various reasons.

8 But, Commissioners, I say to you that there is much more about this dark chapter in
9 New Zealand's history to be known than that that was revealed through the criminal justice
10 processes. Those criminal processes did not look at The Order itself, nor could it establish
11 a complete picture of the nature and extent of criminal sexual offending by the St John of
12 God Brothers in Christchurch. And I say this because complaints to Police are the tip of the
13 iceberg and an indication of the barriers for victims and survivors, particularly disabled
14 survivors coming forward to Police to report abuse.

15 Six men's complaints to Police formed the basis of the 1993 prosecution of Brother
16 McGrath relating to offending at both Marylands and Hebron Trust. Brother McGrath was
17 convicted and sentenced to a term of imprisonment, and he later applied for secularisation
18 from the order following his release from New Zealand custody.

19 In 2002, we know that Marylands boys complained to Police about abuse by the St
20 John of God Brothers. Charges were laid in relation to 40 individual complainants in the
21 police's 2002 investigation into sexual abuse by the Brothers codenamed Operation
22 Authority. This resulted in further convictions relating to Bernard McGrath, by this time an
23 Ex-Brother and the conviction of Brother Rodger Moloney.

24 As a number's comparison, we know that St John of God says it has records of 144
25 individuals coming forward to The Order reporting abuse in its care in New Zealand. So,
26 we know that while at least 40 went to Police to file complaints, there were many that did
27 not. In this context, this case study provides an opportunity for the first comprehensive,
28 independent investigation into abuse that took place in the care of the order in Aotearoa
29 New Zealand.

30 We're examining why St John of God Order came to Aotearoa, how it ended up
31 with a licence to run a private school with funding from the State for disabled boys, and
32 how it came to operate Hebron Trust catering to at-risk youth which also received State
33 funding. We're exploring the risk factors for the disabled and the disadvantaged in the care
34 of the Catholic Church. The better we can understand such risks and factors as Marylands

1 and Hebron during this case study, the better informed the Inquiry's recommendations will
2 be.

3 Commissioners, I note that very importantly this case study is not confined to the
4 Order's role only. Also important is the wider Catholic Church's role in encouraging St
5 John of God Brothers to come to New Zealand. Also relevant is the wider church's role in
6 oversight of what was happening in Christchurch and its responsibilities and
7 accountabilities for the harm caused by the Order of St John of God in Christchurch.

8 Last but not least, of course, is the role of the State. The State licensed the school, it
9 gave funding to both school and Hebron. The State placed over 20% of the boys into
10 Marylands and State agencies referred youth to Hebron. How adequate were any State
11 oversight mechanisms, what should it have known and what did it know. How appropriate
12 were the State's responses in the circumstances.

13 Commissioners, turning to some brief comments about the evidence that you're
14 about to hear. What I say to you in relation to this is that the evidence you're about to hear
15 can only be described as chilling. That's in relation to what happened to these individuals,
16 but also in relation to the lifelong impacts they carry with them today, as do their whānau,
17 supporters and their communities.

18 They will speak to the physical, sexual, emotional and educational abuse they
19 experienced. I won't say much more on this as you'll be hearing directly from survivors,
20 those who are giving evidence here in the hearing room and those giving evidence via
21 audio-visual link from Christchurch and other places in New Zealand. You'll also be
22 receiving, Commissioners, a mix of some pre-recorded evidence from survivors, which will
23 be a mix of audio and video pre-recorded evidence.

24 I draw the Commissioner's attention to comments by Ex police detective John
25 Borlase. He ran Operation Authority, and he has said that for him and his team it was the
26 most emotionally challenging investigation the Police investigators involved had worked on
27 during their careers in the Police. Now that tells us something about the intensity of the
28 evidence you're about to hear.

29 I note when Bernard McGrath was sentenced in April 2006 for sexually abusing
30 pupils at Marylands between 1974 and 1977 the judge accepted the evidence of the beatings
31 and violence and noted Bernard McGrath's admission that the pupils were ruled by fear the
32 judge noted that victims who, without exception he said, had been sent to Marylands
33 because they suffered some sort of disability, had been bribed or threatened if they were to
34 disclose.

1 The violence dimension and inducements and threats were expressly acknowledged
2 by the court in its sentencing. Justice Chisholm also noted the impact on the witnesses
3 which he described as anger, fear, anxiety, nightmares, low self-esteem, Post Traumatic
4 Stress Disorder, and in many cases gross problems in later life. The survivors who will be
5 giving direct evidence to you will talk to the serious impacts of their abuse experienced in
6 the care of the Order of St John of God.

7 This next section of my opening address is just some relative context and I deal with
8 this at quite a high level. Firstly, I say some understanding of the relevant history before
9 the Order of St John of God arrived is important. I briefly outline what had emerged from a
10 previous Royal Commission in 1900 into an industrial school in Nelson run by the Marist
11 Brothers.

12 The second contextual element I'll speak to briefly is relevant to examining whether
13 there's a failure of accountability within the church as it's necessary to understand the
14 governance arrangements of the St John of God Order.

15 Turning first to the 1900 Royal Commission. Arising from the report of this
16 Commission, both the Catholic Church and the State knew that there had been legitimate
17 concerns about a Catholic religious institute, the Marist Brothers, running a residential
18 school. The basis for this knowledge was the Royal Commission's report, as I've said,
19 issued in 1900, the turn of that century.

20 So, what is an industrial school? It was a private school registered under the
21 Industrial Schools Act 1882 and such schools were directed at housing, neglected or
22 criminal children under the Neglected and Criminal Children Act of 1867. Originally run
23 by the local Bishop, the running of this industrial school was transferred to the Marist
24 Brothers in 1889.

25 Like in the case of Marylands, the Department of Education made payments to The
26 Order running that school and complaints about the care of the Marist Brothers surfaced,
27 including that punishment was severe or more than would be permitted at a comparable
28 Government school; that food was insufficient in quantity and poor in quality, and that the
29 boys were insufficiently clothed. Allegations of sexual abuse were made but withdrawn.

30 Now the 1900 Royal Commission upheld the punishment complaint, it said that
31 flogging with supplejacks verged on cruelty. The management of the school was criticised
32 and was found to be unsatisfactory in respect of the cleanliness and clothing of the boys.
33 The Inquiry found that the Marist Brothers had no experience in the Australasian colonies
34 except at this school at Stoke of any but day schools and were therefore untrained in the

1 special duties involved in the management of boys permanently with them. And noted that
2 while the habit of life of members of The Order cannot be regarded as calculated to develop
3 those characteristics which are necessary to engender such feelings as should exist in those
4 having charge of young lads.

5 So, there was a recommendation that legislation be changed so that punishment
6 regulations applied equally to Government and nongovernment schools and that was
7 accepted by the Government of the day.

8 But what you'll hear, Commissioners, is that 55 years down the track from this
9 Royal Commission in 1900, 400 kilometres down the road from the Nelson school at
10 Marylands, the boys' clothing was inadequate. You will hear evidence of how they were
11 worked too hard in the laundry and elsewhere rather than being in class, leading to
12 educational neglect. You'll hear that their personal hygiene was poor and extremely poor in
13 some cases.

14 You will hear evidence of the use of violence that is properly characterised as cruel.
15 You will gain insights into whether the St John of God Brothers present in New Zealand
16 had the characteristics necessary to engender the feelings that should exist for those caring
17 for the Marylands boys.

18 And of course, we're examining why lessons learnt in relation to the Stoke
19 Industrial School were not taken into account when 55 years later the State licensed a
20 private school for disabled children to be run by a religious order with no New Zealand
21 track record and with its leader based in Australia.

22 Just some brief words on the governance, the structure and governance of this
23 religious institute. So, The Order was established more than 500 years ago and has a global
24 presence. However, it organises itself by way of provinces. The Order is governed by
25 Canon Law, but also by its own laws set out in its constitutions and statutes. The relevant
26 Vatican congregation is the Congregation for the Institutes of Consecrated Life and
27 Societies of Apostolic Life. This congregation of the Roman Curia has certain
28 responsibilities in relation to this Order.

29 The Christchurch St John of God community is part of The Order's Oceania
30 province and that comprises New Zealand, Australia and Papua New Guinea. A single
31 Provincial, currently Brother Graham for Oceania, is the leader of this province. The leader
32 of the worldwide order is called the Superior General or sometimes the Prior General and is
33 based in Rome. Under The Order's 1984 constitution, the Superior General is described as
34 being first and foremost the bond of union of the whole order. He has a duty of protecting

1 and faithfully fostering the special spirit of the Institute amongst the Brothers.

2 Under The Order's 1971 general statutes, which are relevant to matters that will be
3 covered related to Marylands in the 1970s, the Superior General must make one canonical
4 visitation to all the communities and works of The Order and convene a General Chapter
5 every three years. The Superior General was required to send periodic reports, accurately
6 reporting on the state of The Order to the Holy See.

7 I note that Pope Francis attended and addressed the General Chapter of The Order
8 convened by the Superior General in February 2019. As a Provincial of the Oceania
9 province, Brother Graham has an obligation to take part in that General Chapter and to run
10 a Provincial chapter and he also must make canonical visitations at least once during his
11 term in office to each of the communities in his province.

12 So, in this case study we will be examining the role of The Order's organisational
13 structure and governance arrangements in enabling abuse to go undetected, or where abuse
14 was known, how those structures and governance arrangements influenced the adequacy of
15 The Order's response.

16 Turning to a very high-level view of how it was that the Order of St John of God
17 came to be in New Zealand. As I've said, The Order had a global presence, it had
18 established itself in Ireland, and those Brothers from Ireland established a presence of the
19 Brothers in Australia in 1947.

20 The story begins in 1954 when the Order of St John of God in Ireland wrote to St
21 John of God in Australia reporting that the Archbishop of Auckland had asked in the name
22 of the Bishops of New Zealand to take over the administration of a house in Christchurch
23 for this- is language of the -day for the mentally subnormal and delinquent boys. This was
24 perceived to be an opening for St John of God, and The Order in Ireland's view was that
25 New Zealand should have the -Brothers-.

26 Now we know that all religious institutes require the permission of the Catholic
27 Bishop in the relevant geographic area in which they wish to provide ministry. The Bishop
28 of Christchurch gave permission for The Order to use a facility for boys named Marylands,
29 which was being run by the Pipcus fathers, and that's a different Catholic institute.
30 However, the Order of St John of God did not want to do the same work that those fathers
31 had been undertaking. The Christchurch Bishop put it this way in October 1954
32 correspondence. He said:

33 "The Brothers are not interested in taking over Marylands for the care of delinquent
34 boys. They say delinquency is not their work, they being nurses and psychiatrists and not

1 educators. The Brothers led me to believe they would like to take over Marylands and start
2 a home for retarded children", again using the language from the correspondence at that
3 time.

4 We know that Cabinet approved a special grant for the record in 1955 to assist in
5 the establishment of what was known as the Marylands home for mentally retarded boys.
6 That funding was conditional on Marylands being registered as a private school.

7 The first ten students were admitted into the care of the St John of God Brothers on
8 14 November 1955. Several of those in that first intake are giving pre-recorded evidence in
9 this hearing and we know that of those original ten students, The Order's data shows that
10 five of them have reported abuse by St John of God Brothers beginning in 1955 and have
11 received ex-gratia payments from The Order.

12 The Order moved Brothers between positions in New Zealand, Australia and Papua
13 New Guinea. Over time, 42 of the Brothers worked in Christchurch and Commissioners,
14 you will hear startling evidence of the use of what's known as the "geographic cure". That's
15 where a report of abuse is followed by a transfer of an alleged offender from one facility to
16 another.

17 Just turning now to when information comes into the public domain. So, we know
18 that Brother McGrath was convicted in 1993, so a certain amount of information was in the
19 public domain at that point. That development did not lead The Order at that time to
20 seeking out others who might have been abused at Marylands or Hebron. A small number
21 of adult survivors began reporting abuse directly to The Order, leading to confidential
22 settlements. So, we are examining what The Order knew as a result of those individuals
23 coming forward in the 1990s and the adequacy of its response given what it knew or should
24 have known.

25 We also know that in mid2002 there was extensive coverage in the Christchurch
26 Press of abuse by St John of God Brothers. This was followed by the Police investigation
27 known as Operation Authority. As I've noted, many of the former students of Marylands
28 have learning disabilities. Our investigation includes an examination of how the Police and
29 the criminal justice system responded to reports of abuse by disabled people.

30 When media shone the spotlight on Marylands survivors in June 2002, The Order
31 did take steps to engage with survivors. It launched an 0800 number through which
32 survivors could make direct contact. The Order's Provincial Brother Burke travelled to
33 New Zealand and met survivors who had made contact through that 0800 number. And Dr
34 Michelle Mulvihill, who accompanied Brother Burke for those visits, is giving evidence

1 next week.

2 The Catholic Church process, A Path to Healing, which was covered in-depth in the
3 March 2021 faith-based redress hearing, was not followed at this time. Brother Burke
4 adopted a different approach which he called a pastoral process. He was very clear that
5 payments would not be compensation, rather they were to be pastoral payments. He told
6 survivors a pastoral offer is not, repeat, is not the end of the matter. And assistance with
7 counselling would continue for as long as professionally recommended. He stated that the
8 pastoral process includes the development of an ongoing relationship which is one that does
9 not end. Pastoral payments were made to some of the survivors that had come forward
10 after mid2002, and without survivors needing to sign any agreement. Hence there was no
11 full and final settlement or confidentiality clauses, among other things.

12 However, you are going to hear evidence from survivors that they do not consider
13 that the promise of the pastoral process was fulfilled. You will hear how they were advised
14 in March 2004 that the pastoral process was being formally put on hold, various reasons
15 being given at that time relating to the fact of criminal proceedings. Brother Burke stepped
16 down from his role as Provincial in 2007. Brother Timothy Graham, who is giving
17 evidence later in this hearing, has been a Provincial since that time.

18 Under Brother Graham's watch, Brother Burke's pastoral process is no longer
19 applied. So, we now have where payments are made to survivors since 2007 this has
20 required the signing of formal deeds of release, but also a process whereby The Order
21 ensures that the person signing that deed, the survivor, has received independent legal
22 advice before signing.

23 Turning to redress outcomes. Commissioners will recall the evidence from the
24 March 2021 redress hearing relating to payments by Catholic authorities to survivors.
25 There was evidence of secret discussions and agreed payment caps by some church
26 authorities, initially that cap being 12,000 and later increased to 30,000 in light of the
27 Society of Mary paying more to survivors. And you'll also recall Cardinal Dew's evidence
28 where he said that payments, he made to survivors of abuse in the care of the Archdiocese
29 of Wellington were usually no more than 25,000.

30 The Inquiry has sought comprehensive information from the church relating to
31 reports of abuse received up to 30 June 2021. We have now received that data and we're in
32 a process of verifying, analysing and reporting on this data at a later date. What I can say at
33 this time is that data provided shows that in relation to reports of abuse to the order, it does
34 have a record of 144 individuals reporting abuse attributable to The Order in New Zealand.

1 And of those 144, 113 or 78% of them have received an ex-gratia payment from The Order.
2 Paying a total of 7.9 million to those individuals, the average payment to St John of God
3 survivors has been in New Zealand dollars \$71,358. There are clearly noticeable
4 differences between the level of financial redress provided by the Order of St John of God
5 when compared to payments by other New Zealand church authorities to survivors.

6 Turning to some other aspects of the data that we received, and I do emphasise this
7 data is still subject to validation and verification by the Inquiry. We went through a process
8 with The Order of providing them with a summary of some of the calculations that we
9 made based on the data received so as to provide an opportunity for feedback and comment.
10 The calculations I'm about to mention were not disputed through that process.

11 So, we know the overall data shows there are records of 1,122 individuals reporting
12 abuse to a number of Catholic authorities. Of those 1,122 individuals who reported that
13 abuse, the data shows that 473 received an ex gratia payment from one of the relevant
14 church authorities. So, what that means is that we can say that on the basis of the current
15 data, 26% of all recorded ex gratia payments by relevant Catholic Church authorities have
16 been made by the Order of St John of God, having made 113 of the 473 payments.

17 In terms of the value of payments to St John of God survivors being just under
18 8 million, this represents 47.5% of the value of all recorded ex-gratia payments made by 29
19 church authorities, with that total being 16.8 million as the total payments, with 8 million of
20 that having been made by The Order.

21 We also know that from the data of the total of the 42 St John of God Brothers
22 present in Aotearoa in the period 1950 to 2020, 21, or 50%, were subject to recorded
23 reports of abuse. Now that's all the forms of abuse covered within our terms of reference.
24 When we confine that calculation to recorded reports of sexual abuse by St John of God
25 Brothers in New Zealand during this period, this unweighted proportion or basic percentage
26 is 45%.

27 As you know, Commissioners, the Australian Royal Commission reported on both
28 the basic, that is the unweighted proportion of St John of God Brothers in Australia subject
29 to claims of child sexual abuse. So, its terms of reference were distinct from the breadth of
30 ours, and the weighted proportion of Brothers based on duration of ministry, subject to
31 claims of child sexual abuse.

32 The reason a weighted average approach is taken is that it can account for the
33 relative importance or frequency of some factors of the data which can mean you
34 sometimes get a more accurate measure than a simple average or simple percentage.

1 For the period 1950 to 2020 and taking into account the number of years the
2 Brothers were present in Aotearoa, the weighted average of St John of God Brothers
3 present in New Zealand subject to reports of all forms of abuse within our terms of
4 reference is 60%. When confined to reports of sexual abuse by St John of God Brothers in
5 New Zealand, the weighted average for this period is slightly less at 55%.

6 The Australian Inquiry calculated that the unweighted proportion of St John of God
7 Brothers in Australia, subject to a claim of sexual abuse between 1980 and 2015, was in
8 comparison 30.4% and the weighted proportion taking into account duration of ministry,
9 was 40.4%. So, the calculations for both the basic and weighted proportions of Brothers of
10 the Order of St John of God, subject to reports of sexual abuse, is higher in Aotearoa than
11 in Australia. So, an important aspect of this investigation is to understand what explains
12 those differences.

13 Some final words in conclusion. Behind the numbers I've just referred to,
14 Commissioners, are the experiences of real people. Following the conclusion of opening
15 addresses, we begin three days of evidence from survivors, a family member, and a
16 Marylands staff member. And you will also receive pre-recorded evidence beginning and
17 ending each of the days next week with those survivor experiences.

18 From Monday next week, you will hear from those who have engaged with St John
19 of God survivors, that is Dr Mulvihill, Ken Clearwater, and Sonya Cooper. You will then
20 hear from Brother Timothy Graham and Archbishop Paul Martin. This will be followed by
21 evidence from New Zealand Police and representatives of Oranga Tamariki and the
22 Ministry of Social Welfare.

23 As a final comment to those listening via the livestream, I emphasise that our
24 investigation work also occurs outside this public hearing and will continue, the
25 opportunity for survivors and witnesses to participate is not over and we encourage any
26 survivor or witness to abuse in care of The Order to come forward to us and of course more
27 broadly than The Order, and to give an account to the Royal Commission.

28 So, Madam Chair that concludes the opening address on behalf of Counsel
29 Assisting. The following order of opening addresses will be you'll be hearing from
30 Ms McKechnie on behalf of the St John of God Order, followed by the Crown, then
31 followed by SNAP and then last but not least Ken Clearwater.

32 **CHAIR:** Thank you very much Ms Anderson.

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