BOOT CAMP

TE WHAKAPAKARI YOUTH PROGRAMME

A case study of State-funded violence and abuse of children and young people needing care and protection

JUNE 2024

Abuse in Care
Royal Commission of Inquiry

He karakia

E tāmara mā, koutou te pūtake o ēnei kōwhiringa, kua horaina nei
E tohe tonu nei i te ara o te tika
E ngaki tonu ana i te māra tipu
Anei koutou te whakairihia ki te tihi o
Maungārongo, kia tau te mauri.

Rukuhia te pū o te hinengaro
kia tāea ko te kukunitanga mai o te whakaaro nui.
Kia piere ko te ngākau mahora
kia tūwhera mai he wairua tau.

Koinei ngā pou whakairinga i te tāhuhu
o te Whare o Tū Te Mauriora.
Te āhuru mōwai o Te Pae o Rehua,
kaimuru i te hinapōuri,
kaitohu i te manawa hā ora,
kaihohou i te pai.

Nau mai e koutou kua uhia e ngā haukino
o te wā, kua pēhia e ngā whakawai a ngā tipua nei,
a te Ringatūkino rāua ko te Kanohihuna.

Koutou i whītiki i te tātua o te toa,
i kākahu i te korowai o te pono,
i whakamau i te tīpare o tō mana motuhake,
toko ake ki te pūaotanga o te āpōpō e tatari mai nei i tua o te pae,
nōu te ao e whakaata mai nei.

Kāti rā, ā te tākiritanga mai o te ata,
ā te huanga ake o te awatea,
kia tau he māramatanga,
kia ū ko te pai, kia mau ko te tika.
Koinei ko te tangi a te ngākau e Rongo,
tūturu ōwhiti whakamaua
kia tina, tina!
Hui e, tāiki e!

– Waihoroi Paraone Hōterene

To you upon whom this inquiry has been centered
Resolute in your pursuit of justice
Relentless in your belief for life
You have only our highest regard and respect,
may your peace of mind be assured.

Look into the deepest recesses of your being
and discover the seeds of new hope,
where the temperate heart might find solace,
and the blithe spirit might rise again.

Let these be the pillars on which the House of Self,
reconciliation can stand.
Safe haven of Rehua,
dispatcher of sorrow,
restorer of the breath of life,
purveyor of kindness.

Those of you who have faced the ill winds
of time and made to suffer,
at the hands of abusers and the hidden faces of persecutors, draw near.

You who found courage,
cloaked yourselves with your truth,
who crowned yourself with dignity,
a new tomorrow awaits beyond the horizon,
your future beckons.

And so, as dawn rises, and a new day begins,
let clarity and understanding reign,
goodness surrounds you and
justice prevails.
Rongo god of peace, this the heart desires,
we beseech you,
let it be,
it is done.

– Waihoroi Paraone Hōterene

Pānui whakatūpato

Ka nui tā mātou tiaki me te hāpai ake i te mana o ngā purapura ora i māia rawa atu nei ki te whāriki i ā rātou kōrero ki konei. Kei te mōhio mātou ka oho pea te mauri ētahi wāhanga o ngā kōrero nei e pā ana ki te tūkino, te whakatūroro me te pāmamae, ā, tērā pea ka tākirihia ngā tauwharewarenga o te ngākau tangata i te kaha o te tumeke. Ahakoa kāore pea tēnei urupare e tau pai ki te wairua o te tangata, e pai ana te rongo i te pouri. Heoi, mehemea ka whakataumaha tēnei i ētahi o tō whānau, me whakapā atu ki tō tākuta, ki tō ratongo Hauora rānei. Whakatetia ngā kōrero a ētahi, kia tau te mauri, tiakina te wairua, ā, kia māmā te ngākau.

Distressing content warning

We honour and uphold the dignity of survivors who have so bravely shared their stories here. We acknowledge that some content contains explicit descriptions of tūkino – abuse, harm and trauma – and may evoke strong negative, emotional responses for readers. Although this response may be unpleasant and difficult to tolerate, it is also appropriate to feel upset. However, if you or someone in your close circle needs support, please contact your GP or healthcare provider. Respect others' truths, breathe deeply, take care of your spirit and be gentle with your heart.

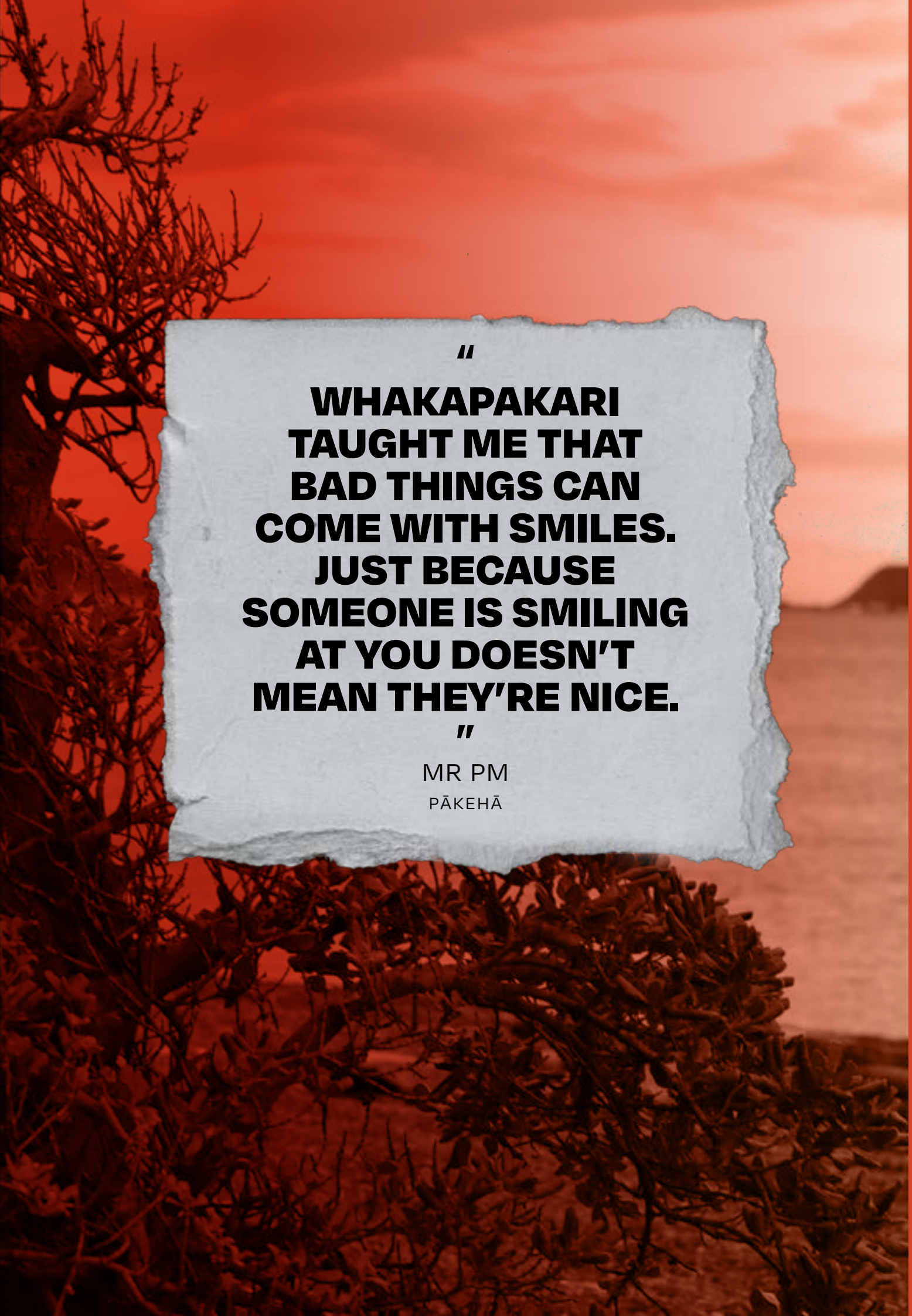
Boot Camp

This name was gifted by survivors who were sent to boot camps and youth programmes in the 1990s.

Survivor acknowledgement

The Inquiry thanks all survivors who so bravely shared their experiences of abuse and neglect in care. We also acknowledge those who were not able to come forward, for whatever reason, we send you aroha and understanding. Our hope is that this case study shines a light on your experiences and echoes survivors' calls to ensure such atrocities are never allowed to happen again in Aotearoa New Zealand.

Contents



"

WHAKAPAKARI TAUGHT ME THAT BAD THINGS CAN COME WITH SMILES. JUST BECAUSE SOMEONE IS SMILING AT YOU DOESN'T MEAN THEY'RE NICE.

"

MR PM

PĀKEHĀ

Executive summary

1. Te Whakapakari Youth Programme (Whakapakari) was started by John da Silva in 1977 on Aotea, Great Barrier Island funded by the department of Māori Affairs. Although he was not Māori, it was promoted as a Māori Outdoor Pursuit Programme Adventure using the environment and outdoor activities to de-programme youth from drug abuse, develop self-esteem and learn skills, Māoritanga and gain confidence.

2. It was a geographically isolated 'boot camp', with harsh conditions[1] that emphasised survival skills, military style discipline, subservience, self-sufficiency and hard physical labour. The young people on the programme endured what has been described as cruel and inhumane treatment.[2] This environment which permitted abuse to occur was not kaupapa Māori and placed rangatahi Māori at risk.

3. In 1989 John da Silva established the Whakapakari Youth Trust which in 1990 was approved by the Department of Social Welfare and its successors, and the Community Funding Agency, as an approved Child and Family Support Service under section 396 of the Children, Young Persons and Their Families Act 1989. It became a social welfare care and protection or youth justice sentencing option at a time when 'boot camps', including later discredited sentences such as Borstal and Corrective Training, were seen as the solution to criminal offending by young people.

4. Children and young people in the custody of the Director General of Social Welfare were sent there by social workers or sentenced by judges in the Youth Court. Many had significant emotional and psychological problems but were not assessed for their needs such as disability or neurodiversity. Staff estimated that 80 percent of them were Māori, 14 percent Pākehā, 5 percent Pacific Peoples and 1 percent 'other'.[3] Most were male but some were female. They were mostly aged between 14 and 16 years old but some were as young as 12 years old. They were sent to the programme for between one and six months. Although the young person or their guardian's consent was required, this was not always obtained. Children and young people were housed in substandard tents, with long drop toilets and little or no hot water for bathing. The daily emphasis was on physically demanding work, such as chopping and moving firewood, hunting and gardening.[4] Supervisors had guns, ostensibly for hunting, but these were also used to instil discipline and, at times, to facilitate sexual assault.[5]

1 The chairman of Te Whakapakari Youth Trust referred to the camp as has having "primitive" facilities, in Letter from the chairman of the Whakapakari Youth Trust to Director-General of Social Welfare (20 November 1989, page 2).
2 Letter from Commissioner for Children Roger McClay to General Manager, Children, Young Persons and Their Families Agency Jackie Brown (20 January 1999), as appended to the Witness statement of David Bagley (22 March 2021).
3 Sporle, P, Mangati Bay Great Barrier Island community: A micro community profile (2003, page 17).
4 Whakapakari Youth Programme 15 Report (6–30 June 1989, page 2), in which John da Silva wrote: "The group were an enthusiastic bunch who thrived on the hard survival tasks such as firewood chopping digging etc".
5 Witness statements of Mr PM (23 March 2021, para 45) and Mr SL (28 July 2022, para 3.141).

5. Survivors described extreme psychological, physical and sexual abuse at Whakapakari causing severe mental and physical pain. They were also physically, educationally and medically neglected. There is evidence to suggest physical and sexual abuse were used as punishment as well as to intimidate. Instead of being rehabilitated, survivors suffered immense harm from their experiences there. Its geographical isolation made it was almost impossible for children and young people to escape and difficult to alert their whānau or social worker to what was happening.

6. The State funded the programme until its closure in 2004 but failed to monitor it or to safeguard the children and young people in its care at Whakapakari. It failed to respond to the repeated disclosures of abuse by children and young people sent there.[6] There were numerous but inadequate investigations into complaints. Reports and recommendations to close or improve the programme were not acted on.[7] The State's failure to respond to the allegations of abuse and its willingness to continue to support and fund the programme in the face of these reports meant that children and young people continued to be subjected to physical, psychological and sexual violence, including rape.[8]

7. Research demonstrates that 'boot camps' and other harsh 'short sharp shock' interventions for youth are ineffective at reducing repeat offending. In 1983, before Whakapakari was approved as a provider of State care, Department of Justice research found that 71 percent of young people reoffended within 12 months of release.[9] In 1988, reconviction rates of young offenders in these settings were 92 percent, the highest of any sentence in that year.[10] This was finally recognised by the Department of Child, Youth and Family in 2004 when it ceased funding of Te Whakapakari Youth Trust, citing research that 'boot camp' type environments do not effect positive change, especially to reduce reoffending.[11]

8. Survivors of Whakapakari suffer from long term conditions such as PTSD and terror of meeting their abusers. Many were dislocated from their families, whanau and communities. Almost all have experienced drug and alcohol addiction and every one of the survivors has been in prison since they attended the programme. Some survivors remain there to this day.

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6 See Chapter 6 of this case study, Institutional response to abuse and neglect in care, and Structural, systemic and practical issues. See also Witness statements of Ngatokorima Mauauri (2 July 2021, para 101) and Mr SL (28 July 2022, para 3.159).

7 See for example the 1994 Topzand Report, 1995 Thom Report, 1996 Egglestone Review and 1997 Green Report, which are discussed in Chapter 5 of this case study. See also McClay, R, Final Report by the Commissioner for Children into a complaint against the Department of Child, Youth and Family (page 5), as appended to the Witness statement of David Bagley (22 March 2021).

8 See Chapter 6 of this case study, Institutional response to abuse and neglect.

9 Walker, W & Brown, R, "Corrective training – An evaluation," Study Series No 10 (Department of Justice, 1983).

10 "'Court in the Act' A regular newsletter for the entire Youth Justice Community," Youth Court of New Zealand, Issue 42 (April 2009, page 4).

11 Email from youth justice team manager to the Department of Child, Youth and Family (9 November 2004).

9. The former Minister of Child, Youth and Family, Hon Ruth Dyson, said in a televised article in 2017 exposing the failings of the boot camp at Whakapakari:

"A lot of government money was put into that programme and in the end it resulted in the State funding violence and abuse towards children and young people. That's how horrific it was."[12]

10. Oranga Tamariki told the Inquiry that enabling children and young people to go into a:

"residential care facility is sometimes referred to as a fully funded failure model."[13]

Boot camps such as Te Whakapakari Youth Programme are extreme versions of this failure.

11. Young people were sent to Whakapakari to be 'straightened out'. Instead, their lives were ruined from the abuse they suffered there.

12 Sunday TVNZ, Return to the island (6 August 2017), https://www.facebook.com/SundayTVNZ/videos/return-to-the-island/1698357530174418/..

13 Transcript of evidence of Chief Social Worker Peter Whitcombe for Oranga Tamariki at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 24 August 2022, page 876).

Chapter 1: The Programme

12. Te Whakapakari Youth Programme (Whakapakari) was established at Mangati Bay on Aotea Great Barrier Island by John da Silva, on his family's land. He was a wrestling champion of Portuguese, African, English and French Tahitian descent. He was awarded the Queen's Service Medal including for his work with youth. He died in 2021.

13. Whakapakari was established in 1977 as a survival course to help rangatahi Māori recover from drug and solvent addiction. It was partly funded by the Department of Māori Affairs up until the Children, Young Persons, and Their Families Act 1989.[14] Until then, the scale of the course was relatively confined. Only John da Silva received a salary, and supervisors were engaged on a voluntary basis.[15] The Inquiry did not receive allegations of abuse from survivors of abuse before 1988.

14. In 1989, after the Department of Māori Affairs was disestablished, John da Silva established the Whakapakari Youth Trust as the legal entity operating Te Whakapakari Youth Programme and broadened the scope of the programme.[16] The Department of Social Welfare funded placements at the programme from at least 1989,[17] but there is evidence that in 1988, four young people from Ōwairaka Boys' Home, and five female young people from Weymouth and Bollard Girls' Homes attended Whakapakari for 25 days.[18] Complaints were made of assault in 1989, resulting in a report,[19] and a later recommendation that Child, Youth and Family cease referrals of those in State care to Whakapakari.[20] This recommendation was not followed.

15. It was not until 1990 that Te Whakapakari Youth Trust was formally approved as a Child and Family Support Service under section 396 of the Children, Young Persons and Their Families Act 1989.[21] Te Whakapakari Youth Trust also received funding from the Department of Health in 1990 and 1991 as part of an interdepartmental venture to fund substance abuse programmes.[22]

14 Letter from Whakapakari to Director-General Social Welfare (20 November 1989).
15 Letter from Whakapakari to Director-General Social Welfare (20 November 1989).
16 Deed of Trust for the Whakapakari Youth Trust (5 September 1989).
17 See Letter from the chairman of the Whakapakari Youth Programme to Director-General of Social Welfare (20 November 1989), in which the chairman sought further funding.
18 Deed of Trust for the Whakapakari Youth Trust (5 September 1989).
19 Weaver, T, Chronology of events at Whakapakari (Ministry of Social Development, 27 February 2015, page 2)
20 Letter from R Starck to the assistant director General South and West Auckland Region: Whakapakari Youth Programme (19 July 1989, page 2)
21 Brief of evidence of Michael Doolan for High Court Case (High Court of New Zealand, 1 January 2009, para 65).
22 Deed of Covenant to Apply Government Grant to Alcohol and Substance Abuse Programme (6 June 1990).

16. When the programme was approved by the Department of Social Welfare, the objects of the Children, Young Persons and their Families Act 1989 included establishing and promoting services and facilities within the community to advance the wellbeing of children, young persons, and their families and family groups. Such services were to have regard to the needs, values, and beliefs of particular cultural and ethnic groups. They were to be provided by persons and organisations sensitive to the cultural perspectives and aspirations of different racial groups in the community. In particular such services were to protect children and young persons from harm, ill-treatment, abuse, neglect, and deprivation and to give them the opportunity to develop in responsible, beneficial, and socially acceptable ways.

17. Whakapakari was set in an isolated hilly area of Aotea Great Barrier Island with no roads, power or other people.[23] Access was by boat only.[24] In a brochure advertising the programme, it was promoted for its focus on life and survival skills, fishing, hunting, gardening, gathering firewood and planning and preparing meals.[25]

18. The programme catered for 20 young people aged between 14 years old and 17 years old. The duration of the programme varied from one month in the early 1990s to between three and six months by 1995.[26] John da Silva and his wife Wilhelmina da Silva were responsible for the overall administration of the camp. They lived in a one-room bungalow at Mangati Bay. Four supervisors worked at any one time on the camp for four weeks at a time, then had two weeks off.[27]

19. Although it was open to children and young people from all ethnic groups, Whakapakari purported to be a kaupapa Māori programme.[28] The Inquiry saw no evidence of an assessment of the competence of those who operated Whakapakari to deliver a tikanga Māori programme as part of the initial or subsequent approval of State funding.

20. Some participants enjoyed the Māoritanga focus, which included Māori methods of fishing and food preparation, and the preparation of a pepeha.[29] However, in reality the programme permitted abuse of children in care. For most survivors there was no manaatikanga, only terror.[30]

23 Brochure by Whakapakari Youth Trust (page 1).
24 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 5).
25 Ngā Taonga, Breaking the barrier (Living Pictures, 1992), https://www.ngataonga.org.nz/search-use-collection/search/TZP102549/.
26 Whakapakari Youth Programme 15 Report (6–30 June 1989, page 2); Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, page 8).
27 Whakapakari Youth Programme 15 Report (6–30 June 1989, page 2); Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 7).
28 Brief of evidence of Michael Doolan for High Court Case (High Court of New Zealand, 1 January 2009, para 66); Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, page 2).
29 Witness statement of Mr LG (20 May 2022, paras 4.61–4.65).
30 Witness statement of Cody Togo (4 May 2023, para 4.19.35).

21. It has not been possible to discern from the evidence how many young people were placed at Whakapakari.[31] Te Whakapakari Youth Trust was funded by the Department of Social Welfare and its successors on the basis of a payment per person, per night. In 1990, a total of 99 children and young people attended the programme, who were referred from 25 separate districts of the Department of Social Welfare.[32] In September 1997, Te Whakapakari Youth Trust sought a commitment to 5,000 nights per year, which would represent 20 young people staying at Whakapakari at any one time.[33] By 1995, the duration of the programme had increased to between three and six months for any individual young person, which renders it impossible to calculate the total number of young people attending per annum from the evidence provided to the Inquiry. Child, Youth and Family paid a total of $2,730,275 to Te Whakapakari Youth Trust between 1998 and 2005, when funding ceased.

22. The programme also utilised Whangara Island, a small island reached by a 10–minute boat ride from the main camp that had no shelter, fresh water or facilities. Young people were left there without supervision by way of punishment.[34] Accordingly, Whangara Island was referred to by staff and young people as 'Alcatraz'.[35]

23. During the years that Te Whakapakari Youth Programme was in operation the department or agency responsible for the care of children went through multiple name changes and restructures. Up until 1992, care was the responsibility of the Department of Social Welfare. From 1992 to 1996 it was known as the New Zealand Children and Young Persons Service, a business unit within the Department of Social Welfare, before changing its business unit's name again to the Children, Young Persons and Their Families Service (CYPFS) in 1996. It was briefly renamed the Children, Young Persons and their Families Agency (CYPFA) in 1999, to align its name with the legislation it was administering while remaining a business unit within the Department of Social Welfare. On 1 July 2006, it was amalgamated back into the Ministry of Social Development as a business unit under the name Child, Youth and Family (CYF). In April 2017, CYF was replaced by the Ministry of Vulnerable Children (now renamed Oranga Tamariki – Ministry for Children).

31 Child, Youth and Family provided an Official Information response to the New Zealand Listener noting that it was not possible to provide information relating to the actual number of young people who attended the Whakapakari Youth Services Trust programme: Letter, Child, Youth and Family to the New Zealand Listener (29 August 2008, page 17).

32 Letter Department of Social Welfare, Whakapakari Youth Trust District Office Breakdown for 1990 (22 January 1991).

33 Memorandum, Children Young Persons and Their Families Service (22 September 1997).

34 Survivors discuss their experiences on Alcatraz: Witness statements of Mr SL (28 July 2022, paras 3.156–3.162) and Mr LG (20 May 2022, paras 4.31–4.36); Private session transcript of Mr UI (14 September 2022, pages 12–14); Witness statements of Mr LR (5 May 2022, para 65); Mr V (12 February 2021, paras 81–82) and Cody Togo (4 May 2023, paras 4.19.28–4.19.30).

35 See also: Ministry of Social Development, Chronology of events at Whakapakari (27 February 2015, page 2); Letter from R Starck to the assistant director General South and West Auckland Region: Whakapakari Youth Programme (19 July 1989, page 2); Nippert, M, "Escape from 'Alcatraz': What really happened to boys sent to a boot camp on a remote island?", New Zealand Listener (20 September 2008, page 30).

24. Despite allegations of abuse and multiple reviews of the programme throughout the 1990s and into the 2000s, children and young people continued to be sent to Te Whakapakari Youth Programme up until 2004. Then, following further allegations of abuse, the organisation's approval status was suspended in 2004. State funding for the programme was also suspended at this time and all children were removed from the island. The Child, Youth and Family Service severed its contractual relationship with Te Whakapakari Youth Trust in 2006.[36]

Whangara Island, the small island referred to as 'Alcatraz'[37]

36 Memorandum from Child, Youth and Family Service: Background note on Whakapakari from DCE advisor to private secretary (28 August 2008, pages 4–6).

37 Sunday TVNZ, Return to the island (6 August 2017),), https://www.facebook.com/SundayTVNZ/videos/return-to-the-island/1698357530174418/Mr

"

THERE WERE RULES WE HAD TO FOLLOW, AND WE HAD CHORES AND JOBS THEY TOLD US TO DO. WE JUST HAD TO DO WHAT THEY SAID. IT WAS VERY STRICT AND IF YOU STEPPED OUT OF LINE, WE GOT HIT BAD WITH EITHER THE STRAP OR THE BELT.

"

MR UU

MĀORI, COOK ISLANDS, (TE ATIAWA)

"

I KNEW I HAD NO ONE TO TURN TO

"

MR PM
PĀKEHĀ

Mr PM

Hometown: Waihi Beach **Year of birth:** 1974

Type of care facility: Foster homes; boys' homes – Hamilton Boys' Home in Kirikiriroa Hamilton, Weymouth Boys' Home in Tāmaki Makaurau Auckland; Te Whakapakari Youth Programme on Aotea Great Barrier Island; police station cells.

Ethnicity: Pākehā

Whānau background: Mr PM lived with his mother until she died when he was 10 years old. He then lived with his father, stepmother and two stepsisters.

Current: Mr PM is a truck driver, although he is currently unemployed. He has two children.

My mother died when I was about 10 years old and my world turned upside down.

I was good at school and sports but began to hang out with the wrong people and became involved in burglaries. I didn't have a mother and father and proper family. I had a stepmother and stepsisters that didn't want me.

I was considered uncontrollable by age 12 and was taken into State care. The police brought me home several times. The youngest age that I recall being held in a police cell was at around 14 years of age. On one occasion, my parents told the police not to bring me home. I had become a nuisance to them and they wanted me to go somewhere else.

I was in and out of foster care and boys' homes, then I was sent to Whakapakari. I was 15 years old.

At first, I thought it was wonderful. I went snorkelling, diving and fishing, and they kind of nurtured us a little bit to start with. There were only a handful of white boys and we stuck together. There were lots of boys there, some the same age as me and some a lot older.

But things quickly changed. The first alarm bells for me were hearing children screaming at night.

The supervisor carried a gun and would wave it around when giving us direction. He'd beat us and get kids to beat each other. He slept in the tents with us, and I noticed him moving around the beds at night and doing things to the boys. I saw him doing it every night, although it never happened to me.

Once, he took me and two other boys into a tent. There were two older boys and he told us to take off our clothes and told the older boys to fuck us. I freaked out and ran, but he caught me and beat me. Back at the tent I heard some horrible noises. The younger boys had been beaten and raped. One of them was literally holding his arse, he was in severe pain. The other boy was speechless, holding his arse and he could barely walk.

Another time, some of us were taken up the hill and the older kids and supervisor tried to beat us up and rape us. It was the same older boys involved again. We got a huge beating. The supervisor told us to get our clothes off but because I had been in a similar sort of situation, I knew what was going to happen so I ran away into the shed back at camp.

It was then that I knew I had no one to turn to. I was shit scared.

On another occasion, the supervisor took us down to the creek to a flat grassy section and made us dig our own graves. He made us get in and lay face down. We weren't allowed to look, and he threatened to shoot us. He started shooting into the air and we were screaming, begging for our lives and freaking out. It was horrifying. If we tried to get out, he'd kick us back in. I thought this was going to be the end of my life, and I didn't know what we'd done to deserve that treatment.

There were many beatings while at Whakapakari, both by other boys and by the supervisor. Sometimes he would line us up and beat us. I recall a group named the 'Flying Squad,' who were a group of kids who used to beat people up. The supervisor used to orchestrate all the beatings and rapes. He created a sick culture at Whakapakari, like a fight and rape club. I still wonder where he learned to be the way he was.

The day before I left Whakapakari, the supervisor took me and another boy to his camper. If I'd known what was going to happen, I would never have gone in there. He followed us in with his gun and said, "Get on the fucking bed". He put the gun on the counter and raped us both. It was too much pain for me to take and I started squealing and freaking out and he smashed my head down into the fucking pillow. And I just shut down in shock. We had to stay there all night. What happened in that cabin was putrid.

Later, I went back to one of the boys' homes and I was put into secure and beaten again. But nothing was ever as bad as Whakapakari. I pretty much didn't fear anything after that place.

For many years, I felt lots of shame and couldn't tell anyone about what had happened to me. I just walked around trying to hide what had happened.

In 2019, I heard about the claims process for those who had been placed in care as children.

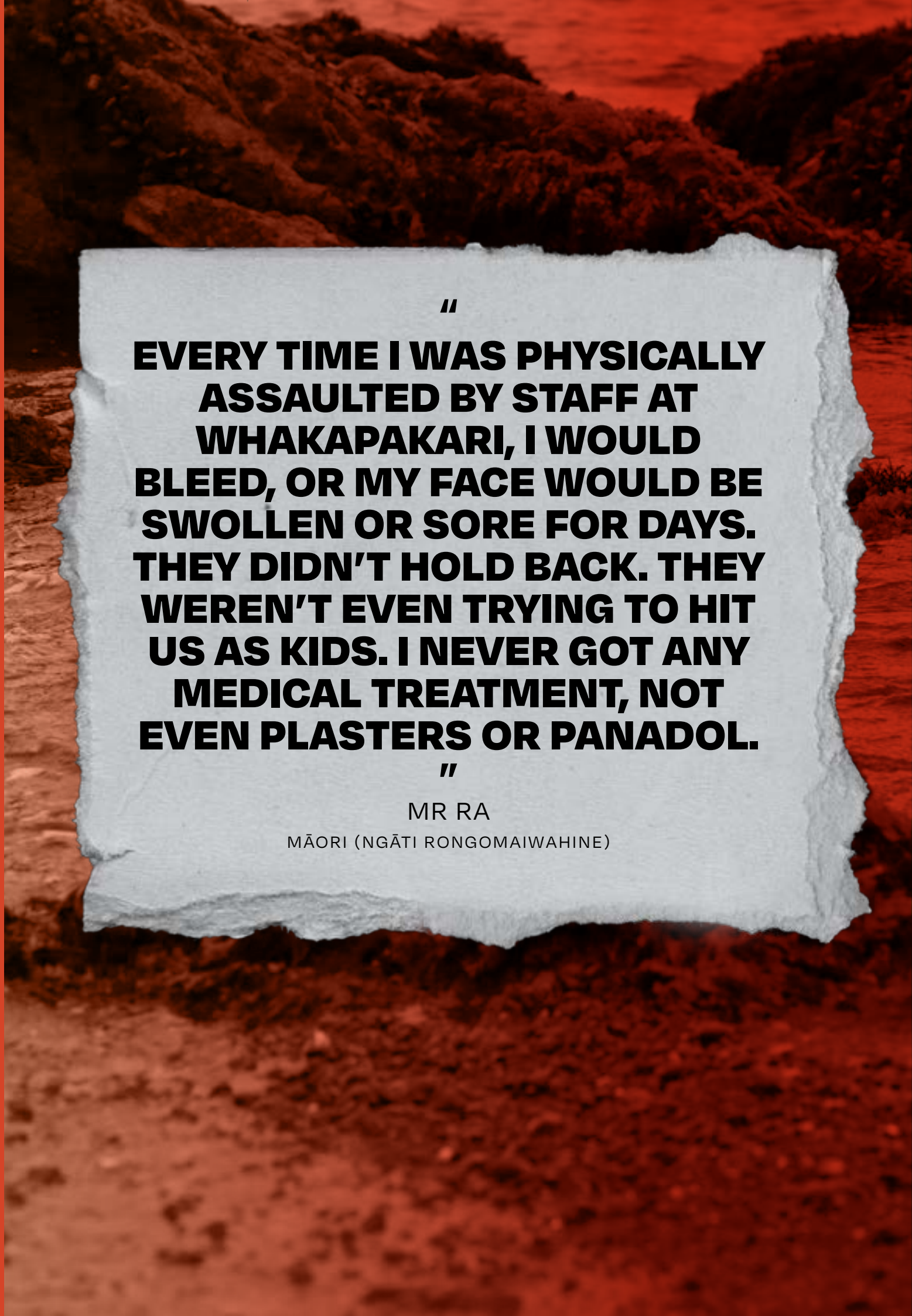
When I contacted MSD, I asked about compensation. My case manager said I was up to no good and trying to scam them. I struggled to get anyone to answer my calls. The way I see it, they invaded my life and ruined it and when I asked for help they sent me away.

I had to stop driving trucks because of my Post-Traumatic Stress Disorder. I contacted ACC to try and get paid leave from work, but they won't help me. They think I'm a scammer too.

I have absolutely no faith in ACC and MSD. They don't know me, but they question me, trying to catch me out to be a liar. The system got me raped. The system got me where I am now. And when I do speak up, they all run for the woods.

Whakapakari taught me that bad things can come with smiles. Just because someone is smiling at you doesn't mean they're nice.[38]

38 Witness statement of Mr PM (23 March 2021)



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EVERY TIME I WAS PHYSICALLY ASSAULTED BY STAFF AT WHAKAPAKARI, I WOULD BLEED, OR MY FACE WOULD BE SWOLLEN OR SORE FOR DAYS. THEY DIDN'T HOLD BACK. THEY WEREN'T EVEN TRYING TO HIT US AS KIDS. I NEVER GOT ANY MEDICAL TREATMENT, NOT EVEN PLASTERS OR PANADOL.

"

MR RA

MĀORI (NGĀTI RONGOMAIWAHINE)

Chapter 2: Circumstances that led to young people being taken, or placed, into care at Whakapakari

25. As a section 396–approved Child and Family Support Service, Te Whakapakari Youth Programme was a placement option for young people who were in need of care and protection, specifically catering to young people aged between 14 and 17 years old "who had problems with the law and within their families, particularly those with drug and alcohol problems".[39] The Inquiry refers to such placements as a "compulsory care" option in its final report Whanaketia – Through pain and trauma, from darkness to light.

26. The Inquiry received evidence that the Department of Child, Youth and Family Services regarded Whakapakari as a 'boot camp'. Anthea Raven, a social worker in Auckland during the operation of Whakapakari, noted: "Whakapakari was run by a self-promoted Kaumatua who had set up a boot camp style programme on Great Barrier Island".[40] A social worker from the Northern Residential Centre wrote in a progress report in relation to a young person: "Due to his despicable behaviour, I recommend that he be placed within a strict discipline 'boot camp' environment for a considerable period – six months or more ie Whakapakari."[41] Survivors also referred to the programme as a 'boot camp'.[42]

27. There is limited ethnicity data available, but the Inquiry heard from Māori, Pacific and Pākehā survivors who were placed at Whakapakari. A report from 2003, written by the visiting nurse, Peter Sporle, said staff estimates of children and young people coming through the programme were 80 percent Māori, 14 percent Pākehā, 5 percent Pacific Peoples and 1 percent 'other'.'[43]

28. A 1994 report, written by then Acting Supervising Social Worker Peter Topzand, recommended that young people stay at Whakapakari for a maximum of three months.[44] Some survivors told us, however, that their stays were extended well beyond that by social workers, and this is supported by their case files.[45] Māori survivor Mr LR's (Ngāi Te Rangi, Ngāpuhi, Tainui) placement in 1999 was extended to a total of nine months. His social worker extended his placement because she did not want him to return to the care of his mother, whose requests to visit her son at Whakapakari were declined.[46]

39 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 40). Many survivors were placed at Whakapakari pursuant to a Supervision with Activities Order made under sections 283(m) and 307 of the Children, Young Persons and Their Families Act 1989. See for example Appendix to the Witness statement of David Bagley (22 March 2021).
40 Witness statement of Anthea Raven (17 October 2022, para 98).
41 Letter from residential social worker to manager at Department of Child, Youth and Family Services (29 March 2003, page 140).
42 See for example Witness statement of Mr NQ (13 April 2023, pages 5–6, para 4.4).
43 Sporle, P, Mangati Bay Great Barrier Island community: A micro community profile (2003, page 17).
44 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, page 6).
45 Survivor requested to remain anonymous (22 February 2023, page 29).
46 Witness statement of Mr LR (5 May 2022, paras 73, 77).

Scarcity of places to send 'troubled' children and young people

29. Children and young people were placed at Te Whakapakari Youth Programme from throughout Aotearoa New Zealand. Community residential programmes such as Te Whakapakari Youth Programme and Moerangi Treks in Te Urewera were appealing options for Youth Court judges and social workers as the programmes were willing to receive 'troubled youths'.[47] Former social welfare staff member and psychotherapist Mr QS, who worked in child welfare for 38 years, said that it was a "relief" to youth justice staff throughout the country when these programmes were established, as they provided a placement on a national basis for some of the most troubled youths the State was working with. From 1993 until early 1995, Te Whakapakari Youth Programme continued to be viewed positively by youth justice social workers throughout the North Island who were "desperate" to find residential placements for young people who were difficult to place.[48] Mr QS observed:

> *"With the benefit of hindsight, the cultural esteem with which the program was held, blinded CYPS officers to the risk of placing seriously troubled youth with residential carers and cultural programs who were not vetted or trained to deal with the challenges involved."*[49]

30. Reports completed on behalf of the Children and Young Persons Service in 1995 and 1997 noted that if the programme were no longer available, there would be a major risk of increasing pressure on the residential facilities operated directly by the Children and Young Persons Service and an increasing strain on alternative care placements such as foster care.[50] The 1995 report by consultant Alison Thom (the Thom Report) noted that Whakapakari was considered a valuable resource not because of the quality of the programme but because of the national scarcity of options for the placement of young people. The Thom Report said Whakapakari was seen as a place of last hope for troubled teens, or to provide respite for those working with them, including police and social workers. The needs of the young person were allocated a low priority, secondary to those charged with their wellbeing.[51]

31. Former area manager Greg Putland highlighted the difficulty of obtaining a placement for young people in the 1990s:

> *"It wasn't just, hey did the abusing but we did the placements and … we didn't always consider the absolute best interest of the kid when it came to a placement because we had to get a bloody placement."*[52]

47 Witness statement of Mr QS (8 September 2022, paras 21–24).
48 Witness statement of Mr QS (8 September 2022, paras 22 and 26).
49 Witness statement of Mr QS (8 September 2022, para 27).
50 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 55).
51 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, September 1995, para 4.3).
52 Transcript of Crown Law meeting with Greg Putland (10 February 2014, page 26).

32. There was chronic underinvestment by the Department of Social Welfare and its successors in resourcing appropriate, culturally informed programmes and developing the workforce and a complete disregard for the welfare of the children and young people placed at Whakapakari. In September 1997, a report by Children, Young Persons and Their Families Service senior advisory officer Patty Green, noted that "there is a significant lack of support from the Service and it seems that, at times, Whakapakari serves as a dumping ground for the Service". The Green Report also noted that the requirement for social worker visits of children and young people every six weeks was not being met.[53]

33. The national scarcity of placements for children and young people was never addressed or rectified. Children, Young Persons and Their Families Service staff investigating complaints repeatedly expressed concern at the possibility of Whakapakari being closed. In May 1998, an investigation into another programme for young people, Moerangi Treks, found there was systemic and harsh physical abuse inflicted by its staff and supervisors. All young people in the Moerangi Treks programme were removed[54] and the Community Funding Agency and Children, Young People and Their Families Service suspended the approval status and funding of that programme. This meant that Te Whakapakari Youth Programme was the only national programme available to the Youth Court, and it was already in constant demand.[55] This may be the unwarranted justification by the Department of Social Welfare and its successors for why it continued to fund the Whakapakari Youth Programme for many years, despite ongoing complaints of abuse.

A mix of care and protection and youth justice

34. Te Whakapakari Youth Trust gained approval to be a section 396 provider from 1990 as a Child and Family Support Service. Section 396(3) of the Children, Young Persons and Their Families Act 1989 allowed for an organisation or body to be approved by the Director-General of the Department of Social Welfare as a Child and Family Support Service, which was effectively a third party provider of State care.

53 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 26).
54 Witness statement of Regional Adviser – Funding Christine Broadhurst for Ministry of Social Development (September 2009, paras 41–42).
55 Witness statement of Sonja Cooper and Amanda Hill relating to the Māori Investigation / Ngā wheako o te iwi Māori e pā ana ki te tūkinotanga nā te ringa taurima (29 August 2022, para 114).

35. As it was a section 396 provider, social workers could refer children and young people in need of care and protection to the Te Whakapakari Youth Programme similar to placement in other forms of social welfare care such as foster care or children's homes.[56] If an application was made for a care or protection order, the court could make custody orders placing children and young people in the care of the director of Te Whakapakari Youth Trust as an approved Child and Family Support Service.[57] Similarly, young people already in the custody of the Director of Social Welfare could be placed at Whakapakari.[58]

36. Young people could be ordered to attend Te Whakapakari Youth Programme by the Youth Court as an outcome of proven youth justice charges. Orders could be made by Youth Court judges under sections 283(m) and 307 of the Children, Young Persons and Their Families Act 1989 for "supervision with activity". This placed the young person under the supervision of the Director-General of Child, Youth and Family or an organisation, with a requirement to attend and remain at a centre approved by the Department of Child, Youth and Family, or to undertake any specified programme or activity. Te Whakapakari Youth Programme was approved by the Department of Social Welfare.[59] In the case of young people on remand from the court, placement at Whakapakari was seen as an 'ideal' outcome by Child, Youth and Family because the isolation of the programme meant that young people could not abscond and offend further.[60]

37. This order could only be made where the "nature and circumstances of the offence" were such that but for the availability of a 'supervision with activities order', the court would have considered imposing an order under sections 283(n) and 311 that a young person be placed in the custody of the Director-General of the Department of Social Welfare.[61]

38. A section 307 order could only be made with the consent of the young person, and the order could not be made for more than three months. In 1997, a Child, Youth and Family report noted that the majority of young people placed in Whakapakari were young people on remand from the court and young people under supervision with activity orders. The report noted that the courts were imposing this order without consent of the young person or their guardian, concluding "it appears the Service is acting illegally by placing some people on the programme".[62]

56 Children, Young Persons, and Their Families Act 1989, section 14.
57 Children, Young Persons, and Their Families Act 1989, sections 101, 104.
58 Children, Young Persons, and Their Families Act 1989, sections 361, 362.
59 Witness statement of Cody Togo (4 May 2023, para 4.19.2).
60 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 40).
61 Children, Young Persons and Their Families Act 1989, section 289 (in force from 1 November 1989 until 30 September 2010).
62 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, paras 40–41).

39. The report appended an opinion dated 2 July 1994 from the Children and Young Persons Service Legal Service, which concluded that section 307 could be relied upon to justify placement of children and young people in residential "trekking/outward bound type courses where they stay overnight for one or more nights".[63] This opinion was adopted by a more recent legal opinion from the Children, Young Persons and Their Families Service Legal Service dated 4 September 1997, with the proviso that if a young person had to reside elsewhere, such as at Whakapakari, parental consent was always required. Such a placement would therefore be a parental placement with an organisation approved by the Community Funding Agency.[64]

40. The report concluded that while section 307(1)(a) did not contemplate a full residential programme, and referred to the young person attending for "such weekday, evening and weekend hours each week … as the Court thinks fit," section 307(1)(b) was not so restricted. The section provided simply that a direction could be made that the child or young person undertake any specified programme or activity. However, the consent of the young person or their guardian must be provided.[65]

41. The 1997 Child, Youth and Family report noted that the issue as to the lack of consent by the young person or their guardian to orders pursuant to section 307 was being raised with the principal Youth Court Judge to be dealt with urgently.[66]

42. By 1995, the number of children and young people placed at Whakapakari for care and protection purposes was slowly increasing. Mixing individuals with those placed for a youth justice outcome was inconsistent with general social welfare care setting practices at the time and contrary to statutory criteria.[67]

43. Due to poor record keeping, the reasons for sending children and young people to Whakapakari cannot be accurately assessed, but between 1994 and 1997 several reports commented on these reasons.

44. In 1994 the Topzand Report noted that the Children and Young Persons Service was unable to provide the care status of the young people on the island, and the staff at the programme were also unaware of this information.[68]

63 Memorandum, Children and Young Persons Service Legal Service (2 July 1994, page 25), Appendix 6 to Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, paras 40–41).
64 Children, Young Persons and Their Families Service Legal Service letter to Janet Worfolk (4 September 1997).
65 Memorandum, Children and Young Persons Service Legal Service (2 July 1994, page 2).
66 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, paras 40–41). From 1 October 2010, section 307 was amended to empower the Court to place a young person in the custody of the director of a child and family support service (such as Whakapakari) to enable the programme to be delivered. The consent of the young person or their guardian was still required.
67 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, September 1995, para 4.3).
68 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, page 6).

45. The 1995 Thom Report noted the increasing number of care and protection referrals when the programme was initially developed in response to youth justice needs.[69] It also noted that additional conditions had been added to the approval of Whakapakari, including upgrading in regard to parental authority. These conditions were to be reviewed for compliance in December 1994 but at the time of the Thom Report in September 1995, there was no evidence that the review had taken place.[70]

46. Two years on, the problems persisted. The Green Report observed that placing young people with significant emotional and psychological problems at Whakapakari was inappropriate due to the harsh conditions of the programme and the isolation from their families, communities and specialist resources.[71] In 1997, five out of the 20 young people on the island had care and protection status. Wilhelmina da Silva stated that one of them was inappropriately placed on the island because of their emotional and psychological needs.[72] The report recorded that children as young as 12 years old were being placed at Whakapakari for care and protection. As a result a "point to consider" was noted that the age group be restricted to 14 to 16 years.[73] An appendix to the Green report recommended that the age group be restricted to 14 to 16 years, and that referrals be predominantly for youth justice reasons.[74]

47. In 1998, a social worker referred a boy to Whakapakari for three months after he was suspected of smoking marijuana at school, despite the boy's reluctance to attend.[75] The pathway was a temporary care agreement reached between Social Welfare and one of his parents.[76] Drug use was often cited as a reason children and young people were sent to Whakapakari. The Inquiry has received evidence that while on the programme, children and young people were exposed to drugs, with some of the supervisors smoking and even growing cannabis in the bush surrounding the camp.[77]

48. In 2000, a Ministerial review by Michael Brown noted that it was estimated that 12 percent of children and young people in the care of the Child, Youth and Family Service will have severe mental health problems, and a further 35–57 percent were estimated to have clinically significant emotional and behavioural problems. Additionally, there were high rates of attempted and completed suicide among those in care.[78]

69 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 4.2).
70 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 4.1).
71 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, paras 34–36).
72 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 34).
73 Report by senior outreach worker: Appendix 7 to the Green Report (Children, Young People and Their Families Service, July 1997, pages 3–5).
74 Report by senior outreach worker: Appendix 7 to the Green Report (Children, Young People and Their Families Service, July 1997, page 5).
75 Oranga Tamariki, Case print report (29 April 1998); Referral to Whakapakari by social worker I Lacey (May 1998).
76 Agreement for Temporary Care of Child or Young Person pursuant to section 139 of the Children, Young Persons, and Their Families Act 1989 (30 April 1998).
77 Witness statements of Mr RA (15 August 2022, paras 235–245); Cody Togo (4 May 2023, para 4.19.20) and Mr LG (20 May 2022, para 4.59).
78 Brown, MJA, Ministerial review of the Department of Child, Youth and Family Services, Report to the Minister of Social Services (December 2000, page 95).

49. The Departmental criteria for referral to Te Whakapakari Youth Programme were not formalised until 1998 following a review in 1997. The review found that young people were inappropriately placed at Whakapakari for care and protection needs who had significant emotional and psychological problems.[79] In response, from 1998 the Children, Young Persons and Their Families Service discouraged referrals of young people with mental ill health, psychiatric or severe emotional considerations and afforded youth justice referrals priority.[80] The minimum placement at Whakapakari from that point was two months.

Children and young people with high needs sent to Whakapakari

50. Children and young people perceived to have high needs due to neurodiversity or trauma issues were often placed at Whakapakari even if it was clearly not in their best interests. In fact, there seemed to be no strategy for determining what was in the best interests of the children and young people placed there, beyond the legitimating narrative that these survivors were 'difficult' or had high needs.

51. There is no evidence that young people had any form of assessment for disability or neurodiversity prior to being placed at Whakapakari:

    a. Jason Fenton, a Māori, Niuean and Chinese survivor who was at Whakapakari for six weeks as part of a court-imposed sentence, believes he was born with foetal alcohol spectrum disorder as well as brain injuries from suffering physical abuse as a child, but was never tested.[81]

    b. Survivor Mr PJ, who was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) and treated at Princess Margaret Hospital in Christchurch,[82] was placed in the care of the Child, Youth and Family Service when his parents felt unable to cope.[83] In social welfare care settings, Mr PJ did not receive the mental health care he should have received. Eventually he was sent to Whakapakari, which he described as a "nightmare place".[84]

52. No support was offered to either Jason or Mr PJ by Child, Youth and Family Service for their neurodiversity. Instead, children and young people were placed at Whakapakari which was an abusive, neglectful, punitive and dangerous environment.

79 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 35).
80 Children, Young People and Their Families Service, Whakapakari admission requirements (12 January 1998, page 2).
81 Witness statement of Jason Fenton (15 April 2022, para 2.6).
82 Witness statement of Mr PJ (9 November 2021, paras 6–7).
83 Witness statement of Mr PJ (9 November 2021, para 47).
84 Witness statement of Mr PJ (9 November 2021, para 137).

53. The incidence of young people with neurodiversity entering the youth justice system is recognised to be high, with as many as 40 percent believed to have an intellectual disability and 60 to 70 percent meeting the criteria for Conduct Disorder.[85]

54. Some survivors did not know why they were placed at Whakapakari. At 14 years old, NZ European, Māori and Cook Islands survivor Mr LG (Ngāti Whātua, Ngāti Porou, Ngāpuhi) was placed in Social Welfare care settings for care and protection reasons after he assaulted a police officer. He was sent to Whakapakari but his file does not demonstrate whether this was an outcome of a youth justice process or the fact he was made a State ward.[86] He still does not know the reason he was sent there. Mr LG always struggled with learning, and suspects he has Attention Deficit Hyperactivity Disorder or a learning disorder. He has never been assessed.[87]

Conclusion on circumstances that led to young people being placed in Whakapakari

55. Te Whakapakari Youth Programme's boot camp model proved particularly appealing as a placement for 'troubled teens' and many young people were sent there as an outcome of proven youth justice charges. Most of the young people sent to Whakapakari were young people on remand or young people under 'supervision with activity orders'. The court could make these orders under to section 307 of the Children, Young Persons and Their Families Act 1989, which required the young person to undertake a specified approved programme. Whakapakari was seen by the court as a place of last resort, with harsh conditions and a disciplinarian ethos that would rehabilitate young offenders. Legally, the court could only impose such an order if it would have considered placing the young person in the custody of the Director-General of Child, Youth and Family but for the availability of a 'supervision with activities order'.[88] The isolation of the programme meant that young people could not abscond and offend further.

56. The court could only make an order pursuant to section 307 with the consent of the young person or their guardian. However in 1997, a Child, Youth and Family report noted that orders were being made by the courts without the necessary consent. The report concluded that the Service was acting illegally by placing some people on the programme.[89]

85 Expert witness report of Dr Enys Delmage (13 June 2022, page 7); See also a study conducted in an Australian youth justice facility that found: 89 percent of all children had at least one serious brain impairment; three serious brain impairments in 63 percent of the youth detention population; and 36 percent were found to have foetal alcohol spectrum disorder, in Bower, C, Watkins, RE, Mutch, RC, Marriott, R, Freeman, R, Kippin, NR, Safe, B, Pestell, C, Cheung, CSC, Shield, H, Tarratt, L, Springall, A, Taylor, J, Walker, N, Argiro, E, Leitão, S, Hamilton, S, Condon, C, Passmore, HM & Giglia, R, "Fetal alcohol spectrum disorder and youth justice: a prevalence study among young people sentenced to detention in Western Australia", BMJ Open (13 February 2018).

86 Witness statement of Mr LG (20 May 2022, para 4.1–4.5).

87 Witness statement of Mr LG (20 May 2022, para 7.6).

88 Children, Young Persons, and Their Families Act 1989, section 289 (in force from 1 November 1989 until 30 September 2010).

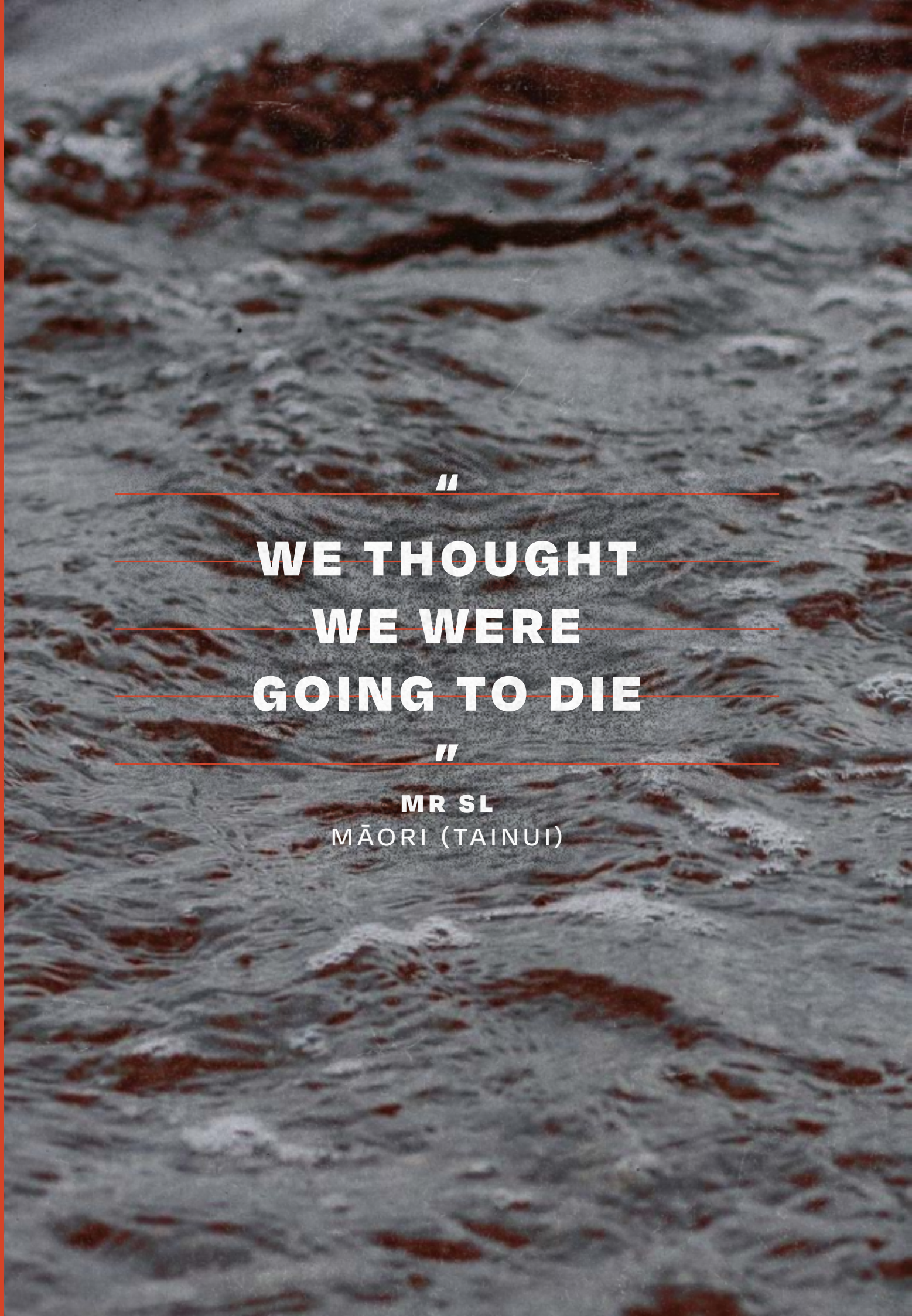
89 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, paras 40–41).

57. As the Te Whakapakari Youth Programme was an approved Child and Family Support Service pursuant to section 396 of the Children, Young Persons and Their Families Act 1989, children and young people in the custody of the Director of Social Welfare could also be placed in the programme, despite the fact they were not in trouble, and had no interaction with police or the youth justice system. Given, the boot camp nature of the programme, consideration should have been given to whether this was an appropriate placement for children and young people who were in need of care and protection.

58. However, evidence gathered by the Inquiry showed that children and young people who were in need of care and protection, who were traumatised, and who were neurodiverse, were also sent to Whakapakari with no proper consideration of their needs or the trauma they would suffer there. It was not until 1998 that the Children, Young Persons and Their Families Service discouraged, but did not ban, referrals of young people in need of care and protection.

59. There were scant resources and alternatives for young people, particularly on a national basis. This meant that the suitability of the programme for young people was not scrutinised, particularly as allegations arose of abuse and neglect.

Man, who appears to be holding a rifle, near a hut at Whakapakari



"

WE THOUGHT WE WERE GOING TO DIE

"

MR SL

MĀORI (TAINUI)

Mr SL

Hometown: Tāmaki Makaurau Auckland **Age when entered care:** 9 years old

Year of birth: 1977

Type of care facility: Children's home – Manurewa Baptist Children's Home; family homes – Witehira Family Home; Windrush Family Home; girls' home – Bollard Girls' Home in Tāmaki Makaurau Auckland; boys' homes – Weymouth Boys' Home in Tāmaki Makaurau Auckland, Helensville Boys' Home, Epuni Boys' Home in Te Awa Karangi ki Tai Lower Hutt; corrective training – New Zealand Legionnaires Academy in in Tāmaki Makaurau Auckland, Birch Camp; Te Whakapakari Youth Programme on Aotea Great Barrier Island.

Ethnicity: Māori (Tainui)

Whānau background: Mr SL's parents separated when he was young and he mostly lived with his mother and younger brother. His father was in a gang, and in and out of his life.

Currently: Mr SL is in prison. He has four children. He has worked as a cleaner and hospital orderly. His mum has always been there for him.

I spent most of my childhood in and out of care. I was moved from violent home to violent home, and suffered serious psychological, physical and sexual abuse at the hands of people who were supposed to care for me.

This has had an indescribable impact on my life.

When I was 7 or 8 years old, Mum got a new boyfriend who was extremely violent. I started running away and getting into trouble. I lived on the streets and did a bit of stealing, and police and Social Welfare got involved.

I ended up in State care when I was about 9 years old mainly because I was running away – but no one ever asked me why. Social Welfare said I was in need of care, protection and control, but just put me wherever they wanted to. It was so unstable. I had no idea where I would be placed, and I never felt safe or settled.

I was about 15 years old when my social worker sent me to Whakapakari.

The supervisors were idiots. Some were ex-gang members. They started abusing the boys and turned us against each other. They would use the older boys they trusted to beat us. Another supervisor came from a psychiatric hospital and smashed us in the woods.

I was made to dig trenches as a punishment because I was having a hard time getting along with other boys. We were punished during kapa haka time, too. If you made a mistake with the movements, everyone was made to do push-ups, and the supervisors would walk around and kick you in the face. We would get back up and have to practise the words. The supervisors singled out people and if they made a mistake, they got beaten.

Everyone says we were made to dig our own graves – we were digging trenches. There was a worker there and he had a gun. Once, when we weren't digging fast enough, he pointed the gun at us. We were terrified and thought we were going to die. One of my friends defecated on himself because he was so scared. I could see it coming down his pants.

The worst place was in the tents, where the older boys would come in and smash us. I tried to fight back but I was always outnumbered by bigger boys, and the supervisors were on big power trips.

The older boys would sexually assault the younger boys and call them names at the same time. One of my friends had wooden sticks put up his anus by other boys – that wasn't uncommon.

There was a 'no narking' culture among the boys and there was no way you could tell anyone about what happened to you or what you witnessed. If you did say anything, you got a beating, either from the staff or from the other boys.

A few of us were sent over to the other island, Alcatraz, as a punishment for trying to run away. It was awful. I was violated by one of the supervisors. They'd pull down our pants and sexually abuse us. Before this, we had been over to Alcatraz in groups. Sexual abuse occurred while we were there – they tried to put sticks up our rectums. It happened to me, and to the other boys. We always complained but no one cared about us.

There was no medical treatment at Whakapakari.

Most of the boys at Whakapakari seemed to have come from bad environments, bad homes. And a lot of those boys were young criminals. I learned a lot about crime and how to become a better criminal during my time.

Later, I was sent to corrective training at Birch Camp, Tongariro. That place felt like a holiday camp compared to Whakapakari. The staff weren't abusive to us, but by this point I was a very hard young man. Corrective training did not change my trajectory, and it didn't give me any skills to turn my life around.

I've been in so many prisons that I have a hard time remembering where I've served time and when. I consider myself a criminal through and through – I've never tried to be anything different. I'm learning coping skills now as an adult in prison and I'm really working on it. I need help to change the way I still think.

Because of my time in various placements, boys' homes and corrective training facilities, my education opportunities have been limited We were always afraid, and they gave us nothing. It was about survival and trying to look for opportunities to escape. I was never taught how to deal with anything properly as an adult – I am learning coping skills now in prison.

I had many case workers throughout my childhood. I told many of them about the abuse I suffered as a child, but it was always treated as a 'wild story'. They said they investigated and nothing came of it. But I know they didn't investigate. I complained about the repeated physical and sexual abuse I suffered throughout my time in care, but no one believed me.

I know that part of who I am is because of the abuse and neglect I was subjected to in care. I should have received care, protection, education and basic skills, but this was far from the case.

We need to believe children when they tell us something is wrong. I was told my abuse was a fairy tale, but it was the truth. No one listened. This has to change.[90]

90 Witness statement of Mr SL (28 July 2022).

Chapter 3: Nature and extent of abuse and neglect at Whakapakari

60. Children and young people were subjected to harsh conditions, physical abuse and punishments, sexual abuse, and neglect. Survivors were often forced to participate in the abuse and carry out punishments on each other. The Ministry of Social Development received 176 allegations of abuse from 40 different claimants. Of the 176 allegations 99 are for physical abuse, 42 are for emotional abuse, 21 are for sexual abuse and 14 are for neglect.[91] Supervisors routinely carried a rifle and waved it around when issuing direction to the children and young people attending the programme.[92] This contributed to the culture of psychological terror and violence.

Survivors experienced sexual abuse in care

61. It was common practice for survivors to be strip-searched when they arrived. John da Silva spoke of this practice to the media and openly admitted he may have been breaking the law, but that it was 'desirable'. Mr da Silva said: "Here is an example where you're going against the law, perhaps ... You use what I call common sense. You won't find that in a book."[93]

62. Survivors described John da Silva inspecting their genitals and buttocks during the strip-search process.[94] In 1999, Māori survivor Mr FQ (Ngāti Pikiao, Ngāpuhi, Te Rarawa), aged 15 years old, was strip-searched on arrival. During the search a staff member put his fingers in Mr FQ's anus on the basis he was searching for drugs.[95]

63. There was no legal power for John da Silva or any staff member of Te Whakapakari Youth Programme to conduct strip searches or internal searches of the young people.

64. Up until 2002, staff at State residences had a power to conduct strip-searches pursuant to the Children, Young Persons, and Their Families (Residential Care) Regulations 1996, but only if there was a strong belief that the child or young person was concealing drugs.[96] The power to conduct an internal examination was limited to a registered medical practitioner and on strict conditions.[97] This power was revoked in 2000. The Regulations did not apply to Te Whakapakari Youth Programme because it was not a State residence, but a Child and Family Support Service approved under section 396 of the Children, Young Persons, and Their Families Act 1989.

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91 List of allegations to Ministry of Social Development-data analysis, datapoint 12 (2023), which records that Whakapakari has the highest amount of neglect claims of any of the social welfare care settings.
92 Witness statement of Mr PM (23 March 2021, para 45).
93 Nippert, M, "'Escape from 'Alcatraz': What really happened to boys sent to a boot camp on a remote island?", New Zealand Listener (20 September 2008, page 30).
94 Witness statements of Mr PJ (9 November 2021, para 138) and Scott Carr (7 March 2021, para 26).
95 Witness statement of Mr FQ (23 September 2021, para 64).
96 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 41, revoked from 18 July 2002 by regulation 11 Children, Young Persons, and Their Families (Residential Care) Amendment Regulations 2002.
97 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 42, revoked from 20 October 2000 by regulation 6 Children, Young Persons, and Their Families (Residential Care) Amendment Regulations 2000.

65. The majority of Whakapakari survivors who engaged with the Inquiry reported sexual abuse by staff, which occurred in tents, on the boats or in the bush.[98] When survivors tried to complain of the abuse to social workers, they were ignored, and their allegations were not acted upon.[99]

66. Pākehā survivor Mr PM described a "rape club" culture when he attended Whakapakari in 1990.[100] He observed sexual abuse by a supervisor at night of other young people who shared the same tent.[101] The same supervisor once took him and two other boys to a tent, where he directed two older boys to "fuck" them.[102] Mr PM initially escaped, but was then caught by the supervisor, who hit him on the back of his head with the butt of his gun. On his return to the tent, he heard horrible noises as the two younger boys were beaten and raped. The two boys were holding their bottoms and in severe pain. One said that he had been "fucked up the arse".[103] This happened on a second occasion where attempts were made by the same older boys and the supervisor to rape a group of younger boys.[104]

67. The same supervisor took Mr PM and another boy to his camper the night before he was due to go home from Whakapakari. He raped both boys after brandishing his gun at them.[105]

68. Māori survivor Mr SL (Tainui) also described older boys sexually assaulting younger boys by inserting wooden sticks in their anuses when he was at Whakapakari in early 1993. Mr SL was also sexually assaulted by a supervisor when he had been sent to Alcatraz as punishment for attempting to escape in a boat. He said that he and others complained but no one cared about them.[106]

69. Some male survivors told the Inquiry that a female staff member physically and sexually abused them.[107] Māori survivor Mr LR (Ngāi Te Rangi, Ngāpuhi, Tainui) said this occurred on a regular basis over a six-month period and said she threatened to assault him if he disclosed the ongoing abuse.[108] This staff member also sexually abused survivor Mr LG when they shared a tent. The next day he asked another staff member if he could move tents but instead of taking action, he said this staff member must have told his abuser. When she found out she physically abused and intimidated him and he was sent to Alcatraz.[109] On his return, he was held down by some of the other boys, who inserted a broom handle into his anus. Those boys then did the same thing to another boy.[110]

98 Witness statement of Mr NQ (13 April 2023, para 4.4); Private session transcript of Mr UG (3 March 2020, pages 10–11); Witness statements of Mr PM (23 March 2021, para 46) and Mr LG (20 May 2022, paras 4.25–4.26).
99 Witness statement of Mr NQ (13 April 2023, para 4.4).
100 Witness statement of Mr PM (23 March 2023, para 56).
101 Witness statement of Mr PM (23 March 2023, para 46).
102 Witness statement of Mr PM (23 March 2023, para 47).
103 Witness statement of Mr PM (23 March 2021, paras 47–48).
104 Witness statement of Mr PM (23 March 2021, para 51).
105 Witness statement of Mr PM (23 March 2021, paras 59–62).
106 Witness statement of Mr SL (28 July 2022, paras 3.149–3.161).
107 Witness statement of Mr LG (20 May 2022, paras 4.21–4.35).
108 Witness statement of Mr LR (5 May 2022, paras 63–64).
109 Witness statement of Mr LG (20 May 2022, paras 4.31–4.36).
110 Witness statement of Mr LG (20 May 2022, paras 4.42–4.46).

70. In 2003, a supervisor raped survivor Mr PJ. When Mr PJ disclosed the abuse to John da Silva and his wife Wilhelmina da Silva, they took no action.[111] After he had disclosed the abuse, the supervisor raped Mr PJ on four or five other occasions. As a result, Mr PJ stole a firearm and the keys to a boat.[112] The perpetrator and another supervisor punched, kicked and stomped Mr PJ in order to retrieve the keys. The next day, Mr PJ was made to carry bags of wet sand uphill as a punishment.[113]

71. In the early 1990s a supervisor raped NZ European and Māori survivor Mr NY (Ngāti Kahungunu) in his tent at night. The supervisor first hit him in the head with his rifle, and Mr NY drifted in and out of consciousness.[114] On a subsequent stay, another supervisor took him to a watering hole to bathe, then raped him against a log.[115]

72. Māori survivor Mr NQ (Ngāti Maniapoto) said that he was taken out alone in the boat with a supervisor, and John da Silva. He said that both sexually abused him and each knew what the other was doing. In desperation, Mr NQ threatened John da Silva. Mr da Silva then told the Department of Social Welfare that Mr NQ had threatened to steal a boat. This resulted in Mr NQ's placement being extended for four weeks. During this time, and after he left, he told his social worker about the physical and sexual abuse but his complaint was not acted on.[116]

Survivors experienced physical abuse and violence

73. Staff were routinely physically abusive and violent towards young people attending the programme. Survivors were also traumatised and frightened by seeing and hearing their peers being beaten by supervisors.[117] Survivor Mr SL said he was not aware of any boys who avoided being beaten while at Whakapakari.[118]

74. Violence was inflicted by supervisors if mistakes were made during kapa haka practice, by kicking individuals in the face while they were forced to be on the ground doing push-ups as punishment. Boys were beaten if they made a mistake pronouncing te reo Māori.[119]

111 Witness statement of Mr PJ (9 November 2021, paras 152–154).
112 Witness statement of Mr PJ (9 November 2021, paras 152–154).
113 Witness statement of Mr PJ (9 November 2021, paras 148–149).
114 Witness statement of Mr NY (24 February 2023, para 36).
115 Witness statement of Mr NY (24 February 2023, para 38).
116 Witness statement of Mr NQ (13 April 2023, para 4.4).
117 Witness statements of Jason Fenton (15 April 2022, para 4.35); Mr RA (15 August 2022, para 252); Mr NY (24 February 2023, para 37); Mr GU (13 April 2021, para 38); Mr PM (23 March 2021, para 48) and Mr UU (23 June 2022, para 43).
118 Witness statement of Mr SL (28 July 2022, para 3.140).
119 Witness statement of Mr SL (28 July 2022, para 3.139–3.140).

75. NZ European survivor Scott Carr described an assault where a supervisor headbutted him, threatened to kill him, put him in a headlock then threw him off a balcony. He then chased after Scott and threw him down a bank, causing him to lose consciousness. He woke up some hours later, covered in blood. Scott's medical records reflected that he received treatment for a painful shoulder after running into a tree. The assault left him so distressed that he considered throwing himself off a cliff. Scott began sleeping with a knife to defend himself if he was assaulted again. The same supervisor continued to assault Scott during his time at Whakapakari by throwing firewood at him.[120]

76. Māori survivor Cody Togo (Ngāti Rangi, Tainui) said he experienced some form of physical violence from supervisors on a daily basis.[121] Māori survivor Mr RA (Ngāti Rongomaiwahine) described the violence:

> *"Every time I was physically assaulted by staff at Whakapakari, I would bleed, or my face would be swollen or sore for days. They didn't hold back. They weren't even trying to hit us as kids. I never got any medical treatment, not even plasters or Panadol. I just got told off for asking for it."*[122]

77. A staff member beat Māori survivor Mr V (Tainui) on the head with a shovel for taking a rest from digging tracks.[123] Another survivor told the Inquiry a staff member poured hot water over his foot because he thought the survivor had stolen his cigarettes. This survivor had to walk around on crutches and the wound got infected after he was left on Alcatraz for three days.[124]

78. Extensive abuse was inflicted by another staff member.[125] Survivor Mr LR described the woman beating him with a stick for stealing banana chips, to the extent he had black eyes, a bloody nose and a sore jaw.[126] Mr LR also described being punched and kicked by John da Silva.[127]

79. While some survivors had a good experience of John da Silva, many reported that he punched, backhanded slapped or hit them with wood or a rake. This occurred after they complained of abuse or as a punishment for wrongdoing.[128] Survivor Mr RA was tied to a tree for two days after he found some cannabis in the bush grown by the supervisors. John da Silva punched and threatened him when he refused to lie about finding the cannabis. He then attempted to sexually assault him, while punching him and forcibly removing his clothes.[129]

120 Witness statement of Scott Carr (7 March 2021, paras 28–32).
121 Witness statement of Cody Togo (4 May 2023, para 4.19.24).
122 Witness statement of Mr RA (15 August 2022, para 249).
123 Witness statement of Mr V (12 February 2021, para 75).
124 Private session transcript of Mr UI (14 September 2022, pages 12–14).
125 Crown Law, Allegations made in briefs of evidence in support of plaintiff claims (pages 1–3); Witness statement of Mr LR (5 May 2022, para 56).
126 Witness statement of Mr LR (5 May 2022, para 56).
127 Witness statement of Mr LR (5 May 2022, para 57).
128 Witness statements of Mr NQ (13 April 2023, para 4.4) and Peter Lacey (1 December 2022, para 39).
129 Witness statement of Mr RA (15 August 2022, paras 235–245).

80. Staff also used extreme physical exercise as a punishment, such as making survivors hold a squat for an extended period or hitting them for making mistakes in kapa haka.[130] Numerous survivors described harsh physical punishments, such as being made to run up a hill carrying a heavy bag filled with rocks, stones or sand.[131]

81. Blanket punishments were imposed on all the young people. Survivor Mr V recalled all boys having to do 200 press ups without rest and being forced to restart from the beginning if anyone stopped.[132] This, in turn, led to tension and violence between the boys. Survivor Mr RA said: "Our way to solve these problems was with a fist fight."[133]

82. By 2008 law firm Cooper Legal had 11 survivor clients alleging extreme physical and emotional abuse during their time at Whakapakari.[134] Survivors described physical abuse from staff such as being physically tortured and tormented, head-butted down a hill, viciously punched with full force in the head, smashed in the head with pieces of wood, punched, kicked and given vicious 'hidings'. They described how staff would throw a bucket of water over them while they were sleeping and then repeatedly kick them while they were on the ground in their sleeping bags. One survivor described being locked up in a cage as punishment and kept there overnight.[135]

Survivors experienced a culture of psychological abuse and fear

83. Survivors experienced constant insults on their dignity, including the use of degrading language and lessening of them as people.[136] Survivor Cody Togo recalled that supervisors verbally taunted him, telling him his whānau did not want or love him, and calling him an idiot, 'useless' and 'dumb'. Supervisors also threatened to throw him in the water and feed him to the sharks if he attempted to run away.[137] Some young people experienced racism by staff, including NZ European survivor Scott Carr in 1998, and Samoan survivor Mr GU in 2003.[138] Others described constant verbal abuse.[139]

84. Mr SL recalls being forced to dig trenches with others as a punishment. When they were not digging fast enough, the supervisor pointed the gun at them. He described that they thought they were going to die. One young person defecated in fear.[140]

130 Witness statements of Mr GU (13 April 2021, paras 41–42); Mr V (12 February 2021, para 79) and Mr RA (15 August 2022, para 230).
131 Witness statements of Mr LR (5 May 2022, para 60); Mr FQ (23 September 2021, para 69) and Cody Togo (4 May 2023, para 4.19.17); Private session transcript of Mr UI (14 September 2022, page 12).
132 Witness statement of Mr V (12 February 2021, para 80).
133 Witness statement of Mr RA (15 August 2022, para 257).
134 Nippert, M, "Escape from 'Alcatraz': What really happened to boys sent to a boot camp on a remote island?", New Zealand Listener (20 September 2008, page 28); Cooper Legal, Culture of abuse and perpetrators of abuse at Department of Social Welfare institutions: A paper based on the civil legal proceedings of clients represented by Sonja Cooper (n.d., pages 160–164).
135 Cooper Legal, Culture of abuse and perpetrators of abuse at Department of Social Welfare institutions: A paper based on the civil legal proceedings of clients represented by Sonja Cooper (n.d., page 161).
136 Survivor requested to remain anonymous (22 February 2023, page 42); Witness statement of David Bagley (22 March 2021, para 21).
137 Witness statement of Cody Togo (4 May 2023, paras 4.19.21–4.19.22).
138 Witness statements of Scott Carr (7 March 2021, para 36) and Mr GU (13 April 2021, para 35).
139 Witness statement of Ngatokorima Mauauri (2 July 2021, para 98).
140 Witness statement of Mr SL (28 July 2022, paras 3.141–3.142).

Sending children and young people to Alcatraz was an extreme form of solitary confinement

85. Whangara Island, known as 'Alcatraz', was a 10–minute boat ride from the main camp at Whakapakari. There was no shelter, water or food on Alcatraz. It was used throughout the life of the programme as a punishment. As early as 1989, staff member R Starck sent a letter on behalf of the Director of the Department of Social Welfare expressing concern at the use of Alcatraz, noting "I cannot allow this Department to allow Youths attending camps to be subjected to Whakapakari Justice as it is dispensed by way of banishment to the island called "Alcatraz"."[141] Survivors continued to be sent to Alcatraz until the suspension of Te Whakapakari Youth Trust's approval as a Child and Family Support Service in 2004.

86. After NZ European, Māori and Cook Island survivor Mr LG (Ngāti Whātua, Ngāti Porou, Ngāpuhi) was aggressive towards a female supervisor who had sexually abused him, he was taken to Alcatraz by boat as a punishment by John da Silva. He threw Mr LG overboard and forced him to make his own way to the shore. Mr LG was not provided with any food and had to find oysters to eat. He was left alone overnight on the island. He found himself "wanting to die".[142]

87. John da Silva took Māori survivor Mr LR (Ngāi Te Rangi, Ngāpuhi, Tainui) and a friend to Alcatraz after they attempted to escape. John da Silva punched and slapped them both as they approached Alcatraz and they were forced to swim to shore. They were then left on the island for two nights without food, water or shelter.[143] Survivor Mr V was taken to Alcatraz in 1994 for two weeks and recalled being left there with the other members of his tent. They were given a fishing line, some flour and porridge and were often hungry. There were insufficient tents, which meant some of the group had to sleep outside.[144]

88. Survivor Cody Togo was sent to Alcatraz three times in 1999, usually by himself and for a three-day period. He was forced to swim part of the way to the island, a terrifying experience as he had seen sharks in the water nearby. Cody said there was nothing on the island besides a flimsy tin shack, some potatoes, rice and rats, and there was no way to start a fire: "Alcatraz was scary and I was cold and hungry. I thought I was going to die."[145]

89. In August 1997, a young person told social workers of the use of Alcatraz as punishment, where scraps of food would be taken every two days, and the boys had to dig out caves to sleep in: "You had to prove you were good enough to be allowed back to the main island."[146]

141 Letter from R Starck to the assistant director General South and West Auckland Region: Whakapakari Youth Programme (19 July 1989, page 2); Ministry of Social Development, Chronology regarding Whakapakari (page 2).
142 Witness statement of Mr LG (20 May 2022, paras 4.37–4.40).
143 Witness statement of Mr LR (5 May 2022, para 65).
144 Witness statement of Mr V (12 February 2021, paras 81–82).
145 Witness statement of Cody Togo (4 May 2023, paras 4.19.28–4.19.30).
146 Child, Young Persons and Their Families Service, Notes of interview of with [resident], re: Alleged physical abuse at Whakapakari (27 August 1997, page 3).

90. In 2003, survivor Mr GU was sent to Alcatraz as a punishment for beating another boy, although he did so at the direction of a supervisor. He was forced to swim to the shore after John da Silva threw him off the boat. He was later left with some clothes, a sleeping bag and a loaf of bread. He had to live off kina and pāua and, at one stage, leaves. He was in dangerous situations when diving for kina and at one point he nearly fell off a cliff. He was scared and alone. Eventually he swam back to the mainland when no one had dropped off supplies or checked on him for two weeks.[147]

91. In 1992, TVNZ screened a documentary about Whakapakari called Breaking the Barrier. It noted that half of the young people were sent to the island "affectionately known as Alcatraz".[148] It featured several young people being sent to Alcatraz, and showed inhospitable terrain, describing it as "a barren piece of rock".[149] The documentary showed there was no fresh water, and featured fish being cooked as the only food.[150]

92. The United Nations defines solitary confinement as "the confinement of prisoners for 22 hours or more a day without meaningful human contact".[151] When survivors were placed on Alcatraz alone, they were placed in a frightening, stark form of solitary confinement where there was no possibility of contact with other people. The United Nations Convention on the Rights of the Child requires that "detention of a child must conform with the law and be used only as a measure of last resort and for the shortest appropriate period of time".[152]

93. Isolation from others is "painful and profoundly damaging to the health and wellbeing of individuals with normal resilience and no prior health issues".[153] These effects are more marked in children and young people, and especially those who have experienced trauma or who have learning difficulties and Attention Deficit Hyperactivity Disorder.[154] Solitary confinement places the person in "highly stressful conditions, and it takes away the usual coping mechanisms – access to human company, nature and things to do".[155] Impacts of solitary confinement include a loss of trust with staff, a sense of powerlessness, and a sense of anger. Medium- and long-term impacts include Post-Traumatic Stress Disorder and a chronic distrust of those in authority.[156]

147 Witness statement of Mr GU (13 April 2021, para 43–51).
148 Ngā Taonga, Breaking the barrier (Living Pictures, 1992), https://www.ngataonga.org.nz/search-use-collection/search/TZP102549/.
149 Ngā Taonga, Breaking the barrier (Living Pictures, 1992), https://www.ngataonga.org.nz/search-use-collection/search/TZP102549/.
150 Ngā Taonga, Breaking the barrier (Living Pictures, 1992), https://www.ngataonga.org.nz/search-use-collection/search/TZP102549/.
151 United Nations Office on Drugs and Crime, The United Nations revised Standard Minimum Rules for the Treatment of Prisoners (the 'Nelson Mandela Rules'), (17 December 2015, page 14, rule 44); Shalev, S, Uses and abuses of solitary confinement of children in State-run institutions in Aotearoa New Zealand (2022, page 4).
152 Shalev, S, Uses and abuses of solitary confinement of children in State-run institutions in Aotearoa New Zealand (2022, page 7).
153 Shalev, S, Uses and abuses of solitary confinement of children in State-run institutions in Aotearoa New Zealand (2022, page 4).
154 Expert witness report of Dr Enys Delmage (13 June 2022, page 29); Shalev, S, Uses and abuses of solitary confinement of children in State-run institutions in Aotearoa New Zealand (2022, page 5).
155 Shalev, S, Uses and abuses of solitary confinement of children in State-run institutions in Aotearoa New Zealand (2022, page 4).
156 Expert witness report of Dr Enys Delmage (13 June 2022, page 28).

Mock executions and other conduct made young people think they were going to be killed

94. Staff made death threats and carried out mock executions throughout the years, creating a culture of fear and psychological abuse. A survivor witnessed a supervisor holding another young person under the water in a creek, as a punishment.[157] Mr V recalled one supervisor holding a gun to his head after he dropped a 20–litre bottle of water that rolled down the hill.[158] Mr NY experienced a 'mock execution' and wet his pants in fear.[159]

95. Mr PM described being forced to dig his own grave with three other boys. The supervisor forced the boys to get into their graves and lie face down. He threatened to shoot them. He then started shooting into the air. The boys were screaming and begging for their lives. When the boys tried to get out of the holes, the supervisor would kick them and beat them. Mr PM thought it was going to be the end of his life.[160]

96. In May 1998 a gang member performed a terrifying mock execution of four young people. The four young people had escaped, prompted by witnessing an assault on another young person.[161] One of these was survivor David Bagley. The young people caused damage to property and a boat in their escape.[162] The owner of the boat was a member of the Head Hunters gang.[163]

97. The young people were eventually caught and punished. John da Silva left them on Alcatraz in wet clothing without food or shelter. The next day the gang member came to the island and demanded that a stolen watch be returned. He cut David Bagley's finger and threatened the boys.[164] When John da Silva returned to collect the boys, he ignored their complaints and instead delivered them to the gang member for another round of punishment. Before he left, John da Silva witnessed the gang member ordering his dog to bite David Bagley.[165]

98. The gang member forced the boys to their knees and fired numerous shots over their heads. The young boys were crying and screaming. The man then forced each boy in turn into a dog kennel at gunpoint, where they were bitten by the dog.[166]

157 Private session transcript of survivor who wishes to remain anonymous (21 January 2021, page 12).
158 Witness statement of Mr V (12 February 2021, para 76).
159 Witness statement of Mr NY (24 February 2023, paras 37–38).
160 Witness statement of Mr PM (23 March 2021, paras 49–50).
161 Witness statement of David Bagley (22 March 2021, paras 33–35).
162 Witness statement of David Bagley (22 March 2021, paras 45–46).
163 Witness statement of David Bagley (22 March 2021, paras 89, 93–96); Memorandum from Susan Smith, residential and caregiver services, to National Manager – Residential and caregiver services Janet Worfolk at Children, Young Persons and Their Families Service: Complaint re: Whakapakari (14 August 1998).
164 Witness statement of David Bagley (22 March 2021, paras 50–59).
165 Witness statement of David Bagley (22 March 2021, paras 60–62).
166 Witness statement of David Bagley (22 March 2021, paras 67–70).

99. The man then took the boys to his back yard and forced them to dig their own graves at gunpoint. He made them get into the holes and tormented them by shooting towards them. The boys were crying and terrified. At some point all four boys escaped, as the man fired shots over their heads.[167] They found John da Silva and a supervisor at the docking bay and told them what had happened. John da Silva took them to Alcatraz and left them there until they were removed from the programme.[168] David complained to his mother, who told David's lawyer what happened, "but it seemed to me the whole thing was swept under the carpet".[169]

Girls sent to Whakapakari experienced abuse

100. Records show that a small number of girls were placed at Whakapakari.[170] The boys would often bully the girls.[171] Concerns were raised at the mixing of boys and girls, due to the threats to the girls' safety, including being sexually abused. In April 1991, John da Silva noted that "jealousy over the only 3 girls on the programme" sparked off fights.[172] On 30 August 1995, a female resident also wrote a letter complaining of violence towards the girls on the programme.[173] The resident threatened to commit suicide if she wasn't removed.[174]

101. In 1995 the Whakapakari Youth Trust "reluctantly"[175] restricted entry to boys only, after a supervisor was charged with unlawful sexual connection with a girl at the programme[176] who became pregnant as a result.[177] This was clearly an abuse of power, given the supervisor was a staff member in control of the individual. Despite this, the Child, Youth and Family Service found that there was no evidence of abuse and, other than removing the supervisor from the programme and no longer sending girls to the programme, took no other action.[178]

102. One female survivor said at one point she was the only girl on the programme and she couldn't even use the bathroom without the threat of being raped.[179] She also described not having access to adequate hygiene when menstruating and having instead to bathe and clean her clothes in the river.[180]

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167 Witness statement of David Bagley (22 March 2021, paras 71–75).
168 Witness statement of David Bagley (22 March 2021, paras 76–78).
169 Witness statement of David Bagley (22 March 2021, para 79).
170 The attendance of seven females (five of whom had been resident at Bollard and Weymouth Girls' Homes) is recorded in Whakapakari Youth Programme 12 Report (3–28 October 1988), five females in Whakapakari Youth Programme 15 Report (6–30 June 1989), two females in Whakapakari Youth Programme 30 Report (2–28 February 1992). The 1992 documentary Breaking the barrier shows three females on the programme: Ngā Taonga, Breaking the barrier (Living Pictures, 1992), https://www.ngataonga.org.nz/search-use-collection/search/TZP102549/.
171 Stanley, E, The road to hell: State violence against children in postwar New Zealand (Auckland University Press, 2016, page 220).
172 Whakapakari Youth Programme Report No. 24 (19 March–12 April 1991, page 3).
173 Letter from female resident at Whakapakari, Children and Young Persons Service (30 August 1995).
174 Letter from female resident at Whakapakari, Children and Young Persons Service (30 August 1995).
175 Memorandum from Community Funding Agency regarding Whakapakari Youth Trust (25 June 1996, page 1).
176 Memorandum from Community Funding Agency regarding Whakapakari Youth Trust (25 June 1996, page 1).
177 Stanley, E, The road to hell: State violence against children in postwar New Zealand (Auckland University Press, 2016, page 220).
178 Memorandum from Community Funding Agency regarding Whakapakari Youth Trust (25 June 1996, page 2).
179 Private session transcript of Ms JF (19 November 2020, page 23).
180 Private session transcript of Ms JF (19 November 2020, page 23).

Survivors experienced abusive regimes

103. Young people were expected to work during the day, including cutting and moving firewood, fishing, washing and kitchen duties.[181] Māori and Cook Islands survivor Ngatokorima Mauauri (Tainui) described it as "a taste of what slave labour felt like".[182] Māori and Cook Islands survivor Mr UU (Te Atiawa) described the strict, boot camp style routine they were subjected to:

> *"There were rules we had to follow, and we had chores and jobs they told us to do. We just had to do what they said. It was very strict and if you stepped out of line, we got hit bad with either the strap or the belt. We just didn't vibe with it, and it didn't take long for one of the boys or girls to step out of line and pay the price."*[183]

104. Staff created an abusive environment by teaching boys to react with violence, and setting up fights between boys, including pack attacks.[184] Young people were beaten in front of their peers for any lack of adherence to the rules.[185]

105. Participants were awarded a special status as a reward for good behaviour and compliance with the rules. They were made a part of a group known as the 'Flying Squad', who assisted supervisors with enforcing rules and, in some cases, carrying out punishments on other children and young people. At the instigation of staff, many survivors were assaulted by members of the Flying Squad.[186] Peer pressure was also used as a formal means of controlling behaviour.[187] This was described by survivor Cody Togo: "Boys were made part of the Flying Squad if they sucked up to the supervisors, did what they were told and narked on the other boys."[188]

106. Survivors who were made members of the Flying Squad by staff described their discomfort with the violence they were tasked to inflict on other boys.[189] Survivor Mr FQ sometimes told boys to pretend he had hit them.[190]

181 Witness statement of Scott Carr (7 March 2021, paras 27–28).
182 Witness statement of Ngatokorima Mauauri (2 July 2021, para 98).
183 Witness statement of Mr UU (23 June 2022, page 8, para 40).
184 Cooper Legal, Culture of abuse and perpetrators of abuse at Department of Social Welfare institutions: A paper based on the civil legal proceedings of clients represented by Sonja Cooper (n.d., pages 160–164); Witness statement of Scott Carr (7 March 2021, para 34).
185 Witness statement of Mr UU (23 June 2022, page 8, paras 40–43).
186 Witness statements of Mr LR (5 May 2022, paras 61, 65); Cody Togo (4 May 2023, para 4.19.27); Mr PM (23 March 2021, para 56) and Mr RA (15 August 2022, para 261).
187 Letter from national manager, residential and care services of Children, Young Persons and Their Families Service, to John da Silva regarding Green enquiry (14 October 1997, page 1).
188 Witness statement of Cody Togo (4 May 2023, para 4.19.25).
189 Witness statement of Mr GU (13 April 2021, para 37).
190 Witness statement of Mr FQ (23 September 2021, para 73).

Survivors experienced educational neglect

107. Since 1914 every child between 7 years old and 14 years old has been legally required to be enrolled and attend school. In 1964 this increased to every child between 6 years old and 15 years old.[191] Reviews of the programme indicated that some young people were attending correspondence school under the guidance of Wilhelmina da Silva.[192] Evidence showed, however, that not all survivors attended correspondence school and, for those who did, the provision of education was scant. A brochure prepared by Te Whakapakari Youth Trust described the daily activity as chopping wood, fishing, hunting and survival activities, but does not mention any educational opportunities. No survivor who spoke to the Inquiry reported receiving any meaningful education while at Whakapakari.

108. Māori survivor Mr NY (Ngāti Kahungunu) went to Whakapakari twice and said there was no schooling when he attended.[193] Survivor Mr LR was supposed to be enrolled in correspondence school while there but said instead of school he had to do a lot of physical training and work, including the preparation of meals, collecting and chopping firewood, and fishing. The only schooling he received was to write a letter home once a week.[194] Survivor Mr PJ said correspondence school was only done once per week.[195]

109. In July 1994 following a report by social worker Peter Topzand reviewing a number of allegations against Whakapakari, the Community Funding Agency reviewed its approval and ongoing funding of Te Whakapakari Youth Trust.[196] In October 1994, the Community Funding Agency required additional conditions to be added to its approval for Te Whakapakari Youth Trust, including meeting academic needs and clothing provisions. A review was planned for December 1994 by the Community Funding Agency to ensure that these conditions of approval were met. However, there is no evidence that the review had taken place by September 1995.[197] The Inquiry did not receive any evidence that the Community Funding Agency took steps to ensure the conditions were met. It simply continued to fund Te Whakapakari Youth Trust.

110. The 1995 Thom Report noted the daily routine of the camp included physical training, jobs (laundry, chopping wood and digging drains) and recreation (bullrush, kapa haka and walking). There is no mention of correspondence school or other educational activity.[198]

191 Education Act 1914, section 59(1); Education Act 1964 section 109(a); Education Act 1989, section 20.
192 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 11).
193 Witness statement Mr NY (24 February 2023, para 34).
194 Witness statement of Mr LR (5 May 2022, para 66).
195 Witness statement of Mr PJ (9 November 2021, para 173).
196 Memorandum from Community Funding Agency regarding Whakapakari Youth Trust: Review of approval (1 July 1994); Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994).
197 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 4.1).
198 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 2.4).

111. Records from 1998 state all participants on the programme were enrolled in a correspondence school supervised by Wilhelmina da Silva but that there was no funding for education or supervision of the correspondence programme.[199]

112. In a letter dated June 1998, the Correspondence School referred to a four-year history of student attendance at Whakapakari, in positive terms, saying that a high standard of work was expected and that the children and young people had good working habits.[200] It also recorded a total of 24 students enrolled in 1997. As there were 20 young people at Whakapakari for one – to three-month placements at any one time, this reflected a very low attendance rate. The letter notes the students' conditions were "at best extremely basic", as well as the lack of funding available for educational resources. The Correspondence School obtained sponsorship for Whakapakari to buy some basic resources.[201]

113. This assessment was completely at odds with the evidence the Inquiry has received from survivors, and records of the activities at Whakapakari from the time. Even if they were formally enrolled there is no evidence of regular attendance. Survivors who attended Whakapakari were educationally neglected in addition to abuse they endured.

114. Education is a necessary means of realising other human rights, and being deprived of education further disempowered the economically and socially marginalised children. Some survivors were at Whakapakari for three to six months, and this ongoing educational neglect denied them the opportunity to acquire the means to participate in matters affecting their lives.

115. The lack of indoor facilities placed limitations on what Whakapakari's outdoor education programme could offer, particularly given the rough weather in the area.[202] After undertaking a placement at Whakapakari for three days in 1997, a social work student believed that "the cold, wet and muddy conditions are too extreme over the winter period."[203] The Chairman of Te Whakapakari Youth Trust responded to this by saying: "The Trust had given consideration to closing the camp during the worst of the winter months, but on balance considered there was no need to. Things taken into consideration included the excellent state of health of the yong people, the generally high level of morale, and the kaupapa which encouraged the overcoming of adversity. The Trust currently believes that the winter conditions do not adversely affect the young people or the programme."[204]

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199 Report to national manager residential and caregiver services on investigation of complaints relating to Whakapakari (7 September 1998, page 5); See also Child, Young Persons and Their Families Service, as regarding Whakapakari Costings (6 April 1998, page 4).

200 Letter from regional representative, Correspondence School, to national manager residential and caregivers, Children and Young Persons Service (4 June 1998, page 6).

201 Letter from regional representative, Correspondence School, to national manager residential and caregivers, Children and Young Persons Service (4 June 1998, page 6).

202 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 2.4).

203 Report by Senior Outreach Worker Michael Mills: Appendix 7 to the Green Report (Children, Young Persons and Their Families Service, July 1997, page 3).

204 Report by Senior Outreach Worker Michael Mills: Appendix 7 to the Green Report (Children, Young Persons and Their Families Service, July 1997, page 3).

Survivors experienced neglect of physical and health needs

116. Survivors told us they were constantly hungry and the food provided was inadequate for the level of physical labour they were doing.[205] NZ European survivor Scott Carr said he was often hungry, particularly when young people didn't manage to catch their own food. Staff intercepted food parcels sent by Scott's mother, either to keep for themselves or to redistribute to other young people.[206] Māori survivor Cody Togo (Ngāti Rangi, Tainui) described the hunger:

> *"We were made to work each day and I was constantly hungry. Not just slightly hungry – it was a painful hunger that never really went away."*[207]

117. In one report, young people gave identical descriptions of the food available: porridge for breakfast, soup and bread for lunch, and fish and vegetables for dinner (if fish was available).[208] A brochure discussing the programme confirmed survivors' accounts that young people would need to catch fish or hunt in order to have any protein.[209] John da Silva said that sometimes they had to "live as vegetarians" if no other food was available.[210]

118. The 1992 documentary Breaking the Barrier described the philosophy for the programme: "Do it yourself, or starve". It showed a celebration when some of the participants successfully hunted a goat, and observed that because they had not been able to catch any fish, there was no other food available. The programme also conceded during a visit by care and protection social work staff in May 1994 that fish and meat were "short" at the time.[211]

119. Survivors lived in tents, which sometimes leaked and provided inadequate shelter. Māori, Niuean and Chinese survivor Jason Fenton said there were no beds within the tents.[212] The toilet was a longdrop that was so full, waste came up to the level of the toilet seat.[213] A complaint in 1995 by a staff member about conditions at the camp reported a rat infestation in the tents and kitchen, bad hygiene practices (for example, a toilet brush being used to wash dishes), and a lack of access to first aid and medical care (for example, no inhalers for asthmatics, refusal to provide a sling for a broken arm, no access to antibiotics for infected cuts).[214] This, and another complaint by a former boy, was what led to the inquiry and publication of the Thom Report, outlined in more detail in chapter 6.

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205 Witness statement of Mr UU (23 June 2022, page 8, para 37).
206 Witness statement of Scott Carr (7 March 2021, para 43).
207 Witness statement of Cody Togo (4 May 2023, para 4.19.13).
208 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 2.1).
209 Brochure by Whakapakari Youth Trust (page 1).
210 Whakapakari Youth Programme 15 Report (6–30 June 1989, page 2).
211 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, page 3).
212 Witness statement of Jason Fenton (15 April 2022, para 4.43).
213 Witness statement of Scott Carr (7 March 2021, para 45).
214 Letter to directors of Whakapakari Youth Trust from staff member regarding conditions and allegations of abuse at Whakapakari (29 June 1995, page 4).

120. Although some survivors experienced serious injuries from physical abuse, medical attention was delayed, or not provided. When a boy was seriously assaulted by two other young people on 1 June 1997, staff recorded that they could not take him to a doctor until 4 June 1997 because the 2nd of June was a public holiday and there was a cyclone on the 3rd.[215] Māori survivor Mr LR (Ngāi Te Rangi, Ngāpuhi, Tainui) said he had cuts, bruises and lost teeth from assaults, but did not receive any medical attention.[216]

121. Although the Green Report suggested there was a weekly visit from a health nurse from 1995, many survivors described a complete lack of medical attention. Māori survivor Mr V (Tainui) told the Inquiry that a supervisor kicked a log down a hill towards him, where it hit him in the leg. He got a "big gash" from the log, which was bandaged up, but then became infected.[217]

122. The Thom Report discussed serious issues in relation to four young people interviewed and concluded that the conditions relating to diet, medical needs and personal hygiene were substandard.[218] One boy was accidentally burnt, scarring his back, and did not see a medical professional. A second boy said he had a fever for one to two weeks and did not receive medical attention. On his return he saw a GP for treatment of a bacterially infected penis – which should have been a red flag for abuse. A third boy returned from Whakapakari having lost 15 to 20 kilograms, was covered in impetigo, and had visibly inflamed and raw sores at interview, as well as cuts that had become septic. The fourth boy also suffered three fevers over a five and a half month stay and burns, for which he was given no medical treatment.

123. This same report said laundry was only done weekly, so children and young people could be in the same set of clothing for up to a week.[219] All boys interviewed said their footwear was less than adequate. This was a common theme in survivor accounts.

124. Survivor Mr V told us: "The conditions weren't very hygienic. I was usually dirty, and we didn't have hot water for showering."[220] Until August 1995 when showers were installed, personal bathing was in a creek, with one hot bath per week.[221] As late as 2003, young people on the programme were only permitted to shower once a week. Many of the young people had boils as a result.[222]

215 Ministry of Social Development, Report from Whakapakari re assault on a survivor (9 June 1997).
216 Witness statement of Mr LR (5 May 2022, paras 61 and 67).
217 Witness statement of Mr V (12 February 2021, para 78).
218 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 2.2).
219 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 2.3).
220 Witness statement of Mr V (12 February 2021, para 74).
221 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 2.3).
222 Witness statement of Mr PJ (9 November 2021, paras 142–143; Patient medical history of Mr PJ (22 March 2015, page 1).

125. In 1997, a second-year social work student raised a number of complaints with the Children, Young Persons and Their Families Service after staying at Whakapakari for three nights. The student reported that the tents were old and in need of repair, the bedding was damp, and some young people were inadequately clothed. He also said food was prepared in unhygienic conditions and eating facilities were "primitive".[223] The 1997 Green Report noted these complaints but did not make any recommendations to rectify the issues raised.[224]

126. A further complaint was made in August 1998 that there were wet sleeping bags, and the conditions in the dining area were sub-standard with an open drain in front of the cooking area that rats frequented.[225] In response, a 1998 report by the Children, Young Persons and Their Families Service National Office recommended that the Service direct all applicants for Te Whakapakari Youth Programme placements to have suitable sleeping gear and wet weather clothing.[226] The 1998 report reached no conclusions on the particular allegations.

127. The environment was completely inappropriate for young people to live in, particularly as most of them had experienced trauma in either previous care settings or in their homes. Psychiatrist Dr Enys Delmage told the Inquiry that purpose-designed, bespoke facilities for young people are vital, and need to be informed by developmental science and tailored therapeutic approaches in order to help avoid institutionalisation and further trauma. The available research indicates the richness of the environment is a crucial element in healthy brain development.[227]

223 Report by Senior Outreach Worker Michael Mills: Appendix 7 to the Green Report (Children, Young Persons and Their Families Service, July 1997, page 3).
224 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 53, page 11, pages 11–12).
225 Report to national manager residential and caregiver services on investigation of complaints relating to Whakapakari (7 September 1998, page 2).
226 Report to national manager residential and caregiver services on investigation of complaints relating to Whakapakari (7 September 1998, page 7).
227 Expert witness report of Dr Enys Delmage (13 June 2022, page 37).

Conclusion on the nature and extent of abuse at Whakapakari

128. Children and young people were subjected to horrific abuse. The brutality of the camp was underscored by the daily use of violence against children and young people. Serious physical abuse was part of the daily fabric of life at the camp. Young people were found to have broken bones and scars on their return to the mainland.

129. Sexual abuse was rife. Supervisors raped children and young people at gunpoint. The supervisors orchestrated 'rape parties' where they encouraged older boys to rape younger boys or penetrate them using sticks in a group setting.

130. Two aspects of psychological abuse are unique to Whakapakari. The use of Whangara Island as 'Alcatraz' was an extremely frightening form of solitary confinement where young people were left without shelter, water or adequate food for days or weeks at a time as punishment. The second was the disturbing mock executions conducted by supervisors of young people, a practice that occurred on many occasions. Young people were forced to dig their own graves at gunpoint, and lie in them. Some young people were shot at.

131. The harrowing experiences of children and young people are rendered more shocking by the fact they occurred so recently. There was no escape and no one to turn to for assistance. Children and young people were not safe at Whakapakari.

Rifles were regularly used

"

THOSE THREE MONTHS AT WHAKAPAKARI STAYED WITH ME FOR LIFE.

"

SCOTT CARR
NZ EUROPEAN

Scott Carr

Year of birth: 1983

Type of care facility: Foster homes; Boys' home – Epuni Boys' Home in Te Awa Karangi ki Tai Lower Hutt; Te Whakapakari Youth Programme on Aotea Great Barrier Island.

Ethnicity: NZ European

Whānau background: Scott has two older brothers and one older sister. During his childhood, his parents worked a lot.

Current: Scott has ongoing health issues and had a heart attack when he was 40. Scott believes that his experiences in care and the resulting PTSD contributed to his heart attack. He struggled with alcohol addiction and has been sober for over five years.

My parents believed good parenting meant working hard, all the time. I ended up in care after someone contacted CYFS to let them know that "something was not right" at home. I wasn't physically abused, but I was not a priority. My dad never spoke to us.

I got suspended from school when I was 13 years old. I was bored and lonely, which is when I started drinking and hanging out with an older crowd. I had also tried to commit suicide in the past, but I wasn't offered any help, despite me telling CYFS I was suicidal. I also ran away from home and appeared in court several times.

I was sent to Epuni and later to Whakapakari, aged 14.

When I arrived at Whakapakari, I was strip-searched to ensure I wasn't concealing anything. I was then placed in a tent group, who were assigned to chopping and carting firewood. We did this from early in the morning to late at night.

I asked my tent supervisor a question one day and he told me to keep my 'ballhead' comments to myself. I said I didn't like being called a ballhead, and he beat me and threatened to kill me. He knocked me unconscious and left me lying there covered in blood. The other boys were ordered not to help me or check on me. I still have multiple scars across the back of my head. I was so distressed I seriously considered throwing myself off a cliff to get away from Whakapakari.

I took to sleeping with a fish filleting knife that I stole from the kitchen in case he attacked me again. He was a bully. He'd deflate the tyre of the wheelbarrow and when I couldn't push it properly, he'd throw firewood at me.

After I had been there for a few weeks, the camp supervisor found a letter I had written to my mother complaining about the violence the tent supervisor had inflicted on me. I was told to apologise to the tent supervisor repeatedly, until I cried. To stop me crying, he choked me until I couldn't breathe. The camp supervisor wrote down my mother's address and told me he would go there, and make her pay if I ever wrote negative things about Whakapakari again and 'get' me or my family if I ever told anyone about the choking. I then had to rip up the letter and put it in the fire.

I was also assaulted, bullied and harassed by other residents while staff watched. I was exposed to serious violence – I would describe this as 'cage fighting', where staff organised residents to fight, for their own entertainment. While I didn't always participate, I had to watch.

If I misbehaved, I was forced to do things like carry sacks of stones up a hill as punishment. Despite my parents sending me a new pair of gumboots, I was made to carry these sacks in bare feet, because the supervisor gave my gumboots to another resident. The path up the hill was very rocky, and my feet got covered in cuts that became infected.

Another supervisor made me dig holes in the ancestral graveyard to bury skull and skeleton bones, and told me if I didn't behave, I'd end up there too. He also told all the residents to call me 'white bread' because I was Pākehā.

I wasn't looked after properly at Whakapakari. We were sent to another island, known as Alcatraz, where I was very cold and not given any food. I was told to find oysters for food. I was often hungry because we were responsible for catching our own fish to eat, and if we didn't, we only had potatoes and porridge. My mother would send me food parcels, but the staff always took most of the food out, either to eat it themselves or give to other residents.

I was only allowed to shower once every four days, despite doing hard physical labour every day. The toilet was a longdrop that was so full, the faeces came right up to the toilet seat. I remember putting rocks in it to make sure the faeces did not touch me while I used the toilet.

One supervisor helped me send letters to my mother and she kept some. In one, I mention that my shoes and pants had been stolen and that I had been involved in two fights, "and one involved a knife".

I never saw my social worker after he dropped me off at Whakapakari. He rang once and talked to a supervisor who told him I was doing well and fitting in. If he'd called me, I would have told him about the violence and abuse.

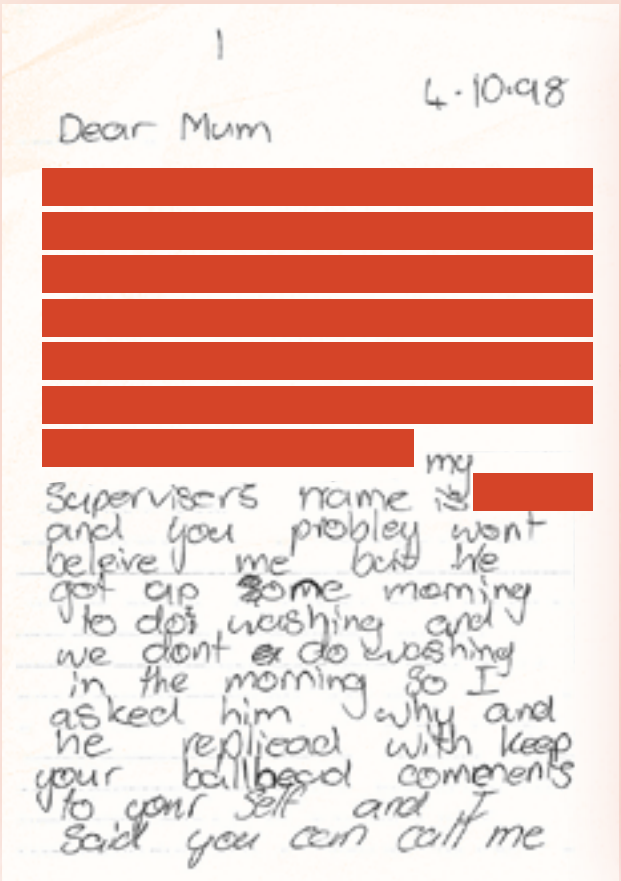
When I got home from Whakapakari, I felt overwhelmed, and struggled to fit back into society. I was never visited by a social worker or provided with any sort of support from CYFS to assist me in slotting back into life after Whakapakari. I didn't cope.

I have intense flashbacks of the violence and it often keeps me awake at night. I feel robbed of any opportunity in my adult life, especially because I never got a proper education.

I have used alcohol extensively in the past to block out traumatic memories.

A few years ago, I was diagnosed with a degenerative brain disease. I have a lot of headaches and am on medication because of this. While it is difficult to pinpoint an exact cause, doctors have told me that most my health issues could be triggered by Post-Traumatic Stress Disorder from my time at Whakapakari.

Those three months at Whakapakari have stayed with me for life.[228]


1

4.10.98

Dear Mum

[redacted] my

Supervisers name is [redacted]

and you probley wont

believe me but he

got up some morning

to do washing and

we dont do washing

in the morning so I

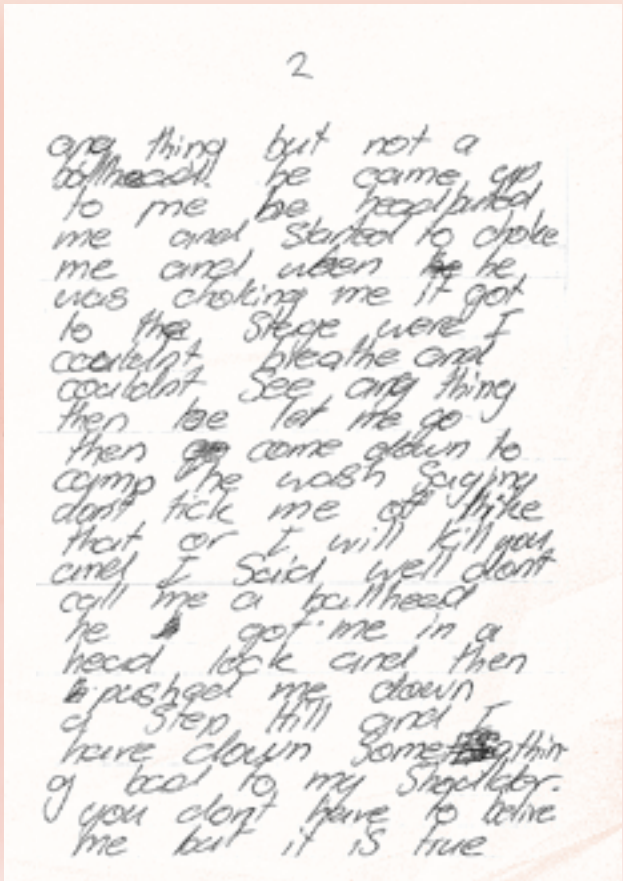
asked him why and

he replieed with keep

your bullhead comenents

to your self and I

said you can call me


2

one thing but not a

bullhead he came up

to me he headbutted

me and started to choke

me and when he

was choking me it got

to the stage were I

couldn't breathe and

couldnt see any thing

then he let me go

then he come down to

comp he wosh saying

dont fick me or like

that or I will kill you

and I said well dont

call me a bullhead

he got me in a

head lock and then

pushed me down

a step hill and I

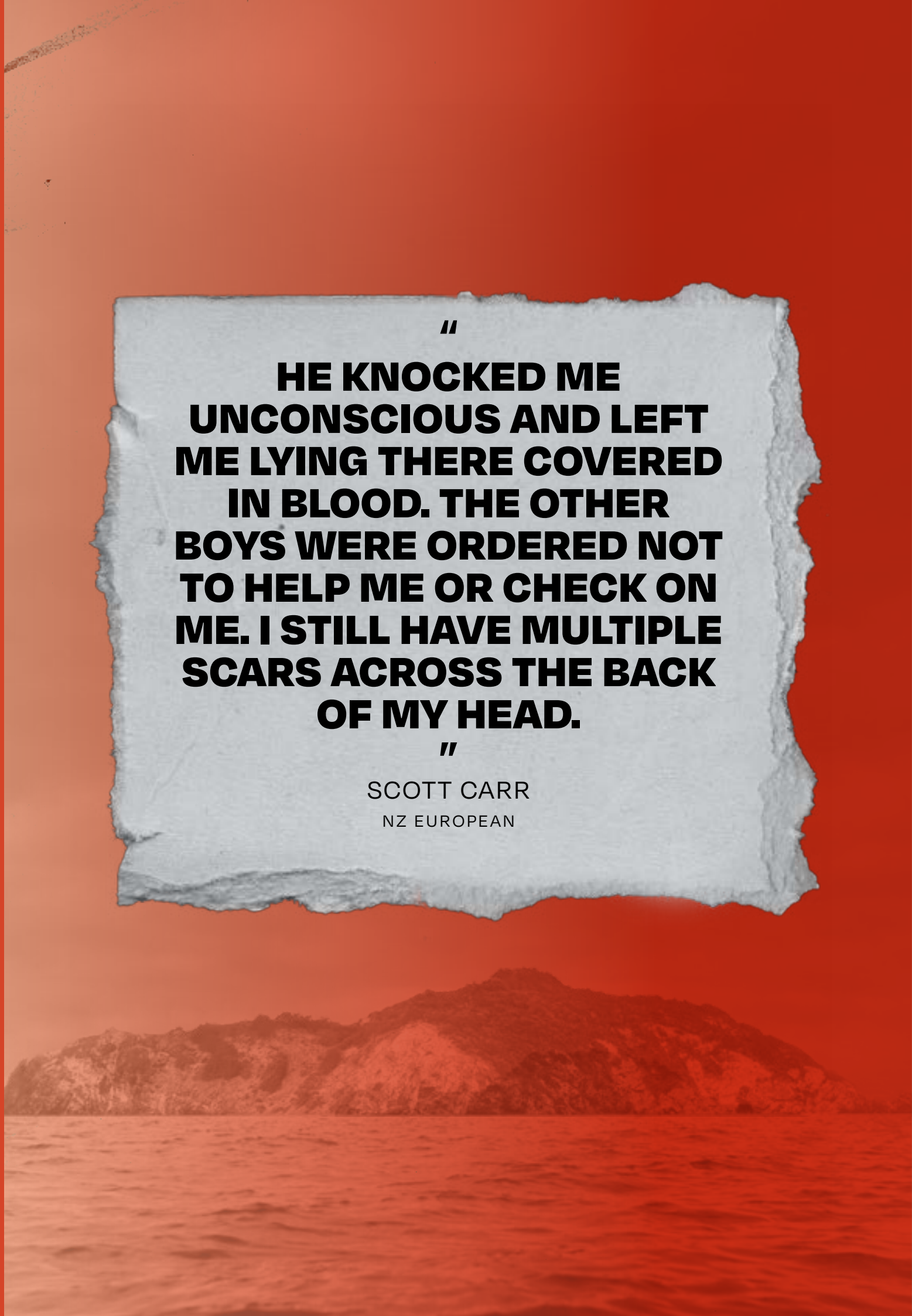
have down some thin

g bad to my Stepfather

you dont have to belive

me but it is true

228 Witness statement of Scott Carr (7 March 2021).



"

HE KNOCKED ME UNCONSCIOUS AND LEFT ME LYING THERE COVERED IN BLOOD. THE OTHER BOYS WERE ORDERED NOT TO HELP ME OR CHECK ON ME. I STILL HAVE MULTIPLE SCARS ACROSS THE BACK OF MY HEAD.

"

SCOTT CARR

NZ EUROPEAN

Chapter 4: Impacts of abuse and neglect at Whakapakari

132. Young people who went to Whakapakari were also abused in other social welfare residences, foster homes and youth justice institutions. Many described it as the worst care setting they experienced.[229] Māori survivor Mr RA (Ngāti Rongomaiwahine) described the impact:

> *"Being in care has fucked up my whole life … for a long time I allowed evil to make an animal out of me but I don't want it to ruin me. I feel as though the men responsible owe more than an apology, but what can they provide me? Justice is an understatement. Will they compensate me? What is the price of childhood? What is a life worth?"*[230]

133. Some studies show an 11-fold increase in the likelihood of being arrested for a violent offence for children traumatised in early life. Early childhood trauma is also associated with an increased rate of mental health difficulties and physical health problems later in life.[231]

134. Oranga Tamariki recognised that abuse and harm experienced by tamariki and rangatahi Māori in social welfare settings can have immediate, long-term and intergenerational impacts on victims and survivors, their families, whānau, hapū, iwi and communities. They also acknowledged that complex trauma often results from physical, emotional and sexual abuse, neglect, conscious/unconscious bias and discrimination, conflict, oppression, and the ongoing effects of colonisation.[232]

135. The trajectory for most survivors who spoke to the Inquiry is sadly similar; many went on to serve prison sentences after committing serious crimes, had issues with drug and alcohol use, or had gang involvement.

Impacts on mental health and emotional wellbeing

136. Survivors spoke of Post-Traumatic Stress Disorder from their experiences at Whakapakari, and how this has caused them ongoing mental and physical health issues.[233] Some expressed terror that they will be located by the staff who abused and threatened them. As this was a more recent care setting, survivors perceive the risk of seeing their abusers is high.

137. Samoan survivor Mr GU still suffers from nightmares due to the abuse he suffered. He has anxiety, low trust in authority, and uses drugs. He also has been in and out of prison ever since he left social welfare care settings.[234]

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229 Witness statement of Mr LG (20 May 2022, para 8.13).
230 Witness statement of Mr RA (15 August 2022, paras 369, 384, 385).
231 Expert witness report of Dr Enys Delmage (13 June 2022, page 7).
232 Oranga Tamariki, Response to Royal Commission of Inquiry into Abuse in Care Notice to Produce 418 (10 June 2022, paras 15.35, 15.39).
233 Witness statements of Scott Carr (7 March 2021, para 58); Ngatokorima Mauauri (2 July 2021, para 133) and Jason Fenton (15 April 2022, para 6.11).
234 Witness statement of Mr GU (13 April 2021, paras 84–90).

138. Survivor Scott Carr was seriously assaulted at Whakapakari close to his birthday, which has affected him:

"I can barely acknowledge, let alone celebrate, my birthday. Instead, my birthday is depressing and anxiety-inducing. I have intense flashbacks of this violence … this often keeps me awake at night."[235]

139. David Bagley, who was subjected to a mock execution by a gang member, said for many years he would hide behind power poles if he saw someone on the street who looked like the man who shot at him. He, too, ended up in and out of prison as an adult.[236]

Impacts on relationships and communities

140. Once survivors left, they often found it difficult to connect with their own families. Pākehā survivor Mr PM felt embarrassed and ashamed about what had happened to him and could not tell anyone what had happened. His relationship with his parents was impacted.[237] The Inquiry heard survivors had difficulties with sexuality and with intimate relationships following the sexual abuse they suffered.[238]

141. Many survivors became disconnected from their whānau and culture.[239] This represents a broader impact on whānau, hāpu and iwi.

142. Almost all Te Whakapakari Youth Programme survivors experienced drug and alcohol addiction in their adult life, including addiction to methamphetamine,[240] and many committed offences in relation to their drug addiction. These impacts represent a broader societal impact on communities within New Zealand.

From care to being incarcerated

143. The Inquiry commissioned the 'Care to Custody: Incarceration Rates' report to analyse the interagency records of more than 30,000 children and young people placed in State residential care, including those at Te Whakapakari Youth Programme, between 1950 and 1999. It showed that "one in five and sometimes, as many as one in three" children and young people placed in residential care by the State went on to serve a prison sentence later in life.[241] For tamariki and rangatahi Māori who had been in State residential care, up to 42 percent went on to receive a prison sentence later in life.[242] In comparison, for the same time period, no more than 8 percent of the general population of similar demographics went to prison.[243]

235 Witness statement of Scott Carr (7 March 2021, paras 52–53).
236 Witness statement of David Bagley (22 March 2021, paras 123, 125).
237 Witness statement of Mr PM (23 March 2021, para 78).
238 Witness statements of Mr LR (5 May 2022, para 157); Mr PM (23 March 2021, para 80) and Jason Fenton (15 April 2022, para 6.5).
239 Witness statement of Cody Togo (4 May 2023, para 5.5.2).
240 Witness statements of Scott Carr (7 March 2021, para 57); Ngatokorima Mauauri (2 July 2021, para 133); Mr GU (13 April 2021, para 90); Mr FQ (23 September 2021, para 86); Mr PJ (9 November 2021, para 307); Jason Fenton (15 April 2022, para 6.8); Mr LR (5 May 2022, para 156) and Mr NY (24 February 2023, para 52).
241 Royal Commission of Inquiry into Abuse in Care, Care to custody: Incarceration rates (2022, page 4).
242 Royal Commission of Inquiry into Abuse in Care, Care to custody: Incarceration rates (2022, page 9).
243 Royal Commission of Inquiry into Abuse in Care, Care to custody: Incarceration rates (2022, page 10).

144. The numbers for Whakapakari are more damning. Every survivor of Whakapakari who spoke to the Inquiry[244] had been in prison at some point in their lives, and many were still incarcerated. Survivors had convictions for the full range of crimes, including very serious violent offending, murder and manslaughter, sexual offending, firearms and drug offending.

145. Oranga Tamariki accepted the findings of the Care to Custody report reflected a trajectory from social welfare settings into custody.[245]

146. Survivor Cody Togo told the Inquiry:

> *"I have wasted so much of my time in prison and dealing with the courts, probation and the justice system. While I take responsibility for things I have done, the State needs to take some responsibility for how it got to this for me and so many other men in here."*[246]

147. Not only have survivors been imprisoned as adults, many have spent little time out of prison due to repeated or very serious offending.[247] Māori survivor Mr NQ (Ngāti Maniapoto) told the Inquiry the longest time he has been outside prison in his adult life is 12 months.[248] NZ European, Māori and Cook Island survivor Mr LG (Ngāti Whātua, Ngāti Porou, Ngāpuhi) has spent most of his children's lives in prison.[249]

Children and young people were robbed of an education and a career

148. Nearly all survivors considered they were robbed of an education in Social welfare care settings and spoke of the lack of employment opportunities they had as adults as a result.[250] None of the Whakapakari survivors who engaged with the Inquiry have had a career or promising job prospects. One survivor told us that as he started to confront the abuse he suffered, he felt that he had 'opened a can of worms', suffered a nervous breakdown and was unable to concentrate in his job as a truck driver. The situation became dangerous to the point that he had to discontinue working.[251]

244 Spoke to, meaning the survivor either gave a witness statement or private session. The Inquiry does not have information for those survivors who are registered with the Inquiry but did not give a private session or witness statement.
245 Transcript of Oranga Tamariki at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 24 August 2022, pages 875–876).
246 Witness statement of Cody Togo (4 May 2023, para 5.3.2).
247 Witness statement of Mr SL (28 July 2022, para 7.2).
248 Witness statement of Mr NQ (13 April 2023, para 5.1).
249 Witness statement of Mr LG (20 May 2022, para 6.28).
250 Witness statements of Scott Carr (7 March 2021, para 56); Cody Togo (4 May 2023, para 5.4.2) and Mr LG (20 May 2022, para 6.2).
251 Witness statement of Mr PM (23 March 2021, paras 75–76).

Conclusion on the impacts of abuse and neglect at Whakapakari

149. Survivors continue to experience lifelong impacts of the abuse and neglect they suffered at Whakapakari. They lived in terror and this persisted when they left from fear that they would encounter their abusers who had threatened them.

150. Those who were unfortunate enough to be sent to Whakapakari did not go on to experience successful lives. Survivors experienced trauma from the abuse they suffered. This in turn led to issues with intimacy, disconnection from whānau and problems forming lasting secure relationships. Many turned to alcohol and drugs to cope with what had happened to them. All Whakapakari survivors who engaged with the Inquiry spent time in prison as adults. The lack of an education at Te Whakapakari Youth Programme contributed to limited tertiary education and work options were limited.

151. The impacts of the abuse are not confined to the survivors. Young people became disconnected from their whānau, families, hapū, iwi and communities. Those in relationships with the survivors of abuse, including their children, suffered as survivors struggled to form close emotional bonds with them.

152. Young people were sent to Whakapakari to be 'straightened out'. Instead, their lives were ruined from the abuse they suffered there.

Tents where young people slept alongside supervisors.

Chapter 5: Factors that caused or contributed to abuse and neglect at Whakapakari

153. The various reports and investigations throughout Te Whakapakari Youth Programme's history reveal consistent factors that enabled abuse to occur.

People at the centre of abuse and neglect in care

154. Although each person in care had unique care needs, every person needed safeguarding and strong protective factors.

Factors for entry into care became factors for abuse and neglect for care

155. Many of the circumstances that made it more likely a child or young person would enter Whakapakari often became the factor for why they were more susceptible to abuse and neglect in care.

156. These factors included:

a. being raised in poverty and experiencing deprivation
b. being Māori and racially targeted
c. being Pacific and racially targeted
d. experience of mental distress with unmet needs
e. experiencing sign or multiple adverse childhood events
    i. experiencing or witnessing violence, abuse and neglect at home or other care settings
    ii. having a family member pass away or attempt to
    iii. aspects of their environment undermine their sense of safety, stability and bonding such as:
        – growing up with parents experiencing substance use problems,
        – mental distress
        – instability due to parental separation or incarceration
f. having a deferential attitude to people in positions of authority, including faith leaders and medical professionals
g. other reasons such as age or gender
h. experiencing or being any combination of the above.

Abusers were embedded within the make-up of Whakapakari

157. Abuse was an ingrained part of the culture at Whakapakari. It was routinely carried out, sanctioned, and encouraged by John da Silva, supervisors and other staff and in some instances by other young people.

158. The nature of abuse inflicted by John da Silva, supervisors and other staff included serious physical, sexual and psychological abuse against children and young people.

159. The abuse that was inflicted by other children and young people was sometimes instigated by staff, such as the Flying Squad, who assisted supervisors to enforce the rules using physical violence. However, children and young people who were not part of the Flying Squad also physically and sexually abused other children and young people.

160. Staff and volunteers are a critical part of safeguarding children and young people. They can be the first to see signs of abuse and neglect. They are often the only adults present to step in or respond to abuse or neglect. Some staff at Whakapakari were aware and the Inquiry found no evidence that they had escalated issues.

161. Complaints of physical and sexual abuse were made to John and Wilhelmina da Silva, but they took no action.[252] Despite this, Wilhelmina da Silva was quoted in the 2008 article as stating: "All this so-called abuse happened years ago … There's been plenty of opportunities for them to say 'Hey, listen.' And I would have to say it's all about the money, isn't it?"[253]

162. Many survivors also disclosed abuse to their social workers.[254] In some instances allegations were investigated, however, in most cases no police referrals or any other action was taken until 2004.[255]

163. Health practitioners also saw young people from Te Whakapakari Youth Programme. In 2003, a community nurse saw a young person four days after an altercation. The nurse recorded that the young person complained of an injury, and that the person should see a doctor if it did not improve. When the young person left the island six days after the incident, an x-ray indicated that the young person had a fractured shoulder. Neither the nurse or staff from Whakapakari notified the young person's social worker of the injury.[256]

252 Mr PJ disclosed a rape by supervisor in 2003 to John and Wilhelmina da Silva, who took no action, in Witness statement of Mr PJ (9 November 2021, paras 152–158).

253 Nippert, M, "Escape from 'Alcatraz': What really happened to boys sent to a boot camp on a remote island?", New Zealand Listener (20 September 2008, page 28).

254 An instance of a social worker failing to properly address a complaint is noted below at paragraph 153, Internal Children, Young Persons and Their Families Service email to Grey Lynn Manager Jessie Henderson (10 July 1997).

255 See for example: Witness statements of Mr NQ (13 April 2023, para 4.4) and Michael Bennett (23 January 2023, paras 184–188); Child, Young Persons and Their Families Service, Notes of interview of with [resident], re: Alleged physical abuse at Whakapakari (27 August 1997); Internal Children, Young Persons and Their Families Service email to Grey Lynn Manager Jessie Henderson (10 July 1997).

256 Child, Youth and Family Service, Summary report for Whakapakari for section 396 approval (14 May 2003, page 3).

164. A local police officer told a social worker in 1994 of his concerns of ritualised abuse of children and young people at Whakapakari, but there are no records available to establish if any action had been taken about these concerns.[257] The Children and Young Persons Service did not act on these concerns either.[258]

165. Many survivors told the Inquiry they disclosed abuse and neglect to staff or bystanders. Some staff would make excuses for the abuser or dismiss the disclosure as lies.

Institutional factors that contributed to abuse and neglect in care

166. A range of institutional factors contributed to the abuse. Recruiting and retaining suitable staff members was an "ongoing frustration" for Te Whakapakari Youth Programme.[259] Obstacles such as the camp's remote location, harsh conditions, low pay and participants who were experiencing their own challenges made it difficult to attract staff with suitable experience.

Inadequate vetting processes for staff

167. Supervisors were not subjected to police vetting.[260] The 1992 documentary Breaking the Barrier noted that "the supervisors are no angels either, including former alcoholics and criminals."[261] The 1997 Green Report also acknowledged the lack of police vetting and that several supervisors had criminal convictions.[262]

168. The same issue was noted in a 2004 report recording that police checks were not evident for staff who did not declare convictions.[263] It further noted that although supervisors were undergoing training for outdoor skills, there also needed to be training in social work intervention, human growth and development, non-violent crisis intervention or recognising the dynamics of abuse.[264]

169. Of further concern, staff files for supervisors did not include a curriculum vitae for five of the seven staff. There was also no evidence of what the interview process consisted of. In 2004 the Child, Youth and Family Service concluded the standards for staffing had not been met.[265]

257 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, page 12), Appendix 5 interview notes with Great Barrier constable.
258 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, page 7).
259 File note re complaint by social work student following visit to Whakapakari (11 and 14 July 1997).
260 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 21).
261 Ngā Taonga, Breaking the barrier (Living Pictures, 1992), https://www.ngataonga.org.nz/search-use-collection/search/TZP102549/.
262 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 21).
263 Hewitt, W, Special assessment report of Whakapakari Youth Trust (21 June 2004, page 10).
264 Hewitt, W, Special assessment report of Whakapakari Youth Trust (21 June 2004, page 10).
265 Hewitt, W, Special assessment report of Whakapakari Youth Trust (21 June 2004, page 10).

170. Several survivors told the Inquiry that supervisors had gang connections. One of these supervisors severely beat survivor Jason Fenton.[266] Internal email correspondence from the Child, Youth and Family Service in 2003 commented on this incident: "If [name] – the alleged abuser – is their best supervisor, what is their worst like and how is this issue impacting on client management generally?"[267]

171. None of the adults working at Whakapakari were vetted to ensure they were an appropriate and safe person to work with young people. The abuse perpetrated by staff and John da Silva, as well as their backgrounds, illustrate that they should never have been entrusted with the care of young people. Similarly, the staff were not trained, skilled professionals who could conduct successful interventions in young people's lives. In many instances they did not produce a curriculum vitae to demonstrate any suitability for employment.

Inadequately trained staff

172. The lack of training and difficult working conditions were repeatedly raised in reports from the outset of the programme. In a 1989 report following a two-week programme, John da Silva wrote that supervisors urgently required training to deal with young people who he described as "extremely difficult and disturbed".[268] In 1995, the Thom Report noted that collectively, the young people attending Te Whakapakari Youth Programme took a "high skill level to be managed effectively", and that young people should have the same rights to an effective and professional intervention as they would if placed at another Children, Young Persons and Their Families Service residential centre. The report said the lack of a structured or reviewed programme and an inadequate level of staff expertise meant there was a level of risk for young people attending Whakapakari.[269] This issue did not resolve throughout the life of the programme. Staff were not professional social workers trained to assist young people.

Visitation standards breached

173. Social worker visits of state wards were meant to be a critical intervention point to prevent abuse and neglect in care. Minimum visitation were set in 1957. Evidence shows that the visitation of at least once every four months was never met.

266 Witness statement of Jason Fenton (15 April 2022, paras 4.27–4.28, 4.34–4.35).
267 Child, Youth and Family Services email re: Whakapakari abuse allegation (10 April 2003, page 1).
268 Whakapakari Youth Programme 15 Report (6–30 June 1989).
269 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 4.5).

174. Whakapakari had no electricity or road access, and its isolation on a sparsely populated island made children more vulnerable to abuse. The Green Report noted that the Children, Young Persons and Their Family Service had a requirement to visit young people in the Director-General's custody every six weeks but failed to do so due to the isolation of the programme. It noted "the occasional fleeting visit from a social worker when placing a young person does not fulfil that requirement".[270] The Green Report recommended that a monthly or six weekly visit from a departmental social worker would meet this responsibility.[271] However on 7 September 1998, a further report noted "It is both disappointing and disturbing that a CYPFS liaison worker has still not been appointed after 21 years of the programme's existence".[272] Survivors told the Inquiry if a social worker had visited, they would have disclosed the abuse.[273]

Whānau connection was absent

175. Whānau were unable to contact or visit survivors.[274] Survivors were only able to contact their whānau by post, but staff often checked mail, and letters containing complaints of abuse were destroyed. There was limited communication, even in emergencies.[275] It was very difficult for children and young people to tell their whānau what was happening or to ask for help. In some cases, parents were actively discouraged from any contact with their children.

176. After a boy was seriously assaulted on 1 June 1997, his mother contacted the Children, Young Persons and Their Families Service advising that she was unable to reach him by phone. Children, Young Persons and Their Families Service records reflect that Te Whakapakari Youth Programme did not allow him to speak with his father, who attempted to contact him.[276]

177. In October 1997, survivor David Bagley's mother contacted Children, Young Persons and Their Families Service to advise that David's brother was in intensive care and not expected to live. She was adamant her son should return home to see his brother before he died, but this was not facilitated by social workers.[277]

270 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 26).
271 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 27).
272 Report to national manager residential and caregiver services on investigation of complaints relating to Whakapakari (7 September 1998, page 5).
273 Witness statement of Scott Carr (7 March 2021)
274 Private session transcript of survivor who wishes to remain anonymous (21 January, pages 12–13).
275 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994).
276 Letter from mother of child at Whakapakari to Children, Young Persons and Their Families Service (6 June 1997); Report from Whakapakari re: assault on [resident] (9 June 1997).
277 Children, Young Persons and Their Families Service, Case note of phone call (26 October 1997).

178. The Child, Youth and Family Service records demonstrate parents were discouraged from visiting; one was told it was "not the kaupapa of Whakapakari to allow family visits".[278] These issues persisted throughout the life of the programme. As late as 2003, young people were unable to contact their families, despite being on the programme for months. Requests to social workers to facilitate contact with family were not acted on.[279]

179. Psychiatrist Dr Enys Delmage explained that children need to be managed as closely as possible to their family and home community. Considerable damage can be done by forcing a child to live away from their sense of self, their sense of identity and their sense of home.[280]

180. The State failed to address or mitigate this major safeguarding issue. The Child, Youth and Family Service and its successors should have ensured that young people had access to whānau and to social workers.

Conclusion on the institutional factors that contributed to abuse at Whakapakari

181. The isolation and the consequent lack of regular monitoring or oversight was a major factor in the perpetration of abuse. It meant that abuse could occur undetected. Young people had no way to complain or escape from the abuse while they were isolated from social workers, police and their families.

182. These institutional factors meant basic measures to safeguard young people were not taken.

278 Witness statement of Mr LR (5 May 2022, para 68).
279 Witness statement of Mr RA (15 August 2022, paras 272–275).
280 Expert witness report of Dr Enys Delmage (13 June 2022, page 38).

Systemic and practical issues at Whakapakari

The standards that applied in social welfare care did not apply to Whakapakari

183. From 1 February 1997, the Children, Young Persons and Their Families (Residential Care) Regulations 1996 provide a set of care standards for those in residences operated by the State.[281] However, these regulations did not apply to residences operated by third parties. While third parties had to meet generic Standards for Approval set by the Community Funding Agency in order to attain status as a Child and Family Support Service, these were not set out in legislation and were not nearly as comprehensive. Therefore, important legal safeguards that were in place for children in State residences were not in place for young people at Te Whakapakari Youth Programme. This was a major policy failing. The regulations provided for rights of children and young people in social welfare residences, which include the right to:

a. A high standard of professional care consistent with a National Code of Practice, and the purposes and principles set out in the Children, Young Persons, and Their Families Act 1989;[282]

b. Be informed of the provision of the Regulations, the care plan for each child, and the grievance procedure in the residence for dealing with complaints;[283]

c. Wear the child or young person's own clothing;[284]

d. Personal privacy, including the right not to be required to be naked in the presence of any staff member or any other person;[285]

e. Visits and communications with any parent or guardian, social worker, teacher, or lawyer;[286]

f. Send and receive unopened mail;[287]

g. Access to adequate legal, recreational, spiritual and social services and facilities, having regard to the culture and background of the child or young person;[288]

h. Access for not less than five hours per day to educational activities, vocational training opportunities, or if neither are available, regular, structured, learning activities; and access to participate in regular social, recreational, sporting and cultural activities for not less than two hours each day;[289]

281 Regulation 2 of the Children, Young Persons, and Their Families (Residential Care) Regulations 1996 defined a 'residence' as one established under section 364 of the Children, Young Persons, and Their Families Act 1989, which provides for residences established and / or maintained by the State.
282 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 3(1).
283 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 4(1).
284 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 6.
285 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 7.
286 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 10.
287 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 11.
288 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 12.
289 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 13.

i. Prompt, adequate, and appropriate health services and health care;[290]

j. To lodge a complaint under a grievance procedure, which was required to be established by the manager of every State care residence, and to have decisions reviewed by a grievance panel, and to have reasonable access to a barrister, youth advocate or other person nominated to advocate for the child or young person in relation to their complaint.[291]

184. The regulations also provided limitations on powers of punishment and discipline. No member of staff of a residence was permitted to use physical force to punish any child or young person,[292] or to discipline or treat or speak to a child or young person which inflicts torture, cruelty or is inhuman, degrades or humiliates, or is likely to induce an unreasonable amount of fear or anxiety.[293]

185. The type of punishment and sanctions used in residences was restricted to those approved in writing in advance by the Director-General of Social Welfare,[294] and if imposed, had to be logged in a daily log maintained by the residence.[295]

186. There were strict limitations on the power to strip search, which was revoked altogether from 2002.[296] Internal examinations could only be conducted on a similarly strict basis, by medical practitioners, and this power was revoked from 2000.[297] There were also rules governing the use of, and facilities for, solitary confinement.[298]

187. Many reports highlighted that Te Whakapakari Youth Programme lacked an incident and accident reporting procedure and a written policy for investigations of abuse. No procedures were in place to ensure the safety of a young person was considered. At one stage participants needing to go to the toilet were at risk because they could be "jumped" by other yong people.[299] Incident reports often failed to correctly describe events and sometimes written evidence did not concur with interviews held with staff.[300] There was also no written standard procedure to deal with any incident of abuse occurred involving a staff member.[301]

290 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 14.
291 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 15 and 16.
292 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 20.
293 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 21.
294 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 18(1).
295 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 18(6).
296 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 41, revoked from 18 July 2002 by regulation 11 Children, Young Persons, and Their Families (Residential Care) Amendment Regulations 2002.
297 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulation 42, revoked from 20 October 2000 by regulation 6 Children, Young Persons, and Their Families (Residential Care) Amendment Regulations 2000.
298 Children, Young Persons, and Their Families (Residential Care) Regulations 1996, regulations 46 to 51.
299 Child, Youth and Family Service, Summary report for Whakapakari for section 396 approval (14 May 2003, page 2).
300 Child, Youth and Family Service, Summary report for Whakapakari for section 396 approval (14 May 2003, page 2).
301 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, paras 21–24).

188. A 2004 Child, Youth and Family Service report noted that although numerous incidents were recorded, it was not possible to determine what resolutions had occurred and therefore didn't meet the standards required. For example, there was no evidence of notification to the Child, Youth and Family Service following a young person requiring medical attention after being hit with a tokotoko stick by a supervisor.[302]

189. Important safeguarding features identified by psychiatrist Dr Enys Delmage are regular debriefing periods after incidents and an atmosphere of open communication within a provider of care and between agencies, as well as regular internally arranged reviews.[303] This did not occur at Te Whakapakari Youth Programme.

The process for making, handling and responding to complaints was inadequate

190. Young people faced significant barriers to making complaints, including the censorship of their mail, the inability to contact family and whānau, and threats by staff to survivors' family members if they tried to complain.

191. Survivors told us authority figures, such as NZ Police or social workers, dismissed or ignored evidence or allegations of abuse. Māori and Cook Islands survivor Ngatokorima Mauauri (Tainui) escaped the island with another young person when they were working on one of the boats. When they arrived at Auckland they were arrested by police. Ngatokorima reported the abuse to NZ Police, who told him to speak with his social worker. When he approached his social worker, Ngatokorima said they didn't appear to care or believe him.[304] Māori survivor Mr SL (Tainui) said police returning absconders to the island would have seen the bruises on their face and bodies from the abuse, but they did nothing about it.[305]

192. Australian, Aboriginal and Māori survivor Michael Bennett (Ngāti Porou) reported to the Children, Young Persons and Their Families Service that he was raped at Whakapakari, but the Youth Aid officer did not believe him.[306] Michael said: "I was mentally, physically, emotionally and sexually abused on that island. Then when I complained I was told it never happened."[307]

193. In July 1997, a boy wrote to his mother saying he had been beaten up twice and that he felt suicidal. The social worker recorded that John and Wilhelmina da Silva had reassured them the young person was fine and they had spoken to the young person on the phone.[308] However, there was no recorded visit nor was there discussion of removing the young person from Te Whakapakari Youth Programme.

302 Hewitt, W, Special assessment report of Whakapakari Youth Trust (21 June 2004, page 9).
303 Expert witness report of Dr Enys Delmage (13 June 2022, page 36).
304 Witness statement of Ngatokorima Mauauri (2 July 2021, para 101).
305 Witness statement of Mr SL (28 July 2022, para 3.159).
306 Witness statement of Michael Bennett (23 January 2023, para 184).
307 Witness statement of Michael Bennett (23 January 2023, para 186).
308 Internal Children, Young Persons and Their Families Service email to Grey Lynn Manager Jessie Henderson (10 July 1997).

194. Young people feared that they may be threatened and beaten if they attempted to complain.[309] Māori survivor Mr FQ (Ngāti Pikiao, Ngāpuhi, Te Rarawa) was sexually abused and raped by a supervisor at Whakapakari in 1999. The supervisor told Mr FQ that if he reported it, the abuse would get worse.[310] In 2003, a supervisor raped survivor Mr PJ on numerous occasions. He complained to Wilhelmina and John da Silva, who took no action. Mr PJ wrote a letter of complaint but it was intercepted by a staff member, who then beat him for trying to disclose the abuse. He was also threatened with 'hidings' or a punishment of carrying bags of wet sand if he 'narked' about the abuse. Mr PJ was not allowed to contact his parents or social worker. He said: "What happened to me at Whakapakari still rates as one of the worst things that has ever happened to me. It definitely stuffed me up mentally."[311]

195. NZ European survivor Scott Carr described what happened when a supervisor, Mita Mohi, discovered a letter to his mother complaining of a serious assault by a staff member:

> *"Mr Mohi told me to apologise to [staff member] repeatedly, until I cried. To stop me crying, [staff member] choked me until I could not breathe. Mr Mohi then told me to rip up the letter and put it into the fire. Before I did this, Mr Mohi wrote my mother's address and told me he would go there, and 'make her pay' if I ever wrote negative things about Whakapakari again. Mr Mohi also told me he would 'get' me or my family if I ever told anyone about the choking."*[312]

196. Young people told the Inquiry that although there were sessions to air grievances, they were unable to complain because the supervisors ran the sessions.[313] Survivor Mr PJ said: "At first, I complained about what was happening to me. I soon learned there was no point complaining because I would always get a hiding later on."[314]

197. The official reaction to a complaint of abuse reinforced the 'no narking' culture that persisted in the social welfare care settings system and the consequences that young people would suffer for making complaints.

309 Witness statement of Mr PM (23 March 2021, para 63).
310 Witness statement of Mr FQ (23 September 2021, para 67).
311 Witness statement of Mr PJ (9 November 2021, para 171).
312 Witness statement of Scott Carr (7 March 2021, para 32).
313 Witness statement of Jason Fenton (15 April 2022, para 4.42).
314 Witness statement of Mr PJ (9 November 2021, para 150).

The State failed to respond to multiple allegations of abuse and neglect

198. The inadequacies of the investigations of, and responses to, serious allegations of abuse represent a gross failure by the State to monitor the programme over a 15–year period. As early as 1989, a staff member from Ōwairaka Boys' Home made an internal recommendation that the State should stop all referrals to Te Whakapakari Youth Programme,[315] yet it was not until 2004 that the programme was suspended. A 2005 internal memorandum conceded that there had been substantiated allegations of violence against young people by staff, and poor monitoring of the programme.[316] The different allegations and reports are discussed below.

Many of the forms of abuse and neglect at Whakapakari that were the subject of complaints at the time were against the law and should have been investigated by NZ Police and the Department of Social Welfare and its successors.

1989 Allegations of assault

199. On 23 June 1989, a camp supervisor and six other young people assaulted a boy on the programme for allegedly stealing tobacco. This incident, along with using the 'Flying Squad' to punish other young peoples, shows how the involvement of children and young people in abusive punishments was normalised on the island from the beginning.[317] John da Silva reported the assault to social worker Trevor Weaver, who subsequently raised concerns about the operation of Te Whakapakari Youth Programme, including inadequate funding, untrained staff and the use of Alcatraz for punishment.[318] Mr Weaver recommended the allegations be investigated. A written report of the incident in in the same month by John da Silva said the 'offenders' were "sent to an offshore island for a week."[319] It does not appear that this incident was reported to the NZ Police, or any further action taken, other than removing the supervisor from the programme.[320]

315 Letter from R Starck to the assistant director General South and West Auckland Region: Whakapakari Youth Programme (19 July 1989, page 2).
316 Memo to Ken Rand, Child, Youth and Family from Iwi social services team leader re: Whakapakari Youth Trust (8 June 2005, page 2).
317 Stanley E, The road to hell: State violence against children in postwar New Zealand (Auckland University Press, 2016, page 116); Witness statements of Mr PM (23 March 2021, para 48) and Mr GU (13 April 2021, para 37).
318 Ministry of Social Development, Chronology of events at Whakapakari (27 February 2015, page 2).
319 Whakapakari Youth Programme 15 Report (6–30 June 1989).
320 Child, Youth and Family Service, Background note from Deputy Chief Executive (DCE) Advisor Ken Hand to Private Secretary Rhondda Knox on Whakapakari Youth Trust (28 August 2008, page 40): Appendix A Chronology of issues relating to Whakapakari Youth Trust (28 August 2008, page 1); Stanley, E, The road to hell: State violence against children in postwar New Zealand (Auckland University Press, 2016, page 241).

200. On 19 July 1989, a staff member at Ōwairaka Boys Home, R Starck, wrote on behalf of the director to Assistant Director General of Social Welfare for the South and West Auckland Region Dick Rillstone. Starck said that given the assault and a previous alleged rape, an executive directive should be issued to all Department of Social Welfare districts and institutions to not allow children and young people in care to go to Whakapakari. Starck wrote: "Further to this from my own perspective I cannot allow this Department to allow Youths attending camps to be subjected to the Whakapakari Justice as it is dispensed by way of banishment to the island called 'Alcatraz'."[321] This recommendation was not followed. Children and young people continued to be placed at Te Whakapakari Youth Programme and sent to Alcatraz as punishment.

1994 Topzand Report: allegations of violence, inadequate food, unsafe boating practices

201. On 24 May 1994, five social work staff visited Whakapakari to investigate concerns raised after eight young people escaped. The visit resulted in a report by Acting Social Work Supervisor Peter Topzand.[322] In the report the children and young people complained of violence and standover tactics by staff and other young people, inadequate provision of food, substandard sleeping arrangements, a lack of first aid facilities and unsafe boating practices. The young people interviewed consistently described unhygienic conditions and how the environment was worse when John da Silva was not on the island.[323]

202. Two large calibre rifles at Whakapakari were a major red flag, however the visiting social work staff were satisfied by storage arrangements and an assurance provided that only John da Silva would use the firearms.[324] However, the 1992 documentary Breaking the Barrier showed someone other than John da Silva using firearms. Children and young people had also complained of rape and mock executions by supervisors wielding guns. Given the problems with violence, threats and intimidation the social workers were alerted to during this visit, not doing more to ensure gun safety represented a major safeguarding failure. Much of the abuse could have been avoided if the State had undertaken the most basic and obvious monitoring exercise of ensuring that young people were not supervised by armed staff.

321 Letter from R Starck to the assistant director General South and West Auckland Region: Whakapakari Youth Programme (19 July 1989, page 2).
322 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994).
323 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, pages 8–11).
324 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, page 4).

203. The report noted that almost all the young people interviewed were in fear of one supervisor, whom they had seen "threaten, assault and intimidate other residents, or who had been his victims themselves."[325] The female interviewees stated he called them derogatory names such as 'slut' or 'bitch'.[326] The social workers who visited the island believed that one boy should lay a complaint with police about the supervisor, but could not be expected to do so because he had six weeks remaining where he would continue to be exposed to him. It appears nobody considered removing him.

204. The investigation included interviews with the local constable, a Department of Conservation officer, a retired policeman, a general practitioner, and a public health nurse who all spoke of the violent treatment of young people and the poor standards of hygiene and accommodation at the camp. The local constable raised concerns about consistent allegations of physical abuse, the quality and quantity of food, the lack of boat safety and the "ritualised abuse" when young people ran away.[327] He also described the conditions as dirty and that he "would not put a dog there."[328] Despite acknowledging the abuse of children and young people on the programme it does not seem that the constable escalated these concerns or conducted further investigation, which represents another monitoring failure of a state agency.

205. The report determined that the allegations made by the boys who ran were "largely untrue".[329] This is despite young people and NZ Police raising serious issues such as a lack of food, cold and wet sleeping conditions and difficult physical labour. The recommendations it made were at best tokenistic, such as better access to first aid and communication, locking the boats up when not in use, and that better clothing could be made available. This amounted to a serious monitoring failure given survivors directly disclosed abuse to the report writers and this was acknowledged within the report.

206. The report did concede that having children and young people in an isolated environment where they were in fear of a supervisor was emotional abuse. However, despite this conclusion and the physical abuse allegations, the report only recommended an urgent review of the supervisor's involvement in the programme rather than his removal entirely.[330] After the report was published Te Whakapakari Youth Trust refuted the suggestion that the supervisor's involvement be reviewed, stating that they fully supported him, and that the matter had been dealt with internally.[331]

325 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, page 6).
326 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, page 6).
327 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, page 12).
328 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, page 12).
329 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, page 7).
330 Topzand, P, Assessment of Whakapakari Trust (Children and Young Persons Service, 27 May 1994, page 6).
331 Memorandum from Community Funding Agency regarding Whakapakari Youth Trust: Review of approval (1 July 1994, page 1).

207. In response to the reported allegations the Community Funding Agency reviewed its approval of Te Whakapakari Youth Trust. The report observed that there was a wider issue of recruiting supervisors but argued that the Trust had made improvements in terms of safety and communication.[332] The report recommended that the Community Funding Agency continue with its full approval, with a further review in three months' time.[333]

208. In October 1994, the Community Funding Agency granted continued approval with conditions that Te Whakapakari Youth Trust upgrade its performance in meeting academic needs, clothing provision and general staff training. A review was planned for December 1994 to ensure these conditions had been met, but by September 1995 there was no evidence this had taken place.[334]

1995 Thom Report: allegations of assault, food, medical needs and hygiene

209. On 11 August 1995 a former Whakapakari supervisor wrote to the Minister of Social Welfare raising serious concerns about the programme, including the provision of rotten food, rat-infested tents, a lack of first aid equipment, an assault of a young person by another supervisor, and another young person being severely beaten by a group of boys.[335] A girl also made complaints of violence towards the female at Whakaparkari .

210. In response to these complaints practice consultant Alison Thom carried out structured interviews with four boys who had previously been at Whakapakari and published a report with her findings on 18 September 1995.[336] No girls were interviewed, despite the allegation of violence towards females, and no staff members were interviewed.

211. The report concluded that the conditions at Te Whakapakari Youth Programme were substandard, including issues with food,[337] medical needs[338] and personal hygiene.[339] Ms Thom recommended that the Children and Young Persons Service withdraw all young people from the camp and cease referrals until the matters in the report had been addressed.[340] The Thom Report referenced 'Alcatraz', with one boy reporting that he had to sleep in water but made no comment about its existence as an element of the programme.[341]

332 Memorandum from Community Funding Agency regarding Whakapakari Youth Trust: Review of approval (1 July 1994, page 2).
333 Memorandum from Community Funding Agency regarding Whakapakari Youth Trust: Review of approval (1 July 1994, page 5).
334 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 4.1).
335 Child, Youth and Family Service, Background note from Deputy Chief Executive (DCE) Advisor Ken Hand to Private Secretary Rhondda Knox on Whakapakari Youth Trust (28 August 2008, page 40): Appendix A Chronology of issues relating to Whakapakari Youth Trust (28 August 2008, page 3).
336 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995).
337 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 2.1).
338 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 2.2).
339 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 2.3).
340 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 6).
341 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995), para 2.5.

212. After meeting with representatives from Te Whakapakari Youth Trust to discuss the Thom Report, Children and Young Persons Service Area Manager Betty MacClaren declined to implement the report's recommendations and was satisfied the Trust should continue with the programme, with stricter assessment and referral criteria, particularly for care and protection cases.[342] Girls continued to be sent to the programme until the following year, when a staff member was alleged to be engaged with unlawful sexual connection with a former female resident.[343]

1996 Eggleston Review

213. In 1996, Erin Eggleston, a senior psychologist conducting research for Massey University, wrote a positive review of the programme in the Community Mental Health in New Zealand journal. The article was based on a month-long visit to the programme in 1993 and follow up interviews with 10 participants one year later. It noted the outdoor environment, physical activity and emphasis on Māori culture enabled participants to gain experience to help them in the real world.[344]

214. Eggleston reported that participants looked back favourably on their time at Whakapakari and noted six of seven Māori participants on the programme became more involved in their culture after returning.[345] However, even though the programme described itself as having a kaupapa Māori approach, there was an absence of cultural monitoring to ensure that it was providing this kind of care.

215. A version of this review was also published in 2000 in the Social Policy Journal of New Zealand. Social workers and the Department of Social Welfare relied heavily on this review and used it to demonstrate the positive attributes of Te Whakapakari Youth Programme.[346] In 2018 it was also cited by a police detective considering a survivor's historic complaint of rape by John da Silva, which was not prosecuted.[347] It could be asked whether the presence of an external adult and researcher such as Eggleston may have reduced the likelihood of abuse being perpetrated, witnessed or disclosed while she was there, given the no-narking culture.

216. In December 1996, the Community Funding Agency renewed its approval of section 396 status for Te Whakapakari Youth Trust despite the past allegations of violence and poor conditions.

342 Child, Youth and Family Service, Background note from Deputy Chief Executive (DCE) Advisor Ken Hand to Private Secretary Rhondda Knox on Whakapakari Youth Trust (28 August 2008, page 40): Appendix A Chronology of issues relating to Whakapakari Youth Trust (28 August 2008, page 4).

343 Child, Youth and Family Service, Background note from Deputy Chief Executive (DCE) Advisor Ken Hand to Private Secretary Rhondda Knox on Whakapakari Youth Trust (28 August 2008, page 40): Appendix A Chronology of issues relating to Whakapakari Youth Trust (28 August 2008, page 4).

344 Eggleston, E, An ethnography of youth texts on gangs, trouble and rehabilitation, Doctoral Thesis, Massey University (1997).

345 Eggleston, E, "Wilderness rehabilitation: An 18–month follow-up of the Whakapakari Youth Programme," Social Policy Journal of New Zealand, 14 (July 2000, page 10).

346 For example, the extent to which the Crown relied on the report in litigation brought by residents of Whakapakari. See: Brief of evidence of Michael Doolan for High Court Case (High Court of New Zealand, 1 January 2009, paras 67–78).

347 NZ Police, Auckland City District CIB Report Form regarding John da Silva by detective (3 April 2018, pages 4–5).

1997 Green Report: Allegations of assault, sexual abuse and unhygienic conditions

217. In March 1997, a young person made allegations of abuse by a staff member at Whakapakari. A file note of the incident suggested he may have made the allegation "with a manipulative view".[348] Wilhelmina da Silva told a social worker investigating the incident that the staff member was no longer working there, and that the young person's behaviour consistently failed to meet the desired standard. She expressed a view that "it may be in his interests for his tenure at Whakapakari to be extended as a consequence".[349]

218. When social workers interviewed the young person, he said he had complained to Wilhelmina da Silva who said, "it's only a scratch, it [doesn't] really matter, it happens all the time," and refused his requests to ring his mother or social worker. The resident also told social workers that staff intercepted mail from young people to their families who complained of abuse, and in one instance burned a letter in front of the young person who wrote it.[350] The young person's mother told the Children, Young Persons and their Families Service that after she had reported the abuse to them Mrs da Silva had phoned her and was angry she had reported her son's complaint. In response the Children, Young Persons and Their Families Service extended the complainant's stay for a further month appearing to take Mrs da Silva's word over the child and his mother's.[351]

219. A few months later in June, another mother contacted the Children, Young Persons and Their Families Service after two young people assaulted her son. A supervisor reported that they took place while the boys were serving "penalty time" on Alcatraz:

> *"The assaults which occurred twice were of a particularly serious nature one holding the victim whilst the other delivered blows to the head and body. The terrain is steep rocky with 100 foot sheer drops."*[352]

220. John da Silva confirmed the assault had taken place and the two young people had been expelled from the programme. However, there was no subsequent referral to NZ Police or steps taken to remove the victim from Whakapakari despite his mother's plea to do so.[353]

348 File note of abuse allegation against a staff member at Whakapakari (6 March 1997).
349 File note of phone call with Wilhemina da Silva (17 March 1997).
350 Child, Young Persons and Their Families Service, Notes of interview of with [resident], re: Alleged physical abuse at Whakapakari (27 August 1997).
351 File note of phone call with mother of resident regarding allegations of abuse (27 March 1997, page 1).
352 Ministry of Social Development, Supervisor's report on assault by two boys at Whakapakari (9 June 1997).
353 Letter from mother of child at Whakapakari to Children, Young Persons and Their Families Service (6 June 1997).

221. Around the same time a second-year social work student made complaints to the Child, Young Persons and Their Families Service about the unhygienic conditions of the camp, the poor provision of shelter and the young age of some of the residents. Senior outreach worker for the Community Funding Agency, Michael Mills, disputed some of these claims and recommended the programme should continue in its "present form."[354] When four further allegations of physical and sexual abuse came to light, Mills continued to advise that there was no risk to children and young people on the programme "that would warrant a suspension and/or removal of the current residents."[355] The national manager of care and residential services, Janet Worfolk, disagreed with this assessment and asked that an immediate practice review take place.[356] This was undertaken by Children, Young Persons and Their Families Service Senior Advisory Officer Patty Green.[357]

222. The Green Report described allegations of physical and sexual abuse, as well as the practice of sending young people to Alcatraz as a form of discipline when camp rules were breached.[358] The report concluded:

> *"The camp has a clear policy that physical discipline and abuse is not acceptable. It must be stressed, however, that these young people can be highly demanding and manipulative and that in view of the difficult behaviour of these youngsters, it is not surprising that the occasional incident occurs. Staff cited an incident when a young person lost his temper and assaulted a staff member with an iron bar, and the subsequent difficulty in restraining this young man."*[359]

223. The report recommended that the health worker who visited the camp weekly should check on the children and young people and any injuries sustained: "This would assist in minimising the possibility of any false allegations being made after a young person is discharged."[360] The same report noted that young people could exaggerate the difficulties they encountered on the programme "as a form of bravado."[361]

354 Report by Senior Outreach Worker Michael Mills: Appendix 7 to the Green Report (Children, Young Persons and Their Families Service, July 1997, page 6).
355 Email from Senior Outreach Worker Michael Mills to Peter Potaka and Verna Smith: Appendix 8 to the Green Report (29 August 1997, page 3).
356 Email from Senior Outreach Worker Michael Mills to Peter Potaka and Verna Smith: Appendix 8 to the Green Report (29 August 1997, page 2).
357 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 13); Children, Young Persons and Their Families Service, Appendix 8 to the Green Report: Allegations of Abuse, page 8.
358 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 13); Children, Young Persons and Their Families Service, Appendix 8 to the Green Report: Allegations of Abuse (page 8).
359 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 16).
360 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 29).
361 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 12).

224. The report raised issues about the use of peer pressure as a formal means of controlling behaviour;[362] lack of staff training[363] and police checks on staff prior to appointment;[364] and lack of procedures and policies including accident and incident reporting, and a policy for investigating disclosures of abuse.[365] The report did not record or recommend any referrals to police to investigate these concerns.

225. Prior to releasing the report, the report writer Patty Green wrote to John and Wilhelmina da Silva in terms that reinforced the view she expressed in the report:[366]

"Just wanted to keep you informed on progress. I am hopeful we may be able to get many of the issues resolved to make your lives a little easier."

226. This demonstrated that Child, Youth and Family had entrenched negative views towards young people in social welfare care settings, and were reluctant to make findings that abuse had occurred.

227. In October 1997, the Children, Young Persons and Their Families Service wrote to John da Silva about the Green Report. Despite the findings, the letter said: "It needs to be recognised that your programme is valuable to us and we will work with you to resolve the problems that have arisen."[367] There is no suggestion that the State would cease its support of the programme.

228. On 2 March 1998, the Community Funding Agency confirmed approval status for Te Whakapakari Youth Trust, following an inspection of the camp, a review of a sample of client files, examination of audited accounts and addressing with the Trust matters raised in the 1997 Green Report.[368]

362 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 13).
363 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 23).
364 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 21).
365 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 22).
366 Letter from Patty Green, Children, Young Persons and Their Families Service to J & W da Silva (10 September 1997, page 39).
367 Letter from national manager residential and caregivers, Children, Young Persons and Their Families Service, to Mr da Silva (14 October 1997, page 2).
368 Brief of evidence of Michael Doolan for High Court Case (High Court of New Zealand, 1 January 2009, para 104); Community Funding Agency confirmation of approval and report for Whakapakari Youth Trust as a Child and Family Support Service (2 March 1998); Note: Letter from national manager residential and caregivers, Children, Young Persons and Their Families Service to Mr da Silva, Record of a meeting between Children, Young Persons and Their Families Service and the Community Funding Agency (14 October 1997, page 2).

May 1998: John da Silva hands over four young people to a gang member for retribution

229. On 11 May 1998, a social worker recorded a phone call with John da Silva, in which he said four young people had taken a boat belonging to a leader of the Head Hunters gang.[369] On 20 May 1998, John da Silva wrote that in relation to the "attempted conversion of the fishing boat the four were organised to work for the owner and clean up his section."[370]

230. On 14 August 1998 a supervisor contacted the Children, Young Persons and Their Families Service on behalf of himself and two other staff members, and complained about the mock execution of young boys described earlier in this case study by David Bagley.[371] This prompted an investigation conducted by Haahi Walker, an outreach worker for the Community Funding Agency, and Rob Harper, a staff member from the Children, Young Persons and Their Families Service national office.[372] They did not speak with David Bagley nor make any attempt to contact him. The NZ Police tried to contact David for a statement but he was too scared to provide one because the man who had the gun had written down David's address when he was with him.[373]

231. One young person was evidentially interviewed and corroborated the account given by the supervisors. Despite this, Rob Harper reported the response of John and Wilhelmina da Silva that the man was not a gang member (notwithstanding John da Silva's comment to the Children, Young Persons and Their Families Service on 11 May 1998 that he was), that the work done on the man's property by the young people was arranged by NZ Police and that John da Silva was unaware of the alleged incidents.[374]

232. The same report noted that there was no police involvement in the incident.[375] After reporting the da Silvas' response to the allegations, the report reached no factual findings on these issues or in fact whether the complaint occurred. It recommended that the complainants be advised that their concerns had been fully investigated, and that although there were concerns about the harsh environment, it was felt that with adequate support, the programme maintained its viability.[376]

369 Cooper Legal, Brief of evidence of David Bagley in support of plaintiff's claims (25 October 2014, paras 102–103).
370 Cooper Legal, Brief of evidence of David Bagley in support of plaintiff's claims (25 October 2014, para 107).
371 Memorandum from Susan Smith, residential and caregiver services, to National Manager – Residential and caregiver services Janet Worfolk at Children, Young Persons and Their Families Service: Complaint re: Whakapakari (14 August 1998).
372 Report to national manager residential and caregiver services on investigation of complaints relating to Whakapakari (7 September 1998, pages 1–7).
373 Witness statement of David Bagley (22 March 2021, para 81).
374 Report to national manager residential and caregiver services on investigation of complaints relating to Whakapakari (7 September 1998, page 3).
375 Report to national manager residential and caregiver services on investigation of complaints relating to Whakapakari (7 September 1998, page 1, para 5), notes in relation to the complaint: "The Police were not involved". A later NZ Police report in response to an inquiry by the Children's Commissioner suggested NZ Police were initially involved in the incident when they interviewed the young people in John da Silva's presence (24 May 1999).
376 Report to national manager residential and caregiver services on investigation of complaints relating to Whakapakari (7 September 1998, page 6).

233. Further, the report recommended that NZ Police be notified that the Children, Young Persons and Their Families Service had investigated the complaints made and concluded "there are no immediate safety issues" for those at Whakapakari.[377] A covering letter to Te Whakapakari Youth Trust from the Children, Young Persons and Their Families Service noted that the investigation had been carried out and they could find "nothing to substantiate the allegations".[378]

234. Mr Harper made recommendations including that Te Whakapakari Youth Trust be directed to stop using 'Alcatraz' as a means of discipline and that young people were to be given appropriate provisions.[379] Harper's report represented a serious monitoring failure, particularly in light of the fact that three staff had complained about what had occurred, and an evidential interview had been given by one of the young people involved. The lack of referral to police for investigation also represents a serious failure.

235. Unsatisfied with the outcome, Gagaj Sau Gibson Lagfatmaro, the same supervisor who had been present with John da Silva when the young people escaped, complained to the Children's Commissioner Roger McClay. The Commissioner sought information from the Children, Young Persons and Their Families Service and NZ Police in January 1999.[380]

236. On 2 March 1999, Acting General Manager Ken Rand responded to the Children's Commissioner and repeated John da Silva's version of events. He also repeated that the police had arranged for the young people to work for reparation, although the Children, Young Persons and Their Families Service had not confirmed that with NZ Police.[381]

237. On 24 May 1999, NZ Police provided a report by the officer stationed at Great Barrier Island, who stated that he did not arrange for any work to be done for the boat owner by the young people involved in this complaint, and that in all the time on the island, he never organised for Whakapakari youths to do community work.[382]

377 Report to national manager residential and caregiver services on investigation of complaints relating to Whakapakari (7 September 1998, page 7).
378 Letter from National Manager, Residential and caregiver services Janet Worfolk, to Whakapakari Youth Trust (17 September 1998), as appended to the Witness statement of David Bagley (22 March 2021).
379 Report to national manager residential and caregiver services on investigation of complaints relating to Whakapakari (7 September 1998, page 7).
380 Letter from Commissioner for Children Roger McClay to General Manager, Children, Young Persons and Their Families Agency Jackie Brown (20 January 1999), as appended to the Witness statement of David Bagley (22 March 2021).
381 Letter from acting general manager of Children, Young Persons and Their Families Agency to the Commissioner for Children regarding allegations of incidents against the Whakapakari Youth Trust (2 March 1999, page 2), as appended to the Witness statement of David Bagley (22 March 2021).
382 NZ Police report from Constable C McGillivray regarding alleged abuse of children on Great Barrier Island, (NZ Police, 24 May 1999, page 1), as appended to the Witness statement of David Bagley (22 March 2021).

238. On 12 July 1999, the Children's Commissioner wrote to the Children, Young Persons and Their Families Service noting the serious discrepancies between the information provided by complainants and the NZ Police report. Mr McClay wrote:

> *"These initial findings call into question not only the integrity of the investigation completed by CYPFA but also that of the programme directors, Willie and John da Silva. Although Ken Rand states that the team found them to be deeply committed to providing an alternative to the Justice system for troubled youth and that all contracted care standards were assessed as being met, our complainants suggest that they used tactics of intimidation and silencing not only on the young people but also on their staff. Our complainants state that the CYPFA / CFA investigation team did not interview any young people or supervisors but spoke only with John and Willie da Silva."*[383]

239. The report also claimed that children and young people on the island were being subjected to "cruel and inhuman treatment", and that the director of the programme was aware of and encouraged that treatment.[384] The Children's Commissioner asked that Whakapakari be urgently reviewed to assess its compliance with legislative and operational requirements. NZ Police decided not to prosecute based on what they saw as substandard evidence and the "unreliable" and "unco-operative" nature of the four boys.[385]

240. On 6 December 1999, Child, Youth and Family Service General Manager Jackie Brown responded, stating that she did not think another review would serve any useful purpose because the complaints by the staff had not been confirmed by "previous enquiries". Ms Brown added:

> *"I think we can safely say that the almost complete lack of co-operation from the four youths in the investigation of the allegations clearly demonstrates their very selective attitude towards attempts to get to the truth of the matter."*[386]

241. Journalist Matt Nippert wrote, however, that the 1998 investigation report in response to this infamous 'grave digging' incident, failed to interview either the boys involved in the incident or the whistle-blowing staff member, and instead the explanation by John da Silva was accepted and preferred.[387]

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383 Letter from Office of the Commissioner for Children to the general manager, Children, Young Persons and Their Families Agency, regarding Whakapakari Trust Complaint to Commissioner (12 July 1999, page 2), as appended to the Witness statement of David Bagley (22 March 2021).

384 McClay, R, Final report by the Commissioner for Children into a complaint against the Department of Child, Youth and Family (August 2000, page 2), as appended to the Witness statement of David Bagley (22 March 2021).

385 McClay, R, Final report by the Commissioner for Children into a complaint against the Department of Child, Youth and Family (August 2000, page 4), as appended to the Witness statement of David Bagley (22 March 2021).

386 Letter from chief executive of Child, Youth and Family Service to the Commissioner for Children regarding concerns about Whakapakari Trust Programme (6 December 1999, page 2), as appended to the Witness statement of David Bagley (22 March 2021).

387 Nippert, M, "The Lost Boys of the Barrier," NZ Herald (5 September 2015); Report to national manager residential and caregiver services on investigation of complaints relating to Whakapakari (7 September 1998).

242. The Children's Commissioner's final report indicated concern at the refusal of the Child, Youth and Family Service[388] to provide a review of the programme at his request, as well as the approach taken by NZ Police to the incident. He also observed Child, Youth and Family Service's justification that the young people who attended Whakapakari were some of the most:

> *"'disturbed anti-social youths' ... That, however, does not give anyone the right to treat them inhumanely or cruelly. If the allegations are correct, then both the United Nations Convention on the Rights of the Child and the Children, Young Persons and Their Families Act, 1989 have been breached."*[389]

2003: Allegations of assault

243. In 2003, the Child, Youth and Family Service visited Whakapakari after a boy suffered a fractured shoulder. This injury went undetected for six days until the boy left Whakapakari and saw a doctor, who arranged for an x-ray. Te Whakapakari Youth Programme had conflicting notes as to how this injury happened, but an eyewitness said a supervisor intervened in a fight between two young people. The injured boy was lifted off the other boy and fell heavily against a rough wall. Staff advised the Child, Youth and Family Service assessor that the young person would "play on his injuries" so staff assumed he was not badly injured.[390] As a result, the Child, Youth and Family Service determined that Te Whakapakari Youth Trust was unable to meet the standard that ensured that young people were safe and cared for.

244. In the same year an assessment to determine whether Te Whakapakari Youth Trust met the section 396 Standards for Approval noted there was no clear policy or procedure for dealing with external or internal complaints, and in this instance, no set steps were in place to manage this situation where a young person had suffered a serious injury.[391]

245. Despite finding that the Standards for Approval had not been met in a number of respects, the assessor recommended that approval should continue for Te Whakapakari Youth Trust as a Child and Family Support Service under section 396, on the condition that the Trust address remedial actions over the following year.[392]

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388 Children, Young Persons and Their Families Service was renamed Child, Youth and Family Service in 1999.
389 McClay, R, Final report by the Commissioner for Children into a complaint against the Department of Child, Youth and Family (August 2000, page 5), as appended to the Witness statement of David Bagley (22 March 2021).
390 Community Funding Agency confirmation of approval and report for Whakapakari Youth Trust as a Child and Family Support Service (14 May 2003, page 3).
391 Community Funding Agency confirmation of approval and report for Whakapakari Youth Trust as a Child and Family Support Service (14 May 2003, page 5).
392 Community Funding Agency confirmation of approval and report for Whakapakari Youth Trust as a Child and Family Support Service (14 May 2003, page 13).

246. Later in the year, in October 2003, a supervisor hit a boy in the head with a stick when he overheard them discussing plans to escape. The cut required stitches and after a year-long investigation the supervisor pled guilty to common assault and was discharged without a conviction.[393]

2004: Allegations of physical abuse and closure of programme

247. In February 2004, a young man due to be placed at Whakapakari made a complaint after he heard participants were routinely "given the bash". This prompted an investigation where eight other young people provided similar allegations of systemic abuse, including physical abuse by staff, young people being afraid to make complaints, normalisation of violence as part of the programme, and sexual abuse and innuendo by staff. On 11 March 2004 the investigation team recommended all young people be removed from Whakapakari and funding for the programme was suspended four days later.[394]

248. Fifteen young people subsequently disclosed abuse, saying they had either been subjected to or witnessed serious sexual and physical assaults by Te Whakapakari Youth Programme staff. A NZ Police investigation ensued, which indicated two former staff members might face related charges.[395] The Inquiry received evidence that one person pleaded guilty to one charge of common assault, and was discharged without conviction.[396]

249. A special assessment report dated 21 June 2004 concluded Te Whakapakari Youth Trust was in breach of several standards it was required to adhere to as a Child and Family Support Service, including outdated key operating policies, incomplete complaints procedures, staff training issues and the failure to meet the requirement that staff be vetted by police. It found that policy and procedures regarding discipline and the use of restraint in particular were inadequate (as they had been in the 1997 Green Report).[397] However, it concluded that the minimum standards for health and safety were met, despite the issues that were raised. It recommended that the Trust have its approval status put on hold until it could address the findings of the report. No allegations were referred to NZ Police.

393 Nippert, M, "Escape from 'Alcatraz': What really happened to boys sent to a boot camp on a remote island?", New Zealand Listener (20 September 2008, page 27).
394 Child, Youth and Family Service, Departmental report to Associate Minister for Social Development and Employment (8 May 2006, page 2); Memorandum from Child, Youth and Family Service DCE advisor to private secretary: Background note on Whakapakari (28 August 2000, page 15).
395 Child, Youth and Family Service, Departmental report to Associate Minister for Social Development and Employment (8 May 2006, page 3, para 3).
396 NZ Police, Auckland City District CIB Report Form regarding John da Silva by detective (3 April 2018, page 2).
397 Hewitt, W, Special assessment report of Whakapakari Youth Trust (21 June 2004, page 11).

250. A memorandum in October of the same year recorded the views of an Auckland region manager regarding a potential reopening of Whakapakari:

> *"I am absolutely opposed to Whakapakari reopening. My opposition to this is a philosophical one as much as anything. The 'out of sight, out of mind' approach that occurs when placements are made to Whakapakari does not equal a quality social work service. We cannot fulfil our obligations to visit kids in care every two months if they are placed in a remote area like Whakapakari."*[398]

2005: Consideration of a revised programme by Child, Youth and Family Service

251. In June 2005, the Child, Youth and Family Service considered offering support and funding for the Whakapakari Youth Trust to revise its programme. There were key concerns around substantiated allegations of violence by workers against young people, poor supervision of social work practice, poor review and monitoring of the young persons' plans and poor monitoring and evaluation of the programme.[399]

252. The Child, Youth and Family Service funded more than $200,000 for Te Whakapakari Youth Trust to redesign its programme, partly due to the lack of other residential programmes for youth offenders. However, in March 2006 the Child, Youth and Family Service ended negotiations for the redesign, citing reasons including "the lengthy history of abuse allegations, questionable learning by the trust from these incidents and the previous programme content not being supported by research" and "the capacity of the department to support the programme being exacerbated by the isolated location". It concluded that the risk of further abuse was too great.[400] Many instances of abuse could have been prevented if this conclusion had been reached and acted on when allegations first emerged more than 10 years earlier.

398 Memorandum from regional manager, social work and community services, Auckland, Child, Youth and Family, to Robert Harper re: Whakapakari (22 October 2004, page 1).
399 Memo to Ken Rand, Child, Youth and Family Service, from Iwi social services team leader re: Whakapakari Youth Trust" (8 June 2005, page 2).
400 Child, Youth and Family Service, Departmental report to Associate Minister for Social Development and Employment (8 May 2006, pages 3–5).

253. A 2008 Child, Youth and Family Service internal background note on the programme took an almost dismissive approach towards these allegations, emphasising several times that the repeated allegations could not be corroborated or substantiated, with the exception of those in 2004, after which the programme was suspended immediately. The report said: "It would be unwise to associate events in 2004 with any of the previous allegations or investigations in the 1990s."[401] The report also failed to mention the 2003 response to allegations of physical abuse causing a fractured shoulder.[402] This note underscores the state's pattern of dismissing and denying many allegations of abuse at Whakapakari. It shows no accountability on the part of the Department of Social Welfare and its successors for what happened to the children and young people in their care.

NZ Police failed to properly investigate allegations of sexual abuse by John da Silva in 2017

254. In 2017, a former young person complained to NZ police that John da Silva had raped him in 1998. Records confirm that the young person was at Whakapakari at the time. NZ Police declined to charge John da Silva after the detective investigating the matter concluded that there was insufficient evidence. Although the young person who made the allegation named a number of witnesses,[403] NZ Police did not interview them. Instead, NZ Police read the 1996 review of Whakapakari by Massey University researcher Erin Eggleston and said: "This article was written by someone who attended the camp and had seen first-hand the kindness and dedication both John and Wilhelmina Da Silva showed to the young people attending."[404]

401 Memorandum from Child, Youth and Family Service: Background note on Whakapakari from DCE advisor to private secretary (28 August 2008, pages 2–3).
402 Community Funding Agency confirmation of approval and report for Whakapakari Youth Trust as a Child and Family Support Service (14 May 2003, page 3); Letter in response to allegation of abuse from supervisor (29 March 2004).
403 Witness statement of complainant to NZ Police (16 August 2017).
404 NZ Police, Auckland City District CIB Report Form regarding John da Silva by detective (3 April 2018, page 5).

255. On the basis of explanations given by the da Silvas, which were not independently confirmed, NZ Police concluded that there were inconsistencies in the complainant's account. For example, the former young person had identified a staff member who was a supervisor with one arm, when asked about this man, John da Silva said he could not remember him and that "it would be very unusual for a camp leader to have one arm as they would not be able to participate in the activities"[405] Wilhelmina da Silva said she knew the man but he was not a staff member, rather a "member of the public who used to come over and speak to the boys".[406] Further evidence supports the complainant's claim, for example, Māori survivor Mr LR (Ngāi Te Rangi, Ngāpuhi, Tainui) who was at Whakapakari in 1999 said there was a staff member with one arm who went by a similar name.[407] Survivor Mr PJ, who was at Whakapakari in 2003, described a man with one arm and a similar name who was a board member and was living at Whakapakari at that time.[408] Māori survivor Mr SL (Tainui) described being sexually assaulted in 1993 by a supervisor with the same name as the person identified by Mr LR.[409]

256. NZ Police commented on the existence of civil claims against the Ministry of Social Development, framing the abuse disclosures as incidental and as unfortunate for John da Silva's reputation, rather than acknowledging the very real harm that had been done to children and young people:

> *"As a result of this the good work the Da Silvas did with hundreds of young people has been tainted by complaints made against the camp … This has, understandably, put a great deal of stress on the Da Silva family over the past 14 years."*[410]

257. The report concludes: "It may be possible that this event was fabricated by [name] in the hope of also receiving some form of compensation from the Government."[411] There is no reference in the NZ Police report to the fact that John da Silva was previously charged with rape, although that appeared on the NZ Police database.[412] John da Silva had been acquitted of this charge.

258. This report illustrates the resistance against holding abusers to account for abuse in social welfare care settings. Even when the substantial barriers to making a complaint were overcome and a complaint was made to NZ Police, they failed to properly investigate the allegations.

405 NZ Police, Auckland City District CIB Report Form regarding John da Silva by detective (3 April 2018, pages 5–6).
406 NZ Police, Auckland City District CIB Report Form regarding John da Silva by detective (3 April 2018, pages 5–6).
407 Witness statement of Mr LR (5 May 2022, para 54).
408 Witness statement of Mr PJ (9 November 2021, para 155).
409 Witness statement of Mr SL (28 July 2022, para 3.158).
410 NZ Police, Auckland City District CIB Report Form regarding John da Silva by detective (3 April 2018, page 3).
411 NZ Police, Auckland City District CIB Report Form regarding John da Silva by detective (3 April 2018, page 6).
412 NZ Police, Dossier for John da Silva (page 5).

Failure to provide oversight and monitoring to ensure safety of children

259. Lack of regularly consistent oversight and monitoring of Whakapakari over the life of the programme. The State did not meet its own requirements for social workers to visit on a six-weekly basis. The Thom Report noted referring social workers believed Community Funding Agency approval negated the need for them to perform a placement assessment. The report noted that the Community Funding Agency considered it had met its monitoring obligations by visiting Whakapakari twice per year, by appointment.[413] The fact that monitoring was so infrequent and scheduled meant that the true circumstances of neglect, abuse and violence were successfully concealed.

260. Survivors also told the Inquiry they had little to no social worker contact while on the island.[414] Māori survivor Mr FQ's social worker only called him once in the entire time he was at Whakapakari, and spoke to Wilhelmina da Silva rather than him.[415] NZ European survivor Scott Carr, who suffered significant abuse while at Whakapakari, told the Inquiry:

> *"I also never saw my social worker after he dropped me off at Whakapakari. He called me once, on 19 October 1998, and spoke to the supervisor, who told my social worker that I was 'doing well and fitting into the programme'."*[416]

261. Anthea Raven was employed in Auckland by the Department of Social Welfare and its successors as a frontline social worker between 1985 and 2001. She described social workers being aware of many allegations about Whakapakari, and though they were investigated they "seemed to get covered over and the kids would remain".[417] Ms Raven and her colleagues discussed and reported the lack of accountability and oversight, but observed no action was taken unless there was media interest.[418]

262. There were also significant red flags in the medical notes of young people that showed a lack of medical care and neglect of hygiene. Survivor Mr PJ's medical records indicated boils on his legs, arm, chest, neck and face, infected scratches, an ulcer, and an injury to his right fist.[419]

413 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 4.1).
414 Survivor requested to remain anonymous (22 February 2023, page 29); Witness statements of Cody Togo (4 May 2023, para 4.19.33) and Mr UU (23 June 2022, para 36).
415 Witness statement of Mr FQ (23 September 2021, paras 67–70).
416 Witness statement of Scott Carr (7 March 2021, para 46).
417 Witness statement of Anthea Raven (17 October 2022, paras 99, 100).
418 Witness statement of Anthea Raven (17 October 2022, paras 99, 100).
419 Witness statement of Mr PJ (9 November 2021, para 143); Patient medical history of Mr PJ (22 March 2015, page 1).

263. In September 1990 John da Silva was charged with raping a woman three months earlier, but was acquitted on 13 December 1990.[420] This charge does not appear to have been disclosed to the Department of Social Welfare, nor is it mentioned in any of the subsequent investigations that were conducted in relation to allegations of abuse. However, had John da Silva been vetted, police records would have demonstrated that he had been charged with rape and his suitability to direct the programme should then have been investigated.

264. There is clear evidence the Department of Child, Youth and Family Services and its predecessors knew of the use of Alcatraz as an extreme form of solitary confinement for a period of 16 years before the programme shut down. The 1998 annual approval report confirming Te Whakapakari Youth Trust's continued section 396 approval and funding observed: "There is on-going debate over the periodic use of 'Alcatraz' for extreme situations."[421] The Inquiry was unable to find evidence that the Department considered the legality of this practice or determined whether it complied with care standards.

265. In a 1998 interview regarding a complaint, John da Silva said he had used the punishment for the 21 years of the programme's existence, and with departmental knowledge. He further mentioned he was happy to stop using the island if Children, Young Persons and Their Families Service wished, and when young people broke the rules he would simply send them home.[422] However, despite repeated complaints about Alcatraz, and repeated directives from the Department of Social Welfare head office in Wellington, and its successors, dating from at least 1988 up to 2004, the practice of sending participants to the island as a punishment continued.[423]

The State continued to fund Te Whakapakari Youth Programme despite investigating allegations of abuse for 14 years

266. The Children, Young Persons, and Their Families Act 1989 required approval of the Director-General of Social Welfare of any organisation seeking to provide residential care as a Child and Family Support Service for the purposes of the Act.[424] The Director-General could not give approval unless, after making enquiries, it was satisfied that the organisation was suitable to act as the custodian or guardian of children and young persons, and capable of exercising the powers, duties and functions of a Child and Support Service.[425]

420 NZ Police, Court details of John da Silva (13 December 1990).
421 Community Funding Agency confirmation of approval and report for Whakapakari Youth Trust as a Child and Family Support Service (2 March 1998 page 2).
422 Report to national manager residential and caregiver services on investigation of complaints relating to Whakapakari (7 September 1998, page 3).
423 Nippert, M, "The Lost Boys of the Barrier" NZ Herald (5 September 2015).
424 Children, Young Persons, and Their Families Act 1989, section 396(3); Brief of evidence of National Operations Manager Verna Smith for the Community Funding Agency (High Court of New Zealand, 8 September 2009, page 3).
425 Children, Young Persons, and Their Families Act 1989, section 397.

267. From 1992 the approvals function was carried out by the Community Funding Agency.[426] The Community Funding Agency required a programme provider such as Te Whakapakari Youth Trust to meet Community Funding Agency Level 1 standards to provide funded residential care.[427] These standards included "intake, placement, quality of care, personnel and management."[428] The Department of Social Welfare had referred young people to the programme prior to this approval process. Evidence received by the Inquiry shows referrals were made at least from 1989.

268. From 1992 to 1999, approval as a section 396 provider was primarily based within the funding agreements between the provider and the Community Funding Agency. The Community Funding Agency had only some staff with social work experience and backgrounds, who were ill-equipped to assess compliance. Generally, the Community Funding Agency encouraged the development of new, culturally appropriate services.[429]

269. Proposed providers had to prepare a set of written materials, which were evaluated against Community Funding Agency standards. Outreach workers visited the proposed provider and spoke to staff. Level 1 standards included:

> Standard 10 – Provision of Care: All organisations have procedures which ensure that the care provided for children and young persons meets their individual needs for safety and nurture.

> Standard 11 – Discipline: Children and young persons are not physically punished or disciplined or treated in a way that is degrading or humiliating or causes unreasonable fear or anxiety.[430]

270. Te Whakapakari Youth Trust was first approved in 1990 as a Child and Family Support Service pursuant to section 396 of the Children, Young Persons and Their Families Act 1989.[431]

271. A previous National Operations Manager for the Community Funding Agency identified isolated services such as Te Whakapakari Youth Programme and Moerangi Treks as "the most risky kind of service".[432] A Community Funding Agency outreach worker said in 1995 that he believed more isolated programmes such as Whakapakari did not receive the equivalent service from the Community Funding Agency as the more accessible agencies.[433] The Community Funding Agency conducted two monitoring visits per year, but these were made by appointment.

426 Brief of evidence of Te Kāhui Kahu General Manager Barry Fisk for the Ministry of Social Development at the Inquiry's State Institutional Response Hearing (8 August 2022, Appendix A, page 1).
427 Brief of evidence of National Operations Manager Verna Smith for the Community Funding Agency (High Court of New Zealand, 8 September 2009, page 3).
428 Brief of evidence of Te Kāhui Kahu General Manager Barry Fisk for the Ministry of Social Development at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 8 August 2022, para 5.13).
429 Brief of evidence of Michael Doolan for High Court Case (High Court of New Zealand, 1 January 2009, para 60).
430 Standards were first developed by the Community Funding Agency in 1992, and revised standards in 1995: Brief of evidence of National Operations Manager for the Community Funding Agency (High Court of New Zealand, 8 September 2009, pages 2–4).
431 Brief of evidence of Michael Doolan for High Court Case (High Court of New Zealand, 1 January 2009, para 65).
432 Brief of evidence of National Operations Manager for the Community Funding Agency (High Court of New Zealand, 8 September 2009, para 31).
433 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 4.1).

272. Te Kāhui Kahu accepted that its predecessor the Community Funding Agency lacked cultural capability and robust standards for assessing whether providers could comply with te Tiriti obligations and prove cultural competency around drew on tikanga Māori.[434] Māori survivor Cody Togo (Ngāti Rangi, Tainui) told the Inquiry:

> *"While we engaged with Māori culture and practices, there was nothing tikanga about this programme. There is absolutely nothing in tikanga that permits children to be treated how we were. We were treated like little prisoners and pieces of dirt."*[435]

273. Despite confusion between the Community Funding Agency and Child, Youth and Family Service about which agency was responsible for vetting,[436] the Community Funding Agency was aware of ongoing investigations and reports about Whakapakari. For example, in a letter to the Service, the agency detailed discussions with Whakapakari after a supervisor was charged with unlawful sexual connection with a female young person who had attended the programme. This letter also makes reference to the 1995 Topzand Report in relation to a complaint made by a former staff member of Whakapakari.[437]

274. Barry Fisk of the Ministry of Social Development told the Inquiry that the Community Funding Agency completed assessments of Te Whakapakari Youth Programme in February 1999 and November 2001. No documents were identified that refer to any concerns or suspension from an approval perspective during those assessments.[438]

275. The approval status for Te Whakapakari Youth Trust was suspended in 2004 after allegations of physical abuse by staff. From that point, all referrals to the programme ceased. As noted above, the Child, Youth and Family Service then worked with Te Whakapakari Youth Trust board to consider whether the Trust could redesign the programme to meet practice standards that were a prerequisite for approval. In March 2006, the Child, Youth and Family Service and the trust board agreed to cease all contractual relationships.[439]

276. The fact that the Community Funding Agency continued to fund Te Whakapakari Youth Trust despite the numerous Child, Youth and Family Service and its predecessor reports in relation to serious allegations of neglect and physical and sexual abuse represents a serious safeguarding failure.

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434 Transcript of evidence of Te Kāhui Kahu General Manager Barry Fisk for the Ministry of Social Development at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 15 August 2022, pages 59, 61–64).
435 Witness statement of Cody Togo (4 May 2023, para 4.19.35).
436 Thom, A, Whakapakari: A brief enquiry (New Zealand Children and Young Persons Service Otara, 1995, para 4.3).
437 Letter from Community Funding Agency to Child, Youth and Family Service National Office (23 June 1996). See also Letter from national manager residential and caregivers, Children, Young Persons and Their Families Service to Mr da Silva (14 October 1997, page 2).
438 Brief of evidence of Te Kāhui Kahu General Manager Barry Fisk for the Ministry of Social Development at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 8 August 2022, para 7.8).
439 Memorandum from Child, Youth and Family Service: Background note on Whakapakari from DCE advisor to private secretary (28 August 2008, page 5).

Conclusion on the systemic and practical issues that caused or contributed to abuse at Whakapakari

277. Underpinning all of the structural and systemic factors that contributed to the ongoing abuse is the reprehensible attitude to children and young people who were sent there. They were blamed for abuse and seen as unworthy of proper care and protection.

278. The comprehensive regulations that afforded safeguarding measures from 1997 did not apply to the programme.[440] They applied only to residences that were directly operated by the State.

279. There were numerous barriers to making complaints about abuse: there were no social worker visits, the supervisors intercepted children and young people's mail and survivors were threatened by supervisors to deter them from making complaints.

280. When survivors did complain, they were either not believed or complaints were not adequately and fairly investigated. The Department of Social Welfare and its successors received numerous allegations of serious abuse between 1989 until 2004 and again in 2017. A recommendation by the Department of Social Welfare in 1989 that no more children and young people be referred to Whakapakari was not acted on.

281. Despite knowing of serious allegations of abuse throughout this period, the Department of Social Welfare and its successors, and other government departments, continued to fund Te Whakapakari Youth Programme to have the care of vulnerable children and young people.

Societal factors that caused or contributed to abuse and neglect

Negative attitudes to children and young people

282. The prevailing attitude of the State towards children and young people placed at Te Whakapakari Youth Programme is clear in the numerous reports and reviews. Children and young people were perceived to be 'tough',[441] requiring discipline, and prone to making false complaints. Children and young people were framed as problematic, and blamed for abuse rather than acknowledging how abuse had prompted 'difficult' behaviour. Children and young people in care were afforded a low status and seen as unworthy of proper care and protection.

440 The Children, Young Persons and Their Families (Residential Care) Regulations 1996, defined a 'residence' as one established under section 364 of the Children, Young Persons and Their Families Act 1989, which provided for residences established and/or maintained by the State.

441 Green, P, Report to national manager residential and caregiver services on review of Whakapakari Youth Trust (19 September 1997, para 12).

283. The 1992 documentary Breaking the Barrier strengthened these negative attitudes towards children and young people in care. In the documentary's opening minutes, the narrator noted the criminal offending of many children and young people sent to Whakapakari: "These are bad kids." It also featured a number of incidents that did not, but should have, caused concern. A 13–year-old boy had an obvious injury to his chin and upper lip and was bandaged; the narrator said he had been kicked in the teeth within a few days of arrival. John da Silva was shown telling supervisors that they should not be punching the young people on the programme.

284. The documentary also featured a caption: "Not everyone is happy. Some will do anything to get away from Whakapakari." It showed one boy, 'Rat' who "has taken the extraordinary step of circumcising himself". John da Silva asked a supervisor as to how the boy got a knife and called someone on the mainland to ask if Rat subsequently said why he cut himself. However, no questions were raised as to why a young person might go to the length of circumcising himself to escape Whakapakari. Despite these obvious red flags, there was no discussion or concern expressed within the documentary for the safety of young people. It also appears that the documentary did not cause alarm or complaints at the treatment of the children from those viewing at home, which speaks to the general societal attitude towards children and young people considered delinquent.

285. Some children and young people also attempted to escape from the island, sometimes through drastic action. While Māori survivor Cody Togo (Ngāti Rangi, Tainui) was on the programme, a boy drank a cleaning product in the hope he would be removed.[442] Yet attempts to escape simply resulted in young people being labelled as 'troubled', and often their time on the island was extended if they tried to abscond.

286. In a 2008 Listener article by journalist Matt Nippert, an ex-police constable for Great Barrier Island is quoted as saying "some terrible kids were sent there" as a way of explaining the violence that took place.[443] Although there was abuse between the children and young people on the programme, they were not the only perpetrators and often the abuse was instigated at the hands of the staff.

Racism

287. The Inquiry heard that institutional, cultural, and personal racism directly contributed to survivors, and in particular Māori and Pacific survivors, entering Whakapakari and suffering abuse and neglect in care.

442 Witness statement of Cody Togo (4 May 2023, para 4.19.23).
443 Nippert, M, "Escape from 'Alcatraz': What really happened to boys sent to a boot camp on a remote island?", New Zealand Listener (20 September 2008, page 29).

288. Throughout the Inquiry period this could be seen in "the prevailing deficit views of Māori as lazy, dependents of the state, incapable of providing the right family environment for their children".[444]

289. Whakapakari also failed to consistently and meaningfully ensure that Pacific children, young people and adults in care had adequate access to their culture, identity, language and communities.[445]

Discrimination against people experiencing poverty

290. Throughout the Inquiry period there were negative stereotypes about poverty and welfare. Poverty was seen as a problem with individuals rather than an outcome of wider social, economic, and political circumstances.

291. People experiencing poverty and deprivation were more likely to be taken into Whakapakari and to be abused and neglected while in care. Some survivors recall being identified as "welfare children" and "welfare rats".[446]

Buildings and a rope swing at Whakapakari[447]

444 Stanley, E, The road to hell: State violence against children in postwar New Zealand (Auckland University Press, 2016), as cited in Savage, C, Moyle, P, Kus-Harbord, L, Ahuriri-Driscoll, A, Hynds, A, Paipa, K, Leonard, G, Maraki, J, & Leonard, J, Hāhā-uri hāhā-tea: Māori involvement in State care 1950–1999 (Ihi Research, 2021, page 55

445 Transcript of evidence of Chappie Te Kani, Chief Executive of Oranga Tamariki, at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 22 August 2022, page 578).

446 Transcript of evidence of Mr EH from the Inquiry's Foster Care Hearing (13 June 2020, page 26).

447 Whakapakari Trust, Great Barrier Island, Outdoor pursuits programme for youth / justice (21 August 1995).

TIMELINE OF ABUSE AT WHAKAPAKARI

23 JUNE 1989
Camp supervisor and six other young people assault another boy at Whakapakari.

19 JULY 1989
Staff member from Ōwairaka Boys' Home recommends all referrals to Whakapakari should stop.

1992
Breaking the Barrier documentary shows staff using firearms.

1993
Erin Eggleston, researcher for Massey University visits Whakapakari for a month.

24 MAY 1994
Topzand visit and report notes allegations of violence, inadequate food and unsafe boating practices.

OCTOBER 1994
Community Funding Agency granted continued approval of Whakapakari.

18 SEPTEMBER 1995
Thom Report finds conditions at Whakapakari were substandard, including issues with food, medical needs and personal hygiene. Recommends that all young people are withdrawn and referrals stop until matters addressed.

AREA MANAGER DECLINES TO IMPLEMENT THOM REPORT RECOMMENDATIONS

1996
Eggleston wites a positive review of the programme in the Community Mental Health in New Zealand journal.

DECEMBER 1996
Community Funding Agency renewed its approval of section 396 status for Te Whakapakari Youth Programme despite the past allegations of violence and poor conditions.

1 FEBRUARY 1997
Children, Young Persons and Their Families (Residential Care) Regulations 1996 provided a set of care standards for those in residences operated by the State.

MARCH 1997
Young person makes allegations of abuse by a staff member. In response the Children, Young Persons and Their Families Service extended the complainant's stay for a further month.

JUNE 1997
The mother of a young person reports to Children, Young Persons and Their Families Service that her son was assaulted. No referral was made to police and the victim was not removed despite mother's pleas.

JUNE 1997
Second year social work student makes complaint about conditions at the camp. Community Funding Agency disputes claims and recommends programme continues. Four further complaints of physical and sexual abuse lead to practice review.

SEPTEMBER 1997
Green Report demonstrates negative views towards young people and reluctance to make findings that abuse had occurred.

OCTOBER 1997
Children, Young Persons and Their Families Service write to John da Silva expressing continued support for the programme.

Key

General event types

Area Manager declines to implement Thom Report recommendations.

2 MARCH 1998
Community Funding Agency confirms approval status.

MAY 1998
John da Silva hands over four young people to a gang member for retribution.

14 AUGUST 1998
Supervisor complains about the mock execution of young boys. Children, Young Persons and Their Families Service finds "no immediate safety issues". Same supervisor then complains to Children's Commissioner.

JANUARY 1999
Children's Commissioner requests information from NZ Police and Children, Young Persons and Their Families Service.

12 JULY 1999
Children's Commissioner's report questions integrity of earlier investigations and seeks urgent review of Whakapakari.

6 DECEMBER 1999
Children, Young Persons and Their Families Service refuses to review Whakapakari.

2003
Assessor recommends approval of Whakapakari as a section 396 provider should continue despite not meeting care standards.

OCTOBER 2003
Supervisor hits boy in the head with a stick. Supervisor pleads guilty and is discharged without conviction.

FEBRUARY 2004
Investigation into Whakapakari following complaints of abuse.

11 MARCH 2004
Investigation team recommends all young people be removed from Whakapakari.

15 MARCH 2004
Te Whakapakari Youth Programme is suspended.

21 JUNE 2004
Special assessment report finds Te Whakapakari Youth Programme was in breach of several standards.

OCTOBER 2004
Memo from regional manager opposing reopening of Whakapakari.

2005
Internal memorandum conceded that there had been substantiated allegations of violence against young people by staff, and poor monitoring of the programme.

JUNE 2005
Child, Youth and Family Service considers offering support and funding for Whakapakari to revise its programme.

MARCH 2006
Child, Youth and Family Service ends negotiations concluding risk of further abuse was too great.

Chapter 6: Institutional response to abuse and neglect at Whakapakari

292. In 2023 Chappie Te Kani, Acting Chief Executive of Oranga Tamariki acknowledged that there were children and young people in the care and protection system between 1950 and 1999 who experienced physical, sexual and emotional abuse and neglect, and that the State failed to stop it from happening.[448] The State did not always stop abuse in social welfare care settings when it was disclosed or reported.[449]

293. The State conceded this meant there were incidents that were not appropriately investigated, which contributed to a lack of accountability for those perpetrators and an increased risk of abuse and other forms of harm continuing or recurring. This failure also added to the trauma already suffered.[450]

294. At the Inquiry's State Institutional Response hearing, the Chief Executive of Oranga Tamariki Chappie Te Kani accepted there was systemic sexual abuse of children and young people in social welfare care settings during the scope period.[451]

295. At the Inquiry's State Institutional Response hearing, Debbie Power, the Chief Executive of the Ministry of Social Development, described the responsibility of Te Kāhui Kahu the current accrediting agency that provides initial accreditation and ongoing reviews for external non-government organisations to be funded within the care system. Ms Power said Te Kāhui Kahu provides a 'warrant of fitness' to ensure that the organisation is fit for purpose in relation to the Level 1 Social Sector Accreditation Standards.[452] It described its predecessor, the Community Funding Agency, as less robust. Barry Fisk, general manager of Te Kāhui Kahu at the Ministry of Social Development accepted at the Inquiry's State Institutional Response Hearing that, while the situation was improving, there remained an insufficient level of cultural competence or expertise within the accrediting body to challenge organisations that set up programmes for Māori.[453] Mr Fisk further advised Te Kāhui Kahu was trying to build this capacity.

448 Brief of evidence of Chief Executive Chappie Te Kani for Oranga Tamariki at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, August 2022, paras 40–41).
449 Transcript of evidence of Public Services Commissioner Peter Hughes at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 26 August 2022, page 1063).
450 Brief of evidence of Chief Executive Chappie Te Kani for Oranga Tamariki at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, August 2022, para 41).
451 Transcript of evidence of Chief Executive Chappie Te Kani for Oranga Tamariki at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 24 August 2022, page 807).
452 Transcript of evidence of Chief Executive Debbie Power for the Ministry of Social Development at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 15 August 2022, page 34); Brief of evidence of Te Kāhui Kahu General Manager Barry Fisk for the Ministry of Social Development at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 8 August 2022, para 5.17).
453 Transcript of evidence of Te Kāhui Kahu General Manager Barry Fisk for the Ministry of Social Development at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 15 August 2022, page 59).

296. At the Inquiry's State Institutional Response hearing, Nicolette Dickson, the deputy chief executive quality practice and experiences of Oranga Tamariki also admitted even today it is still not in a position where it can "adequately assure" that section 396 providers are meeting the care standards.[454] This case study is a clear example of why the State must be able to do so. Not having proper oversight and care standards for section 396 providers, including compliance with these standards, compromised the State's ongoing ability to prevent abuse in care and meant children and young people's safety could not be guaranteed.

297. Oranga Tamariki Chief Social Worker Peter Whitcombe advised at the Inquiry's State Institutional Response hearing that Oranga Tamariki sometimes refers to the residential care facility model as a "fully funded failure model".[455] Peter Whitcombe also accepted that structural racism has been a feature of the care and protection system and its predecessors, which has had adverse effects for tamariki and rangatahi Māori, whānau, hapū and iwi.[456] The chief executive of Oranga Tamariki, Chappie Te Kani, also acknowledged that the 'no narking' culture had dissuaded children and young people both recently and in the past from making complaints,[457] and that the complaints culture is not yet 'fit for purpose'.[458]

298. In a memorandum dated 22 October 2004, providing feedback as to a potential reopening of Whakapakari, Regional Manager (social work and community services) Mike Munnelly wrote "practice experience in recent years in relation to abuse in residential institutions suggests there are a number of features which, if present, can create an environment in which abuse can thrive."[459] Factors included charismatic leadership, closed community, lack of outside scrutiny, taking 'hard to place' children, a perception of expertise in relation to methodology and approach that is difficult for others to challenge, failure to actively engage the child's social worker or family, power differentials between staff and children and young people being rigidly maintained, favouritism being evident in both staff and the residents' group, often coupled with a system of special privileges.[460]

299. Sir Peter Gluckman, the prime minister's chief science advisor, concluded in a 2018 study that "boot camps do not work and 'scared straight' programmes have been shown to increase crime".[461]

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454 Transcript of evidence of Deputy Chief Executive Quality Practice and Experiences Nicolette Dickson for Oranga Tamariki at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 24 August 2022, page 838).

455 Transcript of evidence of Chief Social Worker Peter Whitcombe for Oranga Tamariki at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 24 August 2022, page 876).

456 Brief of evidence of Chief Executive Chappie Te Kani for Oranga Tamariki at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, August 2022, paras 35–37).

457 Transcript of evidence of Chief Executive Chappie Te Kani for Oranga Tamariki at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 24 August 2022, pages 808–809).

458 Transcript of evidence of Deputy Chief Executive Quality Practice and Experiences Nicolette Dickson for Oranga Tamariki at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 24 August 2022, page 803).

459 Memorandum from regional manager, social work and community services, Auckland, Child, Youth and Family, to Robert Harper re: Whakapakari (22 October 2004, page 2).

460 Memorandum from regional manager, social work and community services, Auckland, Child, Youth and Family, to Robert Harper re: Whakapakari (22 October 2004, page 2).

461 Gluckman, P, It's never too early, never too late: A discussion paper on preventing youth offending in New Zealand (Office of the Prime Minister's Chief Science Advisor, 12 June 2018, page 7, para 13).

Redress

300. As of 2019, records from the Crown Law Office suggest there have been 56 civil claims filed in court concerning allegations in relation to Te Whakapakari Youth Programme. Of these claims, 20 have been settled, three have been discontinued and 33 are still in process.[462]

301. 40 survivors have sought redress from the Historic Claims Unit of the Ministry of Social Development for 176 allegations of abuse (99 physical, 21 sexual, 42 emotional),[463] including allegations against John da Silva. The allegations cover the entire period that Te Whakapakari Youth Trust was funded by the Child, Youth and Family Service and its predecessors, from 1989 through to 2003.[464]

302. As at August 2017, the State spent $1,065,585.74 in legal fees to defend claims against Ministry of Social Development in relation to abuse and neglect at Whakapakari.[465]

462 Crown Law spreadsheet filed claims – item 7 (25 April 2020).

463 Ministry of Social Development, Summary of claims made to the Ministry of Social Development relating to key State residences and section 396 providers (13 October 2020); see acceptance of this by the Ministry of Social Development Chief Executive Debbie Power at the Inquiry's State Institutional Response Hearing, in transcript of evidence of Chief Executive Debbie Power for the Ministry of Social Development at the Inquiry's State Institutional Response Hearing (Royal Commission of Inquiry into Abuse in Care, 15 August 2022, page 38).

464 Ministry of Social Development Response to Royal Commission of Inquiry into Abuse in Care Notice To Produce 14, Schedule A, Paragraph 4a: List of historic claims in respect of Whakapakari Youth trust (7 July 2022).

465 Sunday TVNZ, Return to the island (6 August 2017), https://www.facebook.com/SundayTVNZ/videos/return-to-the-island/1698357530174418/

"

WHILE WE ENGAGED WITH MĀORI CULTURE AND PRACTICES, THERE WAS NOTHING TIKANGA ABOUT THIS PROGRAMME. THERE IS ABSOLUTELY NOTHING IN TIKANGA THAT PERMITS CHILDREN TO BE TREATED HOW WE WERE. WE WERE TREATED LIKE LITTLE PRISONERS AND PIECES OF DIRT."

CODY TOGO

MĀORI (NGĀTI RANGI, TAINUI)

Chapter 7: Key findings on Whakapakari

303. The Inquiry finds:

Circumstances that led to individuals being taken or placed into care

1. Most young people were placed at Te Whakapakari Youth Programme as an outcome of youth justice charges. The intention of the programme was to punish and reform.
2. As a third-party provider of care approved by the Department of Social Welfare and its successors.Te Whakapakari Youth Programme was also available as a placement option for children as young as 12 years old under care and protection orders. Many children and young people in need of care and protection were placed there between 1989 and 1998, particularly those considered "troubled teens", or those with drug and alcohol problems, neurodiversity or trauma, who were difficult to place.
3. It was inappropriate to place children and young people who required care and protection at Te Whakapakari Youth Programme with those who were placed as an outcome of youth justice charges.
4. Te Whakapakari Youth Programme was particularly unsuitable for girls and for neurodiverse children and young people.
5. From 1998 the State prioritised youth justice placements. It was the only national programme available to judges of the Youth Court and was in constant demand, despite the pervasive abuse. From that time care and protection placements of young people with psychiatric and psychological conditions or severe emotional distress were discouraged but not banned, and still occurred.
6. Te Whakapakari Youth Programme was seen as a place of last resort for troubled teens, or to provide respite for those working with them, including NZ Police and social workers.
7. The State failed to:
    a. engage with and properly support hāpori and whānau Māori to care for their own; and
    b. ensure that there were alternative kaupapa Māori programmes for tamariki and rangatahi Māori to support their rehabilitation needs in the youth justice system.

Nature and extent of abuse and neglect

8. Whakapakari was a terrifying environment from which there was no escape. Survivors suffered pervasive extreme abuse and neglect in every form.
9. Children and young people experienced severe physical abuse including with weapons, which was routinely inflicted and encouraged by John da Silva, supervisors, other staff and in some instances by their peers.
10. Staff encouraged violence between young people by setting up group fights, and created the "Flying Squad", a group of young people given status above others and used to inflict violence on other boys as a punishment. Some young people who were part of the Flying Squad felt uncomfortable at what they were required to do and sometimes pretended to hit other young people.
11. Sexual abuse was also pervasive. Children and young people were subjected to sexual assaults by staff and peers including by rape and insertion of broom handles or wooden sticks into boys' anuses. Group sexual assaults including rape by older boys on younger people occurred, sometimes organised and watched by staff.
12. Supervisors were armed with guns which they used to manage behaviour. Staff sometimes committed sexual assaults on children and young people at gunpoint and used guns to threaten and coerce them to engage in or submit to sexual activity with others.
13. Staff threatened young people with death during mock executions where survivors were forced at gunpoint to dig their own graves and lie in them. This was an extreme form of psychological abuse that contributed to the culture of violence and fear.
14. Children and young people experienced extreme physical exercise and solitary confinement as a punishment. One survivor was locked in a cage overnight. Children and young people were sent alone to Whangara Island, known as Alcatraz, for days as punishment with little or no food and no shelter. At times they were made to swim in shark infested waters around Whangara Island as an additional punishment.
15. While the programme incorporated some aspects of maoritanga, the violence and abuse inflicted on tamariki and rangatahi was not kaupapa Māori and was culturally abusive.

16. Children and young people were strip-searched on arrival and staff inspected their genitals and buttocks. This practice was degrading, abusive and not permitted to occur.
17. Children and young people were verbally taunted in insulting, abusive and racist ways by staff.
18. The food provided to children and young people was inadequate. Survivors were constantly hungry, particularly if they did not successfully catch their own food.
19. The physical environment was unhygienic and substandard. Survivors lived in tents, which provided inadequate shelter. Bedding was damp and some children and young people did not have sufficient clothing or footwear. There were very limited opportunities to shower, bathe or wash clothing.
20. There was inadequate medical attention. Some children and young people suffered burns, lost teeth, broken bones, and developed sepsis but were not seen by any health professional.
21. Children and young people were denied access to education at Whakapakari.

Impacts of abuse and neglect

22. The abuse and neglect at Te Whakapakari Youth Programme harmed survivors' physical and mental health, their psychological, emotional, cultural and spiritual wellbeing, and their educational and economic prospects.
23. Survivors experienced severe physical and emotional suffering. Most have an enduring deep distrust of the State.
24. Many survivors suffer from Post-Traumatic Stress Disorder, nightmares and fear of encountering their abusers. Many have experienced depression and suicidal ideation. Some have spent time in psychiatric care. Some have died by suicide.
25. Survivors were disconnected from their whānau, families, hapū, iwi and communities in every respect, and have struggled to reconnect. For Māori survivors this was a transgression against their whakapapa.
26. The impact for some Māori survivors of being abused in a purported kaupapa Māori programme diminished their mana and increased their cultural disconnection.
27. Every survivor who spoke to the Inquiry has been in prison at some point in their life. Like most social welfare residential care, Te Whakapakari Youth Programme did not rehabilitate or reform young offenders but was a pathway to future addictions, crime and imprisonment.
28. Whakapakari survivors have convictions for the full range of crimes, including murder and manslaughter, very serious violent offending, sexual offending, firearms and drug offending.
29. Many survivors had issues with drug and alcohol use, and many committed offences in relation to their drug addiction.
30. Many survivors described difficulty with intimate relationships because of sexual abuse they suffered at Whakapakari. Some survivors admitted being violent to to their partners. Some survivors were, or continue to be, estranged from their children.
31. Many survivors did not receive adequate or any education at Whakapakari and had reduced employment and career opportunities as adults.
32. The harm to survivors has been transferred over generations.

Factors that caused or contributed to abuse and neglect

33. The following personal factors caused or contributed to abuse and neglect at Whakapakari:
    a. Abuse of children and young people was carried out by the founder John da Silva, supervisors, volunteers and staff, and in some instances, other young people.
    b. Abusers who were staff misused their positions of power and control over children and young people who could not escape.
    c. Staff and bystanders who were aware of abuse and neglect failed to intervene to stop it or to make a complaint.
34. The following institutional factors caused or contributed to abuse and neglect at Whakapakari:
    a. The complete geographical and psychological isolation of children and young people from whānau, support networks, social workers, communities and society made them vulnerable to abuse and neglect.
    b. The environment which permitted abuse to occur was not kaupapa Māori. It placed tamariki and rangatahi Māori at risk and disconnected them from whānau, hapū and iwi, making them more vulnerable to abuse and neglect.
    c. Social workers breached Department of Social Welfare requirements to visit children and young people placed there under care and protection orders due to the isolation of the programme. This lack of oversight put these children and young people at significant risk and was a barrier to them making complaints.
    d. Only a small number of girls and young women were placed at Whakapakari, sometimes as the only female on the programme. This isolation contributed to the risk they would experience sexual and physical abuse from male peers and from staff.
35. There was no process for children and young people to make complaints. Many who did attempt to disclose abuse and neglect were threatened and beaten.

36. The following structural, systemic, and practical factors caused or contributed to abuse and neglect at Whakapakari:

    a. Many of the legal safeguards for children and young people in social welfare care did not apply to any third-party provider of care such as Te Whakapakari Youth Trust.

    b. Te Whakapakari Youth Programme was a boot camp that entrenched violent and anti-social attitudes and behaviours in the children and young people who were sent there.

    c. The Department of Social Welfare and its successors:

        i. should not have approved Te Whakapakari Youth Trust as a provider as its programme failed to meet many of the legal purposes of social welfare care.

        ii. had no policy for admission to the programme until 1998.

        iii. had inadequate standards for third party providers to meet to receive State funding.

        iv. failed to properly consider the suitability of the programme as a Child and Family Support Service for children and young people under care and protection orders.

        v. was wrong to place children and young people in its care at Te Whakapakari Youth Programme together with young people who had committed criminal offences and were referred by the Youth Court.

        vi. failed to ensure it had cultural capability and robust standards for assessing whether the programme complied with te Tiriti obligations and tikanga Māori.

d. There were serious monitoring failures by the Department of Social Welfare and its successors which:

   i. failed to oversee the delivery of Te Whakapakari Youth Programme and to ensure that it protected children and young people from abuse and was culturally appropriate.

   ii. failed to take action to prevent abuse and neglect of children and young people at Whakapakari despite receiving reports of bystanders including health workers, NZ Police, and social workers.

   iii. failed to act on successive staff and other reports and recommendations from 1989 to 1998.

   iv. continued to fund the programme from 1989 despite knowledge of allegations of extreme abuse and neglect, in dereliction of the State's duty of care.

   v. failed to properly investigate and respond to complaints made alleging abuse and neglect and failed on numerous occasions to refer allegations to the NZ Police for investigation.

e. NZ Police:

   i. exhibited bias towards survivors who made complaints, treating them as lacking in credibility

   ii. failed to properly investigate and respond to allegations of abuse and neglect it received.

f. The State failed to hold itself as well as abusers to account for extreme abuse and neglect at Te Whakapakari Youth Programme and allowed it to continue.

37. The following societal factors caused or contributed to abuse and neglect at Whakapakari:

a. Negative social attitudes towards children and young people placed at the programme included that they were "tough" and "bad", required punishment and discipline, and were prone to making false complaints.

b. These negative attitudes and racial discrimination resulted in a resistance by the State to hold itself and offenders to account for abuse and neglect, and young people were simply not believed.

He waiata aroha mō ngā purapura ora

Kāore te aroha i ahau mō koutou e te iwi i mahue kau noa
i te tika
I whakarerea e te ture i raurangi rā
Tāmia rawatia ana te whakamanioro
He huna whakamamae nō te tūkino
He auhi nō te puku i pēhia kia ngū
Ko te kaikinikini i te tau o taku ate tē rite ai ki te kōharihari o tōu
Arā pea koe rā kei te kopa i Mirumiru-te-pō
Pō tiwhatiwha pōuri kenekene
Tē ai he huringa ake i ō mahara
Nei tāku, 'kei tōia atu te tatau ka tomokia ai'
Tēnā kē ia kia huri ake tāua ki te kimi oranga
E mate pūmahara? Kāhorehore! Kāhorehore!
E ara e hoa mā, māngai nuitia te kupu pono i te puku o Kareāroto
Kia iri ki runga rawa ki te rangi tīhore he rangi waruhia ka awatea
E puta ai te ihu i te ao pakarea ki te ao pakakina
Hei ara mōu kei taku pōkai kōtuku ki te oranga
E hua ai te pito mata i roto rā kei aku purapura ora
Tiritiria ki toi whenua, onokia ka morimoria ai
Ka pihi ki One-haumako, ki One-whakatupu
Kei reira e hika mā te manako kia ea i te utu
Kia whakaahuritia tō mana tangata tō mana tuku iho nā ō rau kahika
Koia ka whanake koia ka manahua koia ka ngawhā
He houkura mārie mōwai rokiroki āio nā koutou ko Rongo
Koia ka puta ki te whaiao ki te ao mārama
Whitiwhiti ora e!

– Paraone Gloyne

A Love Song for the Living Seeds

The love within me for you, the people, remains unchanged

Left alone, abandoned by justice and order

Subjected to the silent suffering of mistreatment

A heaviness in the core, silenced into stillness

The gnawing of my heart cannot compare to the anguish of yours

Perhaps you are hidden in the depths of the night, Mirumiru-te-pō

A night dark and dense

Where there may be no turning in your memories

But here's my thought: 'Do not push open the door to enter'

Instead, let us turn to seek life and well-being

Is memory dead? No, certainly not!

Arise, friends, let the truth resound loudly from the heart of Kareāroto

To ascend to the clear skies, a sky washed clean at dawn

Emerging from the troubled world to a world of promise

A path for you, my flock of herons, to life

So, the precious core may blossom within you, my living seeds

Scattered across the land, cherished and growing in abundance

Rising in One-haumako, in One-whakatupu

There, my friends, lies the hope to fulfil the cost

To restore your human dignity, your inherited mana from your ancestors

Thus, it will thrive, flourish, and burst forth

A peaceful feather, a treasured calm, a serene peace from Rongo

Emerging into the world of light, into the world of understanding

A crossing of life indeed!

– Paraone Gloyne

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Royal Commission of Inquiry

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