

**Abuse in Care Royal Commission of Inquiry
Contextual Hearing Commenced on Tuesday,
29 October 2019 at the Rydges Hotel, Auckland**

Commission Members:

Sir Anand Satyanand
Commissioner S Alofivae
Commissioner A Erueti
Commissioner P Gibson
Commissioner C Shaw

TRANSCRIPT OF PROCEEDINGS

OPENING ADDRESSES

THE REGISTRAR: The sitting of the Royal Commission is now open.

CHAIR: Kia ora katou. I am Anand Satyanand, Chair of the Royal Commission into Abuse in Care. My fellow Commissioners, Judge Coral Shaw, Sandra Alofivae, Dr Andrew Erueti and Paul Gibson join me in welcoming everyone to this important public contextual hearing. This includes those present in our hearing room here in Auckland, as well as those joining by live stream from throughout the country on the Royal Commission's website Abuse in Care.

Today's event which will proceed for the best part of the next two weeks will involve the attendance of a great many witnesses, notably survivors, and is one of the mainstreams which will inform the views of the Commission as time passes. Material from these sessions will join the concurrent streams of research of private sessions with individual survivors, of round table discussions and the many aspects of community engagement undertaken by our staff and the work of our communications people.

I would like to acknowledge as we start the work over a lengthy period by our legal team, by our Maori partnerships directorate, by our survivor liaison staff and those responsible for logistics. Everyone has been looking forward to this moment for several months.

May I then invite you, Mr Mount, in a short while to make an opening initial statement as counsel assisting the Commission but after you have announced your presence with your colleagues, I will invite any other counsel who

are appearing to register their appearance should they desire to do so. Mr Mount?

MR MOUNT: Tena koutou katoa, Simon Mount together with Ms Beaton and Ms Haronga.

MS ALDRED: Counsel's name is Ms Aldred, I appear to represent the Crown with Ms White.

MS SKYES: (Opening address in Maori). May it please the Commission, counsel's name is Annette Skyes, I am assisted by my friend Ms Bartlett. We travelled from Rotorua. We seek leave and have been granted leave to appear before the Royal Commission for and on behalf of many survivors who have made claims against the government and we are very grateful for the opportunity to be here. Kia ora.

CHAIR: Thank you, Ms Skyes.

MS STEVENS: Good morning, my name is Jenny Stevens and I represent the Salvation Army in New Zealand. Representation will be shared with my colleague Ms Dobbs over the next two weeks.

Can I also note that two representatives of the Salvation Army are here and will be for the duration, Mr Murray Houston and Major Christina Tyson. We are looking forward to this hearing and listening to the evidence over the next two weeks.

CHAIR: Thank you, Ms Stevens.

MS McKECHNIE: Counsel's name is Sally McKechnie, I appear with Harrison Cunningham, a graduate of my team not yet admitted to the bar. We appear for the group created by the Catholic Bishops and Congregation Leaders of the Catholic Church in Aotearoa New Zealand.

CHAIR: Thank you.

MRS GUY KIDD: Tena koutou katoa, Mrs Guy Kidd for the Anglican Church of Aotearoa New Zealand and

Polynesia with my colleagues, Ms Harrison and Mr James Anson-Holland and present before the Commission as well listening is the Reverend Michael Hughes.

CHAIR: Thank you, counsel. That seems to deal with appearances of counsel. Might I then invite you, Mr Mount, to make an initial statement as Counsel Assisting the Commission.

MR MOUNT: Thank you, Mr Chair. Tena koutou katoa. Tena tatau kua mai nei i runga i te karanga o tenei kaupapa me nga mahi nui kei mua i a tatau.

I acknowledge all of us here that have been brought together by this important and significant kaupapa and the important work here.

I said a moment ago I appear with Ms Beaton and Ms Haronga, Counsel Assisting the Commission. Over the course of the hearing we will be joined by other members of the counsel assisting team who have worked with the witnesses to prepare this evidence for the hearing. They include Hanne Janes, Chris Merrick, Julia Spelman, Ruth Thomas and we've also been assisted by Rachel Opie and Andra Mobberley, two human rights specialists who have been engaged by the Commission.

I begin today by acknowledging mana whenua, survivors including those who have passed, members of our Survivor Advisory Group and our Ambassadors, those participants who have been granted leave to appear, those who have already contributed to the work of the Royal Commission and who are preparing to do so. And in particular, I acknowledge those who worked tirelessly to shine a light on these issues and to bring about this Inquiry. I realise that for them this day has been a long time coming.

The purpose of this opening address is to summarise the evidence that we will be hearing over the course of the next two weeks and to explain how this hearing will fit into the overall work of the Royal Commission.

As you know, the Terms of Reference of this Royal Commission are extremely broad. They will make this Inquiry broader in scope than any of the other similar Inquiries overseas. Under the Terms of Reference, the Inquiry is required to consider not only sexual abuse but also physical abuse and neglect. We are required to consider not only the abuse of children but also the abuse and neglect of vulnerable adults. We are required to consider abuse and neglect in a wide range of settings from children's homes, care and protection residences and youth justice facilities, schools, health camps, psychiatric institutions and facilities for the care of the disabled. We are also required to consider abuse in the care of faith-based institutions, including a wide range of churches and other faith-based organisations, and a wide range of settings. For example, the Inquiry has made it clear that we will consider abuse by a member of the clergy in a private home, if that abuse was connected to the relationship of trust and care created by the position within the clergy.

Without wanting to over simplify things, there are perhaps three key questions on which the Inquiry is required to report. They are:

First, what do we know about the abuse and neglect in care that has happened in the past, including its nature, why it happened and its impact?

Secondly, how can we prevent Abuse in Care from occurring in the future? In other words, what systems should we have in place to protect children and vulnerable adults from abuse and neglect?

Thirdly, how should redress be delivered for those who have suffered abuse and neglect in care?

As Commissioners, you have made it clear that you see your work being guided by eight strategic pillars or pou. You have explained those very clearly at the previous hearings of the Inquiry. Those strategic pillars or pou strongly are reflected in the hearing we start today.

I want to turn to give a bird's eye view of this hearing.

It is the first substantive hearing of this Royal Commission. We have described it as a contextual hearing because its purpose is to place the work of the Royal Commission in context. This hearing will give a preview of some of the topics that the Inquiry will be considering in more depth in future hearings and investigations across the life of the Inquiry.

This hearing will provide a starting point or a base for the Inquiry, rather than being the final word on any of these topics. For that reason, we do not expect that this hearing will involve extensive cross-examination, or the resolution of contentious issues. This hearing is an opportunity to listen and to learn, in a preliminary way, from those who have experience of the matters within the Terms of Reference.

After each witness gives evidence, those with leave to appear will be able to ask for permission to question the witnesses. It will be up to the Inquiry to decide whether to grant permission and if so, what topics may be covered. Because this is a preliminary contextual hearing, I expect many participants will decide not to ask questions. In this hearing, no-one will be considered to have accepted evidence merely because they don't ask questions. In any event, the Inquiry has made

it clear that there will need to be very good reasons before questions are allowed of survivor witnesses and any topics to be addressed to survivor witnesses may be put through counsel assisting if that is more appropriate.

Importantly, all participants can be reassured that the Inquiry takes very seriously its duty to be fair. In keeping with that, several participants have been granted permission to read short statements at this hearing. Again, the lack of questions from either the Commission or other participants should not be taken as acceptance of any of the matters contained in those statements.

While we have tried to address as much of the Terms of Reference as we can in the evidence in this hearing, it isn't possible to be complete and there will be gaps to be filled in future investigations, hearings, and with the Inquiry's other tools including private sessions and research.

We expect to hear from 29 witnesses over the course of the next two weeks. Their evidence will fall broadly into seven themes. They broadly track the strategic pillars that I mentioned a moment ago. This hearing, the seven themes are:

First, the survivor voice, including the nature and extent of abuse suffered.

Second, te ao Maori - dimension of abuse in care in New Zealand as well as Pacifica experience.

Third, abuse in the care of faith-based institutions.

Fourth, the societal backdrop, including the reasons why people have been placed in care in the first place.

Fifth, the impact of abuse, and the experience of those seeking redress.

Sixth, the road to the Royal Commission, including the work that brought these issues to attention in the first place, and the work that is highlighted the need for this Inquiry.

Seventh, the future, including at this early stage the hopes that our witnesses have for this Royal Commission, and the ways in which they believe it will be possible to transform the way that we care in New Zealand to address the specific questions in the Terms of Reference.

It will be obvious that these seven themes are not hard edged. They overlap with each other in many ways. Some of the witnesses will concentrate on one or two of the themes, while some may speak to all seven of them.

On the Inquiry's website there is a document that summarises the main aspect of each witness' evidence. That can be found in the public hearings section of the website, and I won't go through the witnesses one by one now. Instead, I will summarise very briefly some of the evidence I expect we will hear under each of the seven themes I just mentioned.

Survivor voice. First, we will hear from witnesses who have direct personal experience of abuse in care. They are Keith Wiffin, Arthur Taylor, Rawiri Waretini-Karena, Fete Taito, Robert Martin, Dallas Pickering, Beverley Wardle-Jackson, Annasophia Calman and Mike Ledingham.

They will talk about the abuse in care of children and vulnerable adults, including sexual abuse, emotional and physical abuse and neglect.

In many cases, they will talk about this happening frequently to large numbers of children and with no effective steps to prevent it. The evidence will cover many different settings, including residential homes,

foster care, psychiatric facilities, religious schools and facilities for the disabled.

As we hear that evidence, it will be important to remember that the passage of time means we can no longer hear directly from the children who suffered that abuse. Instead, it has to be reported to us by the adults that those children have become. While much of the evidence will focus on the childhood experience, in the course of our Inquiry we will also hear about the abuse of vulnerable adults and those with disabilities.

Impacts of abuse and responses by way of redress. All of the witnesses I have just mentioned will also talk about the effect of the abuse and neglect on their lives. In many cases they will talk about their attempts to seek redress or justice for what happened to them. For some, it was possible to achieve that. For others, their experience in trying to achieve justice has been extremely difficult. For some, the setbacks in trying to achieve redress have been almost as bad as the initial abuse. Sonja Cooper and Amanda Hill are two lawyers who have acted for more than 1,000 people seeking redress for abuse in care. They will describe more than 20 years' experience in dealing with those cases and the enormous challenges they have faced. Michael Tarren-Sweeney and Charlene Rapsey are both psychologists who explain the impact of abuse and neglect on children from a psychological point of view.

Many of our witnesses will describe the care to custody pipeline, the fast track that many survivors experienced from abuse in care to imprisonment. Arthur William Taylor is obviously extremely qualified to talk about that, but many of the witnesses from Keith Wiffin to Elizabeth Stanley will also describe this pipeline.

Te ao Maori and Pasifika experience. Tomorrow we will have the first of our witnesses with a specific focus on the Maori dimension. We will hear from Dr Moana Jackson, Dr Alison Green and Dr Rawiri Waretini-Karena. It is well-known that Maori have been placed into care and have experienced abuse in care at greater rates than non-Maori. It is essential that this Inquiry confronts those aspects of New Zealand's history. I acknowledge the presence today of Annette Skyes who has been granted leave to appear on behalf of a number of claimants in the Waitangi Tribunal. In this way, the Inquiry recognises the vital importance of hearing directly from Maori, in accordance with the Treaty of Waitangi. As well, Mr Fete Taito will describe his experience as a Samoan New Zealander and the abuse that he experienced while in State care as a child.

Several witnesses will address the broader circumstances that have contributed to abuse in care, and into the placement of people into care. These include Professor Elizabeth Stanley whose book "The Road to Hell: State Violence against Children in Post-War New Zealand" compellingly tells the story of 105 New Zealanders who experienced abuse and neglect in care as children. She will provide an overview of that abuse, including the daily degradations that children experienced in many institutions, and the structural framework that enabled that to occur. Dr Oliver Sutherland will give his perspective on the societal background having spent 15 years campaigning and advocating on behalf of many children in State care in the 1970s and 1980s. Sir Kim Workman will give his account having begun as a Police Youth Aid Officer in the 1970s and regularly visiting State care institutions in that time period. He will

also give his perspective on some of the major changes to the law throughout the 1970s and 1980s in youth justice.

Dr Brigit Mirfin-Veitch will give evidence about the abuse and neglect of people with learning disabilities in State care between 1950s and 1990s and the broader societal and systemic factors that allowed this to occur. Dr Hillary Stace will provide a disability perspective on these topics. Her evidence will address institutionalisation of disabled children from 1950s onwards. Mary O'Hagan will provide historical context for abuse in the psychiatric system, including as it relates to the Treaty of Waitangi. Dr Anne Else will talk about the State's role in adoption and its role in abuse in that context.

Abuse in the care of faith-based institutions. Professor Desmond Cahill and Dr Peter Wilkinson were both ordained as Catholic priests before resigning from the priesthood in the 1970s. They will summarise what was learned in the Australian Royal Commission into institutionalisation responses to child abuse to provide a roadmap for understanding the phenomenon of sexual abuse of children and vulnerable adults in religious institutions, particularly the Catholic Church. Michael will describe the abuse that he and his two brothers experienced at the hands of a priest while students at a Catholic school in Auckland.

The road to the Royal Commission. Judge Henwood was the Chair of the Confidential Listening and Assistance Service which ran from 2008 to 2015. Over that seven year period, the Confidential Listening and Assistance Service heard from more than 1,100 survivors of abuse. She will summarise what she learned and how this became an important part of the call for an independent Royal Commission into abuse in care. Rosslyn Noonan was

New Zealand's Chief Human Rights Commissioner from 2001 to 2011. She played a considerable role in paving the way for this Royal Commission during her time at the Human Rights Commission. She will talk about the efforts that were made while she was Chief Commissioner to bring the issue of abuse in care to the attention of the wider New Zealand public, and she will explain why she became convinced that a Royal Commission was essential. Aaron Smale is a freelance journalist with experience of State intervention in his life. He has written extensively on the topic of abuse in State care, particularly as an issue affecting Maori. He will reflect on his work to date and what he learned from the numerous interviews he has conducted into this topic.

Almost all the witnesses in one way or another describe their thoughts about how we could do better to prevent and respond to abuse in care. Judge Andrew Becroft, the current Children's Commissioner, will not only describe his role and the work carried out by his office, but will also talk about the future and in particular his views about the way in which this Royal Commission might approach its task.

The three witnesses scheduled to be heard today are Judge Carolyn Henwood, Keith Wiffin and Arthur Taylor. I have already very briefly summarised their evidence and rather than attempt any further summary, it is appropriate that I will shortly simply call Judge Henwood as the first witness for this Royal Commission.

Before I do that, I will briefly address some housekeeping matters. We will begin each day's hearing at 10.00 a.m. unless there is a particular reason to depart from that timing. Our standard adjournment times may need to be varied according to the needs of witnesses and any other requirements but typically, we will have a

morning adjournment around 11.30, lunch between 1.00 and 2.15. Our proceedings will be livestreamed, as the Chair has already mentioned, but there is a 5 minute delay. The purpose of that 5 minute delay is as insurance in case anything is inadvertently said which might breach a suppression order and which ought not to be broadcast. If any counsel present hears something which they think ought not to be broadcast on the livestream, they can let Counsel Assisting know, we will draw it to the attention of the Chair or they can draw it directly to the attention of the Chair. There will be a transcript available at the end of each day which we expect to be a full transcript of the day's proceedings, and so anyone wanting to monitor the proceedings of the Royal Commission will be able to watch live with a 5 minute delay or read the transcript at the end of the day or both.

The Commission does have the ability to make non-publication orders in relation to any material that requires such an order and from time to time either a member of the Counsel Assisting team or other counsel may ask for non-publication orders to be made over particular material.

Finally, and before I call Judge Henwood, leave has been granted to the Crown to make a short statement at this time and I will end my address at this point to allow the Crown to make their short statement.

No reira tena koutou, kia ora tatau katoa.

CHAIR: Thank you, Mr Mount. Ms Aldred, is it your wish to express a statement on behalf of the Crown at this point?

MS ALDRED: yes, thank you.

CHAIR: Please proceed.

MS ALDRED: (Opening in Maori). Tena koutou, tena koutou, tena koutou katoa. On behalf of the Crown, I acknowledge the Commissioners, the Survivor Advisory Group, all those who will speak at this hearing and all survivors and their advocates here and who are watching the screened broadcast.

I appear at this contextual hearing to listen to the witnesses who will give evidence to the Commission and to deliver a short statement on behalf of the Crown Agencies regarding the Crown's engagement with the Royal Commission.

Caring for children and vulnerable adults is a vital and valued responsibility, societies are judged by how well they care for their most vulnerable members. It is a responsibility of government to protect the vulnerable from harm and to promote their welfare. At times we've failed in government as a society and sometimes as individuals in the vital role of protecting our most vulnerable. Our country needs a thorough and open investigation to help bring failings to light. It is important to hear from those who were wronged to learn from what they say and to make the changes needed for New Zealand's care system to be stronger and safer for everyone.

The Crown acknowledges that Maori have been heavily impacted by the State care system. We need to understand why Maori remain over represented in State care and how this has affected generations of whanau, hapu and iwi.

The Crown welcomes the Royal Commission's extensive examination of historical abuse and neglect in care and acknowledges the events that have led us to this point. The Crown is not here today to make any statements or claims that might be seen as pre-empting whatever emerges from the Royal Commission's hearings and investigations.

Rather, I will simply explain how the Crown will engage with and respond to the Commission and the spirit it will bring to its participation in this important role.

I have been asked to assure the Royal Commission that the Crown is determined to do what it can to help the Commission deliver meaningful outcomes for historic abuse survivors, along with applying any lessons relevant to today's care systems. This means backing a process that ensures survivors are heard and feel heard. A process that allows harm to be acknowledged and reconciled, in particular it means recognising and respecting the experiences of Maori and disabled peoples, two groups that are highly involved in and very affected by the State care system.

How will the Crown achieve this? The starting point has been committing the many arms of the State that play a part in the care system to a commonsense of principles guiding all aspects of the Crown's engagement with the Royal Commission and survivors. These six principles were agreed by Minister in Cabinet and issued in May this year as the core of a paper setting out the approach the Crown will bring to the Royal Commission. The principles are a firm undertaking and the Crown expects to be held to them. They aim to ensure the vulnerable are heard and valued and that the Inquiry process is respected and supported. They guide government participation in hearings and investigations as well as the government's broader support for the Commission's work. The principles are:

Treating people with the compassion, fairness and respect that upholds the mana of all those involved.

Openness; being receptive to new ideas, to reconsidering how things have been done in the past and the way agencies operate now.

Transparency; sharing knowledge and information held by the Crown, including the reasons behind key actions.

Learning; listening attentively to survivors, learning from the Royal Commission and using that information to improve systems.

Being joined up; Agencies working together closely, helped by a dedicated Secretariat and Chief Executive Sponsoring Group to make sure government engagement with the Royal Commission is co-ordinated and resulting actions and recommendations are collectively owned.

Meeting obligations under Waitangi; honouring the Treaty principles, meeting Crown obligations and building a stronger Maori Crown relationship through the way the Crown operates and behaves during this process and after it when implementing its lessons.

Many people had experiences as children or vulnerable adults in State care that destroyed their trust in government. The Crown acknowledges that and intends to show its commitment to transformation by adhering to these six agreed principles. In hearings, the Crown will take care to ensure that what it says and how it is said upholds the mana of survivors.

I have been speaking about the Crown as a single body but the Commission will understand that it is a collection of agencies and institutions that have changed over time. The historical picture is complex and fragmented, spread across the health, education, social welfare and justice systems. The nature of State care, the organisations and roles within the system shifted over the half century from 1950. The specific names, structures and sizes of the organisations changed but remained a diverse group from 1950-1999 and on to today. A timeline listing major organisational and legislative changes will be submitted to the Royal Commission and the

Crown would welcome the publication of that timeline to help provide clarity on how the elements of the State care system have changed over time.

Partly because of the many structural changes to the care system, record-keeping was at times patchy. It is acknowledged that over the decades agencies have been inconsistent record keepers. The Crown will provide all information that is relevant, as complete and well organised as possible, and will do its best to track down all relevant records and supporting material. The Crown will make the relevant staff available to attend hearings.

Over the years, particular events and institutions have been the subject of targeted inquiries that led to specific changes. The Crown welcomes this opportunity to step back and look at the whole picture. The Royal Commission of Inquiry is a chance for New Zealand to understand and address what occurred across the whole of the care system.

The Crown today is different to what it was 70 years ago and it will be different again in 70 years' time. Over the past two decades, the Crown has made changes to include safety, protection and the availability of redress within the system. There have been efforts to improve quality and professional standards, including strong assistance for reporting concerns and misconduct, better vetting and approval of education and social workers and providers and the work currently underway to setup stronger, independent monitoring for the Oranga Tamariki system. In the mid 2000s, the Crown introduced a structured historic claims approach involving the Ministries of Social Development, Education and Health. Over 4,000 claims have been received to date with approximately half of these settled so far. Work on

reviewing and improving access to and processes for redress of historic wrongs is ongoing and the Crown looks forward to what can be learnt from the March 2020 redress hearing that will focus on that particular area.

Improvements to all of these institutions and systems are ongoing but the Crown recognises that it needs to do more. It will welcome the Royal Commission's findings that contribute to further change and better care for the vulnerable.

In short, the Crown is here to listen and learn, to provide the Commission with the information and evidence it needs to help explore the past, to see what it means today and to make recommendations for what can be done to improve the future.

(Closing in Maori). Tena koutou, tena koutou, kia ora tatou katoa.

CHAIR: Thank you, Ms Aldred. We are now at a point, Mr Mount, where you are going to call the first witness. Will it suit things if my colleagues and I adjourn briefly to enable those arrangements to be setup?

MR MOUNT: Yes, thank you very much, Mr Chair.

CHAIR: We will do so.

Hearing adjourned from 10.42 a.m. until 11.02 a.m.

CAROLYN HENWOOD - AFFIRMED
EXAMINED BY MR MOUNT

MR MOUNT: Thank you for that short adjournment, Mr Chair. Our first witness, Judge Carolyn Henwood, is here and we are ready to proceed, thank you.

CHAIR: Thank you. Judge Henwood, I have a duty under the Inquiries Act to administer your opening statement. (Judge Henwood sworn).

MR MOUNT:

Q. Good morning, Your Honour, thank you very much for coming today.

A. Morena koutou.

Q. For the record, can I confirm your name is Judge Carolyn Henwood, you are a retired District Court Judge with an Acting Warrant?

A. That's correct.

Q. There's a button on your microphone to make it glow red. There we are.

A. Am I glowing?

Q. You are glowing, thank you, Your Honour. Just a couple more formalities, in front of you in a folder there should be a copy of your statement which I think you've already signed on the last page, page 21, is that right?

A. Yes, I just signed it, thank you.

Q. For the record, can you confirm that is true and correct to the best of your knowledge and belief?

A. It is.

Q. A couple more formalities. We know that you Chaired the Confidential Listening and Assistance Service between 2008 and 2015. I think you have a copy of the formal

report of the confidential listening and assistance service, can I ask you to produce that as Exhibit 1 for the Commission.

A. Yes, this document called *Some Memories Never Fade* is the final report of the Confidential Listening and Assistance Service. I would like to produce that. Of course, it is a copy because the originals were dispatched to the Ministers in 2015 but that's been sent to me from Internal Affairs, so I can verify that.

Q. Thank you. There is also a second document that I understand you would like to produce and that is a copy of the government response to your final report. Do you have that with you?

A. Yes, I do.

Q. I'll ask you to produce that to our Registrar now as Exhibit 2, please.

A. Yes, it is an important document and there are a couple of things later on in my evidence I would like to just highlight but in the meantime, I'll produce that, thank you.

Q. .

MR MOUNT: Commissioners, you should have copies of these two documents and electronic copies have been made available to counsel. When we have our purpose built hearing room up and running, we will be electronic and everything will be on screens and this process will be very smooth. At the moment, we are in an interim position, and so where documents like this come in, we will try to make them available to those in the room electronically as quickly as possible. And if anyone has difficulty accessing the documents, please let the counsel team know.

- Q. Your Honour, I introduced you a moment ago as a retired District Court Judge with an Acting Warrant but I take it, you had some other roles?
- A. Yes, I think the ones relevant to the kind of discussion we're going to have today, I was on the Parole Board for over a decade and so met a lot of people who were incarcerated. Also, I've chaired the Henwood trust for over a decade and that's a charity that works to improve effective strategies for young offenders and during that we have done a lot of research and also worked alongside iwi to try and resolve processes and practices to get a better outcome. So, those two things I think have given me quite a big knowledge, apart from being in the District Court since 1985 which certainly covered a lot of criminal work in that type of Court, so I draw on all of that.
- Q. The main hat that you have on today is as the former Chair of the Confidential Listening and Assistance Service, we will call that CLAS, it's abbreviation. Is there a particular reason that you were willing to come and give evidence as the former Chair of CLAS?
- A. Indeed. As soon as I heard there was going to be a Royal Commission, I was wrestling with the idea about how were we going to get the voices of the 1,103 people that we saw before this important Commission? To me, that is a huge issue for me and I'm really honoured to have this opportunity to come and do that because I'm here to speak not about all our work, although I want to thank them, but about the people that came to see us because we promised that we would do what we could to get their voices heard and also to seek better outcome for future generations. That is my goal today and I hope that everyone will listen to what they had to say to me.

- Q. Just looking at your paragraph 4 of the written statement, who were the people who came and spoke to CLAS?
- A. Well, it was over a 7 year period, so that's a huge amount of work. There were 1,103 New Zealanders. 552 women and 551 men, which was quite extraordinary that it turned out to be so close, we're only missing one man. They attended hearings at 23 different locations, so we travelled around the country, also went once to Australia. And amongst that group, we saw I think 670 people identified as persons European or Pakeha, 411 of the group were persons who identified Maori. Pacific, 21 Pacific and 1 Asian, and amongst them there were of course persons with disabilities and although not as many as we had hoped but we haven't specified that, I haven't said that in my statement, the numbers in there.
- Q. Do you have a sense why the Pacific numbers seem a little low?
- A. Well, I don't have any evidence for it but my instinct was that we were doing the years before 1992, back as far as anyone was alive. I think somebody well into their 90s was the oldest person that we saw and it may be that in that bunch of years there were not many Pacifica in State care, they were more in their families. I can't know if that's true. I know Pacific people told me they do have state stories, we went on Radio Pacific, we had a Pacific person on our Panel. Nevertheless, whether there were more that would have liked to come forward and didn't, I can't answer that.
- Q. Tell us about the steps you took to make sure the Maori voice was heard?
- A. Well, right from the very beginning we knew this was crucial but we'd also been advised by the authorities that some Maori communities were reluctant to come

forward to government agencies and talk, so it was a challenge for us and we used every, we had a number of Maori panelists and we went down every road that we could possibly go down, talked to Maori women's welfare league, talked to iwi, talked to everyone we could lay our hands on in the hope that some faith would be built up to come to CLAS. You've got to understand the climate at the time. This was 2008, I think you said. We were a bit scorned on at the beginning as a government strategy. I was told this was to be a truth and reconciliation model, something to get away from the Courts, another alternative, so people were doubtful as to whether this was going to deliver anything whatsoever. But I'm pleased to say I believe we did what we could within the constraints of the powers that we had.

Q. I think you've said that you found it hard to engage with the disability sector, in particular those with intellectual disabilities. Can you talk to us about that group and whether you felt that their voices were heard?

A. Well, I don't think they were, no, not in sufficient numbers. I mean, we had huge response from the Deaf Community, for instance, and they were able to engage with us and I'm mindful that we've got some amazing interpreters here today that we had when we had our hearings and I must not speak too quickly because out of respect for the effort that they're making.

We had a number of successful hearings with the Deaf Community. And individuals came along who were unable to walk, talk or speak but they relied on their carers to bring them and we tried hard to engage with a number of other communities but it just seemed imperishable - that is a challenge for the Royal Commission and I am pleased they've got a specific person with experience in disability to be able to try and get some cut through

there because their stories are untold but it's very difficult to get access to them.

Q. Back to your written statement, from paragraph 5 you've summarised for us what appeared to be the main motivation for people who came along to speak to CLAS?

A. I put that in my statement because a lot of New Zealanders are very tough on children and children in care and the attitude is, I felt when I talked about what I was doing, very brutal and you know unsympathetic and lacking in empathy. Sorry, New Zealand but this is just what it was like. And so, I wanted to say to people in New Zealand, people weren't coming forward to look for, to point the finger or look for money. They came forward to tell us their own story and what they had been through and also they wanted a better system for the children of the future. Almost every person came out with that without prompting. It was an extremely dignified process and very moving. So, you know, that's why I've come to speak up for them today because they have not been acknowledged, this group.

Q. You talk in paragraph 7 about the main concerns that people raised, what were they?

A. Well, we tried to - we had a very strong Panel team with a lot of experience there and so we did a lot of talking for 7 years trying to home down their issues.

So, the children felt abandoned, so they may have been abandoned from their original carers who couldn't look after them but then they felt abandoned by the State. The State took them and then got busy and didn't come back to watch over them sufficiently well.

So, they felt abandoned. They felt they'd lost their identity, they didn't know who they were, and that of course is crucial for Maori and for absolutely everyone in care though, they didn't know what their

identity was. And they were not safe. None of them felt safe at any time. So, they were on high alert always looking after themselves in what could be a foreign environment and a dangerous one.

But you've got to remember, to keep perspective, the people that we saw were the people that were invited to come forward with concerns, so we did not have a large group of everyone in care obviously. We had the ones who came forward with concerns.

Q. Could you help people get access to their files?

A. Yes, that was one of the - a big part of our job is not only meeting and listening to what people wanted to tell us but also to assist them. So, we did a whole range of pastoral care. One of the key things we got for them were their files because they wanted to make sense of their lives and of course their lives were a couple of cardboard boxes full of welfare files.

To give you another perspective, we saw people who had been in care for decades and all they were, were those files, and they didn't have any school photos. You know, one of the things I mentioned, Simon, just to get some feeling for what this was like, when people brought us a photo of them as a child, it melted your heart because in your mind's eye you're thinking what does a welfare child look like? And you have your own stereotype, oh well it must be some creature, you know, I don't really know and then they bring you this beautiful photo of a young boy in a cap and long socks and school uniform and a little girl in a viola smock dress, I tell the Royal Commission to encourage the people to bring a photo of them as children because when you see that it has the impact that nothing else can have to realise that these are actual people, they are not statistics, they're little children, for goodness sake, that many have

suffered hurt and then have to go through this really difficult system to find a life for themselves.

Q. At the beginning of your report to government, you included a personal tribute on page 6 of the report. I'd like to give you an opportunity to read that if you wish.

A. Yes. We wrote a report to government, it is not a very government-like document because what we were reporting on was not a very government-like process, so it's not using all of the, I don't know, government speak. But then I felt it needed more because I felt people will never read it, and I think it's probably true, I don't know how many people read our report, not too many I imagine, or else they do a quick skin.

So, we wrote this because it captured what we heard. "I'd like to say our Panel members were profoundly affected by what each person had to say. As numbers grew and more voices were heard, a picture was painted for us of a careless, neglectful system which allowed cruelty, sexual abuse, bullying and violence to start and continue. Through their words and tears, we could see the invisible welts and bruises, as well as the deeper hurt and emotional damage. They told us they were not watched over nor protected. They were not valued, not heard, not belief and not safe. All the people who came forward to speak to us had struggled to make sense of their lives, all wanted a better outcome for the children of the future. So, we made a commitment to listen to them and to pursue a safer and more professional care service with a genuine framework of accountability for the future."

And we were honoured to meet more than 1,100 New Zealanders during the life of the Confidential Listening and Assistance Service from 2008 to its closure in June 2015. And a key point there is a genuine

framework for accountability and that's going to be the challenge for the Royal Commission because even though, in my experience, every time accountability comes up, they say we've got this, we're onto it, and then over time it diminishes down to nothing. And this is the biggest, if I do nothing else, we've got to see that we have a decent accountability because accountability brings change, brings audit and brings improvement.

- Q. We'll come back to that point because it's so important. Would you like to tell the Commissioners any thoughts you have about what kind of accountability regime there could be for the future?
- A. Well, that's an end game point. I think it's up to the Commission to consider that but for my money, I have an independent thing like the Police Complaints Authority, it can't be in-house. When it's in-house it gets watered down again and there's no confrontation of the issues. These people have no access to justice. I don't know if New Zealanders understand what it's like to be a child in care. You are taken and you're detained. It's like being a prisoner but you're not a prisoner because you're living in someone's house or in a home but you are legally detained until you're let go. You do not know when you're going to be let go, no-one might tell you this, you don't know when you're going to see your parents again. These are things that we were told. So, being detained means you need an independent system to make this accountable, where there's people you can take your serious complaints. At the moment, there probably is a complaint system but you can't really sue the government, and CLAS is no longer there, there's no Tribunal receiving complaints about what has happened, and you can't underestimate how serious some of these cases are.

If you want to bring a case on sexual abuse or rape or something, you've got to go through the whole police process and it's very long, it's very draining, very complex and very difficult. So, if you're a child in care, your options are look after yourself basically which is not good enough.

I'm speaking from the voices that I heard. I'm not trying to, you know, it's very important when I say these things, this is what people told us.

- Q. Back to your statement at paragraph 12. You talk about the dignified way that people conducted themselves at your interviews, can you give the Commissioners a feel for the way that your interviews took place? I see there were no lawyers, for example?
- A. No lawyers, yes, that was a blessing. Sorry, I couldn't resist it. It meant that the people had a voice themselves and the only time when that didn't occur well was when a counsellor or somebody came along because they kept piping up and wanted to tell the stories themselves but we were wanting to hear the person tell their own story and that was valuable because they heard their own story and at the end of it, two hours of telling their story or life experiences, they actually heard it themselves for the first time and thought, wow, I've never heard it all in one piece like that. So, it was good because we didn't - mainly because we didn't have any legal imperative, like the Terms of Reference didn't allow us to call evidence or make any findings or anything weighty like that, so we used the opportunity to say what do these people want to tell us? And we were very pleased to hear it.
- Q. Who else did you have in the room with you?
- A. Well, we had our panelists, usually three, myself as Chair or in the prisons Dr Disley, we had the other

panelists, and we had Gordon McFadyen our Director and then our facilitators, the lead facilitator was Claire Booth, and she was an amazing person.

Q. Moving on to the background to CLAS, you've talked about that from paragraph 14, what do you understand about the background?

A. I just understood that there had been increasing numbers of allegations of people who had been in care who had concerns, either in residences, family homes or foster care, psychiatric care, and I wasn't really present for these discussions, you know, before the Confidential Listening and Assistance Service, a Confidential Forum, Sir Anand Satyanand Chaired that, and those were the people who were in psychiatric care. So, I think the Crown had this huge growing numbers of people who wanted to be heard and wanted redress for what had happened to them as children and they had to do something, and they came up with the solution of the Confidential Listening and Assistance Service.

I was asked to take the position, I was told it was a truth and reconciliation model and I was sent stuff from South Africa to read and I thought wow this is a really good strategy. But one of the problems was the main perpetrator wasn't present, so they were still over in their department and so, it didn't work in that sense. And ultimately, you will see, as it played out, it didn't work in any sense as a truth and reconciliation forum but it did work to some degree because the level of pastoral care that was able to be delivered to individuals one or one, and some contacted us for 6 years, we were able to give them the time of day, if we had no money we had the time of day.

Q. You mentioned redress a moment ago, I am interested to know how many people knew about the redress options at

the time they came to talk to you or were you having to explain to them?

- A. Well, we listened at first. The way we followed the process is we just let the people have the floor and we encouraged them along to tell us all of the things and we wrote it down. Then at the end, we would ask them whether they would want their file and of course they did. So, you've asked me about files before and of course they took a long time to come. They had a quick option to see us and within three days we would have written to them and said thank you for coming, these are the things we have agreed to do for you, because we made a plan for each person, and then the files were on the plan that could take two/three years maybe longer for them to come through, then they would arrive all redacted, so that was difficult.

At the time regarding redress, a lot of people felt they may wish an apology. So, they wondered if they were owed an apology and they certainly felt that that's what they wanted. That was iterated time and time again, they wanted that more than money. They did say to us, well, money can buy you a car but it can't fix your past, you know. So, they were aware that they could approach the department but they couldn't approach us for those sorts of things but we could help and support them, which we did, through the years of waiting for action.

- Q. I want to ask about your Terms of Reference which are in the CLAS report from page 45.
- A. Yes.
- Q. I see that you had to ask for them to be expanded, tell us about that?
- A. Well, once we got into the process, it was very limited, we could virtually do nothing after meet the people and listen. In a way, the Terms of Reference were quite

arrogant because they asked us to help the people find closure. We felt that was something that was not our job because, you know, for what they'd been through, for us to help them find closure was an arrogant position, so we didn't settle on that.

You will see that we were to provide the opportunity for participants to be supported by their family, give assistance, but there is a lot of things that we were not to do. There was a no-go zone and that was set out, outside the scope of the service.

Strangely enough, Simon, you know, we spent a lot of time analysing what is it we're exactly doing because I'm really a person who likes to hone things down, what precisely are we doing here? You read the words but you're not sure. We honed it down to giving assistance and part of that assistance was the listening and that's what it was. So, it was an Assistance Service really.

Outside the scope, you will see that on page 48, we can't require or compel anyone to attend a meeting. We cannot determine liability or the truth of the participants' experiences or stories. So, that was a challenge because we had to be careful that we didn't determine the truth of anyone's story but we felt overwhelmed once you've seen 1,100 people and you had common themes, we wanted to get the Terms of Reference expanded to include that.

So, we were not to judge anyone or reach a conclusion about what might or might not have happened, including recommending a particular course of action to address issues raised or in any way attempt to resolve differences of views, acknowledge liability or make an apology for past actions by any officials, report to Ministers or share or make public any information relating to specific participants' stories or make public

comment about those stories. We couldn't even tell the relevant Ministers anything and we couldn't allow participants to have a legal representation at meetings.

So, you can see with that sort of scope, I know why because they had a lot of litigation in the High Court and they didn't really want to open that any wider, they wanted to shut that down, feeling that the High Court was not really the forum for these matters to be resolved, and that was a well stated position.

So, we thought about this and we went back to Cabinet and we said I think we couldn't bear to listen to all these people and not note common things and leg tease of effect because how could you change a system if you didn't know or have any information about what the system was delivering?

And so, they agreed and we were allowed to do that and we began to do that in our reports over time.

Q. I see on page 47 under "Reporting", the intention was for you to report to Ministers?

A. Yes.

Q. Did you always also have a view that your report should be made public?

A. No, probably not, being a good legal person, to me the Terms of Reference is what my job was. I felt that I was thrilled to hear there was going to be a Royal Commission so that some of these things could be brought out in the public but I didn't feel it was right that our particular participants' stories were brought into the public because they came in confidence meant and they knew it wasn't going to be published, they were able to tell us really intimate details about their family lives, about what they suffered, and I think it was more open with no lawyers and no publication. So, while that's limited for the, you know, hungriness of what everybody said about

their lives, I think it was to their good that that didn't happen. But now we have the Royal Commission it can expand on that.

Q. In your paragraph 28 in your statement, you talk about people being told that what happened to them was the social work practice of the day?

A. Yes.

Q. What was your view about that?

A. Well, that was one little set of words that really got my back up. Everywhere I went from a Minister's Office, it was all about the social work practice of the day as if that was a reasonable explanation for what had been happening to these children. So, we were very careful not to use it. I even had to point out that they were using it in letters that were coming out of the department and raise it with the CEO, are you sure you want to put this in your letter as a reason why people were hurt? Because I didn't believe it was a social work practice of the day, that was just a phrase they coined for sort of you know to shrug it off but it was a lot more than social work practice.

I would just like to say on behalf of the social workers, we didn't hear any criticism of social workers from our participants but we were told that, oh, this is all social work failure. I don't believe that's so. I believe there are individual cases but I do think systemic failure far deeper than any social worker and it would be fascinating to try and get a deeper understanding of what stood in the way of social workers doing a really good job because their hearts are there, you know, and I don't want my evidence to indicate to anyone that I don't understand how hard people work in this area which is fraught with difficulty, both the children who find themselves caught up in it as being in

care, but also the people who are the ones that are trying to offer some kind of support in life for those children. It's enormously difficult but you've got a juggernaut in the Department that just rolls on without maybe a full analysis of what do we need to be doing. Do we need to sort of report on our budget or to our Minister or are we looking at what do we need to be doing for the kids? I've jumped away, haven't I.

Q. I am just going to check the pace is okay for our sign language interpreters. I'm getting a thumbs up.

A. Thank you.

Q. From paragraph 30, you talk about the different forms of assistance that you were able to provide and you may have covered some of these already. You first talk about the value of being heard. Is there anything else you want to say about that?

A. Yes. I think that one of the things that we were concentrating on was to not give any indication that the people were not being heard with their story and at the end of every hearing I would summarise back to them what they had told me almost precisely and that was a lucky thing being a District Court Judge and having to do a lot of handwriting, they were recorded longhand, but that was valuable because for the participants hearing their story themselves empowered them I think because once we'd done that, we could then pull out, all right, what do you want us to do to help you in your life right now? How can we do that? And then you could identify pathways forward for them.

I don't know if that's the answer you were looking for but I think that it was profound. I could give you one little illustration of someone who was disabled who was brought forward by his family. He had been in an institution I think for over 40 years, could barely speak

for function, and after coming and hearing his story which was told by his brothers and sisters to us, and he got his CD, I was told he took the CD home to wherever he was living still in the Institute and listened to it for 3 months over and over and over, and that the outcome for him was that he just grew into a different person, unrecognisable by his family.

So, the strength of listening to his story told by his brothers and sisters to us was a tool that we could never have believed the power of. So, once he got it, it changed his life and he's now able apparently to function in some real way in the community and that was one of the most amazing outcomes that we could have expected from the simple thing of listening.

Q. Did many people ask for their CDs and what was the idea behind giving them a copy of the audio?

A. It was in the Terms of Reference, 900 and something people asked for their CD. Some of them just wanted to bury it in the ground or set it on fire because of their anger and rage at the way they had been treated. Others wanted to keep it as a memory for their family to listen to. And others eventually they were sent on to the department for Court settlement, for settlements because they could use them without having to appear again, so I know that a lot of those CDs were listened to by the historic claims unit.

Something to remember about all of this, the historic claims unit knows everything, I tell the Royal Commission that. They know everything. They have files, they have knowledge, they know how to link up the pieces, they know the damage because they supported us a lot and we used to ring them and they'd say, yes, I know that's happened over there. They know. So, if you want good knowledge, you need to plumb into their files, into their

expertise, if they're willing, and I heard the Crown say this morning that they are willing to open up the doors, so the Historic Claims Unit should come forthwith what they know. That's my opinion.

Q. I take it, the CDs were the information of the participant, not to be kept as a government record?

A. Yes, they were not to be kept as a government record. I am not making the assumption all the CDs had been destroyed because they were private and at the time we made it, we made the undertaking to the individual they would not be given to anybody and that way they were kept safe to talk to us about things that were extremely personal. You've got to realise some of these boys and girls were raped, anal rapes, all sorts, and nasty medical conditions as a follow on. All of this they told.

So, yeah, we were not going to give those stories to anybody else.

Q. You've already talked about access to files a couple of times. You said in the statement that heavy redactions were sometimes a problem?

A. Yes.

Q. Tell us about that.

A. Pages and pages, someone was so excited to get their file about their life and find they've got 49 pages blacked out. They were very angry. I think on a few occasions we took it to the Ombudsman, put up a battle to see if they could get more of the information in front of them. After all, these were their own files. I don't know the reasons. I can only assume because they refer to other people or carers or something that they didn't want to divulge. Who made those choices? I think overall, the same files came forward with less redactions on some occasions, so I guess it was down to whoever had the

black pen on the day. It sounds cynical but I think that the protective mode, you know, of the State protecting itself, was quite noticeable to us on the Panel.

Q. Can you tell us about the counselling and other support that was available for people?

A. Yes. We offered counselling for people who came forward because it was offered because of the experience of coming to us and telling us about their private lives. They needed support. And many people took it up. We were very careful at the beginning to build a bank of counsellors that we could trust because of the people who had been very hurt, if you go to the wrong counsellor, you know, the outcome is not good.

And also, I asked for feedback from counsellors which everybody said you can't get feedback from counsellors, they won't do it. But they did do it, we needed to know who came, did they get a benefit and was it worthwhile, and we found it was very worthwhile. It went on from there, sorry to mention, many people need to go for the ACC for further sexual abuse counselling and they would need longer periods of times. That was one of the systems and negotiations that we did. Part way through our hearing, if my memory serves me correctly, the ACC kind of like pulled in their horns about not wanting to support people of sexual abuse because I think they could see Legal Aid bills and ACC bills burgeoning but in the end that didn't prove so and we were able to get longer sessions for those that really needed it.

We did a whole lot, you know the pastoral care that was done by our facilitators was just phenomenal. When I used to go and visit a Minister of the Crown to try and sort of hammer home some of these things, we'd take the work spreadsheet, I'd say Gordon you have to bring the spreadsheet, so we could show how many phonecalls, how

many engagements, how much people writing the story of their lives, a myriad of different things that we did, that we tried to do to support the people. I take my hat off to both the people and to the facilitators who made that happen.

Q. Your focus, of course, was on the State?

A. Yes.

Q. But I see that you did have contact with some faith-based institutions where the State placed a child with a faith-based institution?

A. Yes, people did come forward from various places from faith-based but we could only really see them if they'd been in State care and then placed there. Gordon McFadyen who was our Executive Director, he did a lot of liaison with the churches because he didn't want anybody to be turned away without help. So, the churches in fact I believe stepped up quite a lot to receive these people where we couldn't. I am not saying there were voluminous numbers but there was significant numbers. And, you know, people could be in a place, can I say something? It's troubling, you know, if a child is in a faith-based place and they're still in State care and then in the school holidays they're given to this man, you know, and they have to go every holiday to this man and this man is an abuser. What we've heard is so worrying and it worries me now that we don't grasp this as a country and these individual children who had these experiences and they had no pathway out because their parents weren't there to broker for them and who was to do the job of looking after them?

Q. From paragraph 57, you've talked about challenges that CLAS faced, tell us about those?

A. Well, those are the things of course that are set out in our Terms of Reference, those limitations that I've

discussed before. We were not to offer any apologies or compensation. We did have some struggles because people were offered settlements and they'd get a letter and bring it into us and say I've been offered this settlement but they didn't know what it was for and you couldn't argue with the letter, the letter had its quantum, \$5,000 or \$10,000, that's it, there's no appeal process, and you know what if there was a mistake? There's no way of challenging it. So, it's difficult when people brought things to us. We did try to, you know, liaise with Historic Claims and with the process to try and help with some of these challenges.

I think I've covered most of it because they were set out in our Terms of Reference. I do say there that the stories were harrowing and I wonder, I hope we are going to talk a little bit about those stats when we get there because I really need to be sure as to the extent of the violence that was perpetrated is understood by the Royal Commission.

- Q. At 61, you talk about the time when you had to close off registrations and there were more people wanting to see you?
- A. Yes. We came to an end. I don't really know why. Nobody came and said, Chair, we're thinking of closing you down. They just did it. You know, that's how these things happen in government. So, we didn't have any dialogue particularly about how this might be handled. That's why I say it came to not such a good end but we were told that we were extended for another period of time and then they were to be closed off in 2013 but of course we had registered already 200 and something plus people we had to work through. So, at the end there was still more people coming forward and we also needed to go while these people were waiting for their files to

arrive, so there was a few people left hanging in the air with their settlements.

A massive effort was made by the Department to get those files and they started to speed up the process and put down the black pen, we got it quite a lot quicker, but we didn't get them all by the time we closed.

Q. You obviously made quite an effort to speak to prisoners but tell us about the challenges you faced?

A. Well, we saw a lot of prisoners but of course nowhere near the number of people that we would like to have seen. I started on the prison hearings, we went into Paremoremo, Wanganui, many prisons, but eventually I realised because I was occasionally on the Parole Board that I couldn't continue to do both of those things, so Dr Disley stepped up around very kindly did that.

It was hard for the prisons to adapt to our process because we wanted to go in and have a hearing that was the same for the inmate as it was for a community person, so that meant the white tablecloth and flowers and bringing in sandwiches and not being overheard by staff but ultimately, they did do it, they did do it for us, and I think they had some empathy. But of course we needed to have someone in the prisons to receive the person after the hearing because people were very shaken once they'd sort of come and seen us for a few hours and talked about their deepest anxieties, and then just go back to being incarcerated.

But I still hold the view, if it it's appropriate to say now, that it was a very good process for the prisons. And having been on the Parole Board for so long, they try to get people to do drug and alcohol counselling and they want them to do rehabilitation and they have limited resources to achieve all that but until people have dealt

with their anger, ferocious anger, they can't really move forward into those more periphery things.

So, there's a lot of people in the institutions because they've come through the care system, through Care and Protection, they've run away, been arrested by the Police, stole some cars or something has happened that they ended up on the criminal side of the ledger, then they end up being incarcerated. So, they've got on their mind what happened to them as children in care, where they may have been very seriously damaged, and many that we met were, so until this is off their mind they're stuck in that position. So, we met one man at a Parole Board hearing, just the one because after that I pulled out, but his story was just astonishing because he'd been to the Confidential Assistance Service and told his story, then he came up on my Parole Board about 2 years later, his family didn't recognise him, nobody recognised him. He'd moved on from being 16 to being 46, which was his proper age, by getting it all off his chest and then going to counselling to deal with his abuse and coming back round, he grew up in that time and was able then to take on his responsibilities as a father, as a man, as a citizen.

I think that one of the - it just leads me to a point, when we saw a lot of people that had been in care, they hadn't been able to mature easily because they were stuck with this burden of their childhood hurt and many had grown up and had families of their own and done a stunning job with their children and they came with their children who were blossoming but the parent was still struggling with life. So, these are just observations.

Q. Is there anything you'd like to say about 69 and Dame Barbara's comment?

A. Dr Disley is a very, very experienced woman in the mental health area. I think she's been involved in the recent Inquiry. She emailed me recently, I wanted to include it in the brief because she said, "After the mental health Inquiry I was left with the view that if there was one thing we could do as a nation, it would be to do whatever possible to remove abuse, trauma and violence from every child's life" and she said she knows that the people currently incarcerated will be foremost in my thoughts when I talk to the Royal Commission on behalf of those who spoke to the service. And I wanted to say that because even now, looking at the Mental Health Service, it's so obvious trauma to children but also so many ended up incarcerated, you know, in the prisons and are still there.

Q. Shall we move on to common themes from 71? Do you want to run us through the main themes you heard?

A. For those who got the report, you will see at the back of the report there's a list of the index of the numbers and so on but the main, I will see if I can do that myself because the numbers are quite stark.

If you go into the appendix, the first appendix 3 is the location of the Panel hearing and the number of people that were seen there. Then we have in appendix 5 the types of services and assistance that was provided to participants, and I referred to that earlier and you will see a load of things.

Appendix 6 -

Q. Page 54, I think, is it?

A. Yes, page 54, "Participants report on key concerns". The way we gathered this data, we didn't do it like backwards. What we did, every time we had a Panel hearing, afterwards we got together and we wrote down everything that we needed to know to keep this data

accurate. So, we did it the day after and then also before we wrote and thanked the person coming along. So, these figures were all put into the computer and they were there as we went along.

So, you'll see that, you know, remembering that we saw 1,103, in those panels you will see sexual abuse was 626, I mean we were utterly staggered by that number. I mean, it's a lot of children. And some of the sexual abuse that we heard was really serious rapes, so we're not talking something that is not of concern, and criminal activity. And that, where did that take place? Well, we didn't make findings, so we didn't have evidence, we just had the reports. But there have been Police cases and trials carried out, so there have been convictions.

And those key concerns, the level of violence. Placements decisions, 877 people were aggrieved at their placements, they were in the wrong place, as far as they were concerned, and that's what they reported to us.

Physical and emotional abuse, 787. So, things like returning home without monitoring, you need to understand when a little child goes home, they were taken into care and then they go home years later they don't necessarily fit into their family and they're not wanted, so they suffer, you know, trauma all over again because their siblings don't want them there, so they're displaced.

One of the things I did hear, is people that were taken, maybe only one child was taken from a family or whanau, because he got beaten up by a father say one day, just an episode, and went into care but others stayed and they would say but my brothers are all in business and they're successful but my life has been obliterated, I don't have a life, I don't have education. And one of the things I wanted to highlight, if nothing else, Simon,

was the lack of education offered these children. I'd give it zero on the report card for governments of the day because education didn't feature. Of course, some education featured but I don't think there was any aspiration for these kids to go to university or anything like that, let alone not leave school at 15 and go start working.

So, that would - because we were hearing from the early days, we heard from children lifting coal down in the South Island, hundreds of little boys with no under pants and grey shorts lifting coal off the back of coal trucks. I don't think education has been any government, at any time has been willing to front up with that and that is a great pity because the potential of all these persons is lost.

That's not to say that we didn't see some stunning successes, people who have educated themselves and were saying I'm going to get myself out of this, but I just highlight that because I worry now what sort of education is being given, how low quality it is. It's very hard to do but it's got to be done properly.

So, you will see in those figures, 334 people. The irony is people were taken for truancy and then they weren't given an education. They said, "I want to keep going to my school", they say "No, you can't keep going to your school, you have to go somewhere else", so lives are destroyed.

One people had been to 12 different schools ended up back at the same school and had a different name because her name was changed every time her placement was changed, so these are the practical things that happened to individuals.

Q. Can I ask you about the cultural concerns? Were people concerned about placement of Maori children?

A. Yes, well culture, this is the identity issue that is one of the key concerns. Yes. A wide range of stories where culture was extremely important to Maori community and I met a lot, 411 Maori people, so they were keen to discuss that. But I have to be honest and say, some of those Maori people had had bad experiences in State care with Maori. So, they were saying to us that if we are not in the right place with the right whanau, then it's no good. The quality of the place is the thing and one amazing woman, who I think she won't mind if I quote her today, she was a Maori lady, spent her whole life in care, she said you've got to pick the best strawberry in the box because a lot of whanau turn up to these meetings but there's only one member of that whanau who's the right one to take that child, who care, who love. So, there's a lot of whanau that look good but they may not be the right placement. So, that's the advice she gave me, so I'm giving that to the care system, make sure you get the right strawberry from the box. It sounds trite but how true it is.

So, yes, cultural, it's going to be a challenge for Maori and I am sure they're going to relish the challenge but professional people have to be the ones to decide what is the right placement. When I say professional, I mean trained people, not necessarily government people because, to be fair, I did meet a young Maori woman who was suddenly given to her Maori father and he tried to murder her. So, I'm not glossing over the fact that this isn't an easy thing to resolve, it's going to be a challenge but the culture is very important.

I have to say we were grateful because we were challenged by a lot of Maori men who were in gangs saying why wasn't I sent home to Nana? Why was I placed in this institution? Look at me, I'm covered in tattoos and I'm

gang member now and I was kind of bullied into it and I had no choice and I was only 8 when I went into care. We heard that kind of story again and again and it was not good enough because the evidence is in front of your eyes and then that man has been in jail a lot and then he's trying to provide for his children not very adequately. You know, so the thing rolls on through the generations.

Q. One of the headings in your statement is Abuse and you've talked about abuse perpetrated by staff in many cases, tell us about that?

A. Well, the abuse was everywhere we turned really. It was in the welfare departments, it was in the faith-based people, it was in people's families. We were just surrounded by it. So, we were shocked by the level of violence that was metered out on the children and by women. The reports of the jug cord and the bashings from the women in foster placements. And I do want to reiterate, this is what we were told from people, this is just about this group but it was widespread and vicious. That's what was reported but by many hundreds, so it was something that shocked us deeply.

The abuse through sexual - well, in the institutions, I mean even practices like the poor young girls having to have their vaginas looked at all the time with men in the room. I was sitting back here listening to you when you opened this, and I thought do people know that? There was a report done but we had the honour of meeting some of these women who had to give sexual favours to get in the netball team and who had to have their vaginas examined over and over when they were 7 or 8, if you went outside the institution that was the practice for the day, that everybody thought this was a good thing. But how could it ever be a good thing? And I don't think - so, those are sort of systemic issues

that were around then but there was a lot of bullying, I think there was a lot of allowing boys to have fist fights. We even heard people were shot at in a State home, they had to run through the sand dunes while they were shot at. Some of the things are hair raising.

We heard of people locked in secure care and sexually abused by staff. So, there was a wide range of very serious issues that we need to confront and I don't think it's going to be enough to say, well, this is a one-off case and we'll see that it doesn't happen again. Oh, this is a one-off case, this child died, it's a one-off case, we'll see that it never happens again. How many times have I heard that in my life? A lot of times.

So, I think systems need to be revisited.

Q. You've listed on page 55 of the CLAS report various social work practice failures and summarised some of those in your statement. Are there any that you would draw attention to?

A. It's in the report, isn't it?

Q. Yes.

A. What page is it?

Q. Paragraph 80 of your statement and page 55 of the report.

A. Yes, we did this because we tried to distill or we wanted it to be used as a platform for the Department to focus on it they were trying to look at what we said, although strangely enough, I met the chief social worker a couple of times after this was all over and wondered how much had been passed down from our report or from the historic claims into the Department to adjust. But at that time, I don't think there had been any communication whatsoever, maybe that's changed but I doubt it.

So, you know, the flow of information doesn't necessarily get through.

I do know that our report, we met with Paula Rebstock and our report was well received by Minister Tulley at the time before the review was done by the Department and it went to Paula Rebstock. Let's look at the social work practices. The biggest one for us was number one, failing to follow the policy. It's worth looking at this list. New Zealand writes wonderful policy but we don't implement it very often. I think even an Australia Professor said to me New Zealanders are all talk, you know. We have these amazing ideas but we don't always implement them.

So, failure to follow policy knowing at the time that they weren't. An example of that is keeping young people in solitary confinement when there was a clear direction they were not to do so, and there will be other things, they go on doing whatever they do on the ground regardless of policy.

That's an extreme statement from me but that's how I felt at the time.

Social workers failed to monitor and provide real oversight of the children. I think failure to monitor was the biggest one for me. These children, I don't know how often they're looked at but when they went to see, they saw the carer, they didn't talk to the children on the whole.

And they didn't check where they were sleeping, who had access to them. A lot of the sexual abuse occurs, you don't know who has access to the children when others come around or people go on holiday and they give them to other family members to look after and their friends come around. There is a whole plethora of things that can happen to children, they can be moved from their beds, for instance, to be abused and all of those stories were

heard by us. So, the monitoring needs to be pretty robust.

Social workers didn't seem to be trained necessarily to pick up abuse. So, I don't know about that now but that was a view, up until recently they didn't have the education to pick up abuse.

Now, the transitioning of children in and out of care was crucial and that didn't work well and we even heard people saying you live in that white house over there, off you go. That was the transition to someone who hadn't lived there for years.

Multiple social workers, so change, change, change, change, change, change. Communication, all of that regarding not communicating to the children when they'd go home or what their process was going to be or engaging with the child.

Social workers leaving children in the care of known abusers, saying it won't happen again. We know that it happened once but he's promised me, no, it won't. It happened again.

Then another big one, which may still be an ongoing irksome thing, is the mixture of Care and Protection children and Youth Justice children in the one residence. That has been something which you try to avoid but it does happen and vulnerable children who are there just for care can be lumped in with incredibly tough bully damaged children and one of the social workers told me that, you know, they'd see a kid bang his head on the door of the home, you know, 6, 7, 8, 10 times, so the monitoring is important.

Lack of support for the carers is a big one.

Carers need a lot of support, there's a lot of work that needs doing.

And multiple placements. People have 40 placements maybe, so your life outcome if you're having to engage a lot of times, one man said he just had a paper bag with his stuff in it and he just waited for the black car to come, pick up his paper bag and move on, knowing that he'd meet somebody else.

And then this abandonment by the system after a placement. I think some of the social workers call it dumping kids that they can't find a good placement for. Bearing in mind, I know this is not easy work. And then the failure to provide the educational vocational opportunities, failing to provide professional support and counselling, medical and dental care. There was a time they went around and pulled out all the children's teeth, you know. We met these people, my God, they said people just came in and pulled their teeth out, the whole mouth in one go. Looking for family options. Failing to find placements in family and whanau. When they found from their files that people had been writing and uncles and aunties were there that could have taken them. That's where the files came into their own. Sometimes parents were there all along and they'd been told their parents were not there.

Many Maori children were institutionalised as soon as they came into care, and I think that became noticeable to us right away, the boys especially, straight to the Hamilton Boys' Home, sort of thing, rather than a good and thorough look around to try and find a community placement.

The staff seeking sexual favours for cigarettes and other privileges. You will see in the stats, I think about 131 people complain that they had a cigarette addiction they got from being children in care, and that

was quite interesting, so that was a commodity to trade with.

And poor evaluation of the cultural placement. There's a lot of things but we just do the highlight. We did it because we wanted the social workers to thoroughly go through it and see if they believed that some of those things were things that they could fix.

- Q. Can I ask about the psychiatric context? There had been the Confidential Forum for psychiatric patients but you did hear from a number of people who had been in psychiatric care, is that right?
- A. That's true, we did, a lot. Some people had come twice. They'd been to the first Royal and they came again but others came for the first time. So, we were doing health, education, welfare and health camps. So, we had a number of psychiatric patients, I haven't got the numbers at my fingertips but they will be in the report. I think, you know, fundamentally they felt there was no wellness in the system, like they weren't trying to get well. They were given heavy medication, manhandled against their will, no consent and a lot of people went into psychiatric care where they wouldn't now, like if they had postnatal depression, a lot of women who after the birth of their children found themselves in the Mental Health System. Whereas, really, that wasn't a good outcome for them, especially the drugs that were given to people, I mean the quantities of drugs possible.
- Q. ECT as a punishment on occasion too?
- A. That's what was reported to us. And a lot of those kind of reports have been done earlier in other investigations but we still had people coming forward talking about their time in the Mental Health System.
- Q. From paragraph 90 of your statement, you talk about the legacies of effect on those who have been abused in care?

A. Yes.

Q. You've covered much of this already but is there anything you would like to highlight?

A. You see, I thought when we lodged this report that the government of the day would be really concerned about the level of incarceration in adult prisons of this group. I mean, it's in there, 330 or something had had prison sentences and very high numbers in criminal behaviours and they all came from the care system. I thought New Zealanders would be shocked but, you know, not a ripple. So, I just think they just don't know just how dangerous this strategy taking children into institutions, how very dangerous it is. The children are not safe and I know I've spoken to, you know, people like Margaret Bazley and others, it is a risk to take people into care, it is a balancing to get it right, but into institutions or homes is a far greater risk.

Q. I'm just about to move on to your recommendations and lessons. I will just check with the Chair, if I may, whether this is a time when we may need a short break for the stenographers and sign language interpreters? Maybe just 5 minutes?

CHAIR: Yes, I think that's a good thing to do. The pace has been very steady for a lengthy period, so a short adjournment may deal with that.

MR MOUNT: Yes, thank you.

Hearing adjourned from 12.20 p.m. until 12.33 p.m.

MR MOUNT:

Q. Judge Henwood, before the brief break, one of the topics was sexual abuse; is there anything more you would say on that subject before we move on?

A. Yes. I'll just make sure I'm glowing. Is that working? Yes, I would like to expand on that a little bit more because the people who were sexually abused as children were equal in numbers between men and women, and that was very surprising and I wanted to just emphasise that. A number of boys were sexually abused, we didn't expect it, it was a stereotype image that young women get raped, and they do, and also we had a lot of complaints of women having or girls having to put up with regular sexual intercourse with foster fathers and they would rather do that than be moved because they liked the place they were in and they liked the mother who didn't know, so they would just do it, take it on the chin.

But it was the boys that were suffering the sexual abuse in large numbers and we met with Ken Clearwater, he came along very upset about the number of boys that were abused in care and it was rife, yep.

Just one thing while you're turning the page on the legacies of effect, I mentioned the criminal convictions and prison sentences but also, not everybody went to prison obviously and some people stayed in the community. So, 703 said they found it very hard to trust other people and also complained of difficulty in forming relationships, so they had short marriages and short partnerships and they had children but they were always finding it a struggle to form relationships because of the lack of attachments when they were younger and the lack of coping skills.

Just as a - someone told us who had been sexually abused by a pedophile, not by someone in the State, he was in State care but now in prison on a charge of murder. He explained to us that the sexual assault had been so serious on him as a child that he lacked the coping mechanisms to deal with high anxiety issues as an

adult which brought about his behaviour, that brought about the assault that resulted in a murder. It all stemmed back to the sexual abuse. And most of them said to us, the men, that they could handle being beaten up but the sexual abuse was the thing that made them enraged inside. And so, I just wanted to emphasise that because it's the enragement that is buried in the heart of these people because of their being made some vulnerable by being preyed upon in that way and some of the legacies of affect were medical conditions, you know, anal rape is not a nice thing when you're a child and they had to have medical procedures and things in order to try and rectify. This stuff is disgusting but we should pay attention because unfortunately when we issued our report not much attention was paid.

Q. Let's go back to your report, the CLAS report, page 37, part 6. It has a series of recommendations.

A. Yes.

Q. Would you like to expand on those for us or the key ones in particular?

A. Page 37? I'll just quickly go through, we wanted the report to be released and made public with the response from the government. Well, it was released and there was a response which we can come to shortly but at the time, the response didn't come until September 2016, whereas we did this in June 2015, so it took a long time to get the response.

But, as I do want to say what I said before, the Minister did put it before Paula Rebstock for her knowledge. We did say we needed there to be urgent steps taken to resolve the claims of abuse and neglect for people who were in care, and the claims in the High Court. It seemed to us, this had been dragging on decades and there's going to be a point in time that

these claims have to be settled, so why not just get on with it? By then, they had started a fast track system of settlement but I don't know how that played out. I heard from the Crown today that there were 4,000 claims, so that's a lot.

Then we get to number 3, acknowledge the need for accountability in social services sector by designing and implementing an independent body such as the IPCA to resolve historic claims and current complaints and to hold the sector to account. That's what I'm still hoping for, still pushing for. There's always a reluctance to setup yet another government institution but the social sector can run free at this time and I don't think the service does well without having that in place, so I think maybe it's time to face up to spending a few dollars and getting that put in place and it may save lives in the long-term.

- Q. I don't need you to go into detail necessarily but what would you see as the main features of such an independent body?
- A. It's something I will have to give some more thought to because it's not my role but I'm quite good at designing systems. I think there needs to be somewhere independent where people can take their complaint and findings can be made that this has happened, why it's happened and then action can be taken with some kind of punishment or some kind of cost to the Department, so they have an incentive to change their outlook on life. Whilst I don't want to be too critical, I just believe that they have encountered quite a sense of entitlement, like we know how to do things and it doesn't matter what, we'll just continue doing them the way we do them. And you've got this big department and the Ministry and Oranga Tamariki, there's a lot of components to it, a lot of moving parts,

and what I've learnt is what happens in Head Office is not necessarily linked to what happens out in the field. So, you know, I've mentioned, I think, that there are lots of nuts and bolts missing in the system, so if you're building a building it would fall down because the nuts and bolts are the key issues, you know. I could give you that example I once mentioned, I did an Inquiry, I think in 2004, and I asked in Head Office could I meet the person whose job it was to find the good beds in the community because that after all is a key role and I asked again and they said we don't actually have anybody doing that job. So, you know, that is a big nut or bolt that's missing because if your only job is to find good beds for the children, why isn't there a Head Office component then linking up? Like if you're in a Army, you're not going to move your Army without somebody strategising where you're going to get the beds for the night.

So, I think there's a lot of things that need to be looked at around the nuts and bolts, not the high and glorious policy statements.

- Q. Just pausing you there for a moment. One thing this Royal Commission will be able to do, is to hear directly from Ministry officials and others and ask them questions about their systems. I take it that in CLAS you never had the officials before you in that formal way but how were you able to get information about the way the system worked?
- A. Well, just by listening to all of the stories and seeing it and plus I also have some experience and have done reviews of the system. But we want - I would like, I will get up to what I would like for the Royal Commission to do but staff have contacted me, staff that have worked 40 years in the Department who have got things they want

to say, and they would be very valuable people to meet with, to see what they perceive as the daily obstacles around the way the structures operate.

Going back to the recommendations, we did ask to lift, number 4, to lift the veil of secrecy and use the data from the Confidential Forum, Confidential Listening and Assistance Service and the Historic Claims team and the Confidential Forum and the Ministries of Health and Education as a basis to offer a public statement to the people of New Zealand about what had happened to those who suffered abuse and neglect in State care, and acknowledge the wrongs of the past.

So, that's what we wanted to occur. We weren't asking for apology, it wasn't our role, but we felt that the team that I mentioned there could pull together and give the government a basis to make a public statement at the end of CLAS but of course that didn't happen.

Now, one of the key issues for me was the duty of care. So, one of the things that shocked me the most when I started the job I thought, right, where's the duty of care because if we're going to see people who have suffered, and I started ringing around asking, where is the duty of care? And it transpired there has never been a duty of care articulated in the law as clearly as that. I was told, well, do no harm seemed to be the duty of care. Well, that left me flabbergasted.

As we went through the whole 7 years, it appeared to be the State, the State of affairs.

So, if you haven't sat down and developed a duty of care for your children of the land that you are taking, then you are a long way from able to deliver good care because of course it starts with what you believe your duty is and what that looks like, what shape that should take.

So, we wanted that and a new independent care service. So, at the time we were doing this, we had understood from people that we heard from, that the care service isn't a separate entity with a person running it and staff and policies and practices. It is all in the one place along with social workers doing emergency services and scuttling around doing this and that. What it is now, I don't know because I haven't been a lawyer working in that field and it may be that they have got an independent care service but I thought at least you'd be able to see that, measure it and get accountability from it. But while it's a big amorphous thing, you can't really measure it or get any - everyone is running from emergency to emergency, so that's not a very good position to be in.

So, I wanted them to design and implement an independent specialist care service, so that was what one of our recommendations was and make a commitment to ensure that practice follows policy by ensuring accountability at all levels within the system. And we felt that that was crucial to getting any kind of system that works. They've got the new department and they're still in the throes of drawing up whatever they're drawing up around practice and policy and duty of care but it's a long time coming. Meanwhile, we have children out there who need everyone to be completely clear about who's doing what, why are they doing it and how are they doing it and how that all interfaces culturally with the communities?

Yes. There's two others there around the prisoners and the independently review the data. We wanted all our data independently reviewed and put into the policies and practices of the department. I don't think that has

happened. We don't have a very good strike rate, I'm afraid.

Q. And the prisoners, what was the recommendation in relation to prisoners?

A. Because of the success of the listening panels inside the prison, I took it up with the CEO of Corrections and also put it in the report, that they would look to having a listening service inside the prison, an independent listening service, so they could continue on with the work we had done. It is not a hugely costly strategy but it's enormously beneficial for making safer society which I think we hope that we can based on some kind of rehabilitation but it's shallow because it hasn't dealt with the issues that these men and women who are in prison have confronted.

So, I definitely say they should have a look at it.

Q. What was the response to your report and to your recommendations?

A. Well, firstly, as I said, we originally met with the Minister of Social Welfare and that was Anne Tolley at the time and you will see she signed the letters. I was puzzled at the structure of this. If you remember back, I said I'd been asked to Chair truth and reconciliation model which was setup like an independent entity inside Internal Affairs, a little bit like a Commission of Inquiry but not the same, and I had imagined that our report would then go on straight up and that it wasn't owned by the Department of Social Welfare because they were the perpetrators, they were just one party. But somehow it didn't turn out that way and they were able to seize back the ground and bring it in-house to continue on the job that CLAS was doing. And then, their Minister was the one that was responding and suddenly it became a welfare, you know, Department of Welfare strategy. Had I

been asked to do that at the beginning, I would not have taken the job. I took the job because of its independence and now it's sucked back into the Department for whatever reason because I wasn't party to that.

So, then I end up having to deal with the Minister of Social Welfare and also the response that was written to our recommendations was written by the Department of Social Welfare. So, I understand that Internal Affairs Education and Health were part of it but they didn't really play any role, that it was all written by welfare.

So, I was overseas at the time when I got this in September 2016 and oddly enough, I'd been talking at Oxford about all of this whole access to justice situation and this arrived on the email and I was very concerned to receive the response for two main reasons.

At clause 19, it said, "The final report is written from the experience and knowledge of the service. The service", that's us, the CLAS, "The service did not undertake any consultation with agencies to validate the report's findings or provide an opportunity to correct any inaccuracies". So, of course I wanted to set fire to my hair when I heard that because obviously the person hadn't read the report or the Terms of Reference because it's quite clear we were not to make any findings and we did not make any findings, and here they are criticising me for not getting the agencies to validate our findings and they were the participants and they were allegedly the perpetrators of the abuse of neglect, so why would I ask them to validate our findings that we didn't make?

So, those sorts of inaccuracies are, you know, after 7 years and all the work that our people put in, it was not impressive.

Then that goes over to my next concern. In clause 33, "Across the sectors there is no evidence that

the care systems were universally broken". I don't know what that means, universally broken. "Some people who have made claims had periods of positive caregiver environments as well as abusive experiences", I don't know if that was supposed to be a good thing or not. I doubt it was a good thing to be only partly abused.

"The majority of children and young people in care had positive experiences with no abuse or neglect". I wondered what Inquiry had taken place to give the confidence to make that statement because as far as I knew there had been no Inquiry about the numbers of young people in care who had had positive experiences with no abuse or neglect. And that is stated as an actual fact.

Then it says, "The number of claims received by the Ministry of Social Development compared with the total number of children placed in care suggests that approximately 3.5% of children in care may have been abused or neglected in some way. This has occurred across all types of care, residential, foster, family, whanau and community provider. A universal apology is therefore not recommended".

And somewhere else it says it's not warranted and I thought -

Q. I think that might be Clause 10 in the Executive Summary.

A. Oh, Clause 10 of the Executive Summary?

Q. Yes.

A. "The service recommended a public statement", that was true "but the recommendation was not supported on the basis that the government considers that the majority of children in care did not suffer abuse, so a universal apology is not warranted. However, apologies are made to individual claimants whose claims are accepted".

So, I have to admit I shed a tear when I read this because not warranted is very harsh. When you've heard

from 1,103 people so hurt and suffering and the best you can come up with is a universal apology is not warranted, is not good. And this went to Cabinet and it was accepted, not by some Cabinet Social Committee, it was accepted without question as the truth of it. And those are the statements made in clause 33 about the 3.5% of children in care may have been abused but we couldn't work out if we hadn't had an inquiry into the extent of it, how would you know that? That was something that somebody calculated based on the number of people that were suing them, I understood. So, I mean, we had heard, we were working for 7 years and some people came from a whanau, they were just one representative and they had a whole range of siblings that would have come but said you can speak for us. They talked of the children that died and I think if you look at statistics around suicide, if you looked at the children that died, and I had a man who said to me I've come to tell you my story but also that of my Maori friend, that the Maori children had a much worse time and he died. So, I'm just not willing to accept this 3.5% that's put there as an absolute fact. It's gone now into the records of our Cabinet and I felt that was a national disgrace. Strong words, I know, but it's just not good enough servicing for our survivors and the people who have been through this. And the minimisation of, you know, this piece of work is very serious and I want every Kiwi out there who watched the rugby who turn their energy and minds onto these kinds of problems that we need to resolve just as much as our sporting prowess. It is a bit off topic but you know what I mean.

- Q. If we now turn to the last section of your brief on page 19, you talk about your aspirations for this Royal Commission. Perhaps before I get you to read that

section which I think is the way we'll do it, are there any other comments that you'd like the Royal Commission to hear from you?

- A. We've covered a lot of ground, I guess, and I do want to read that poem that we sent to John Key.

I just try to, it's hard for one person to bring alive and imagine what 1,100 people look like. You know, it fills up a huge auditorium and all of those little kids and what they suffered, I really want you to keep that in your mind and keep focused on what this is all about. It's about the children of the past and the children of the future and how we're going to take care of them and what is the best way forward? There's no simple answer. I did actually go to Paula Bennett and say we need a big thinker on the case. That was really about resolving all of these issues because we had historic claims and we had the Courts and we had CLAS and people feeding different departments, we needed a big thinker to make a strategy that was going to work and be effective. The message I got back from the Attorney-General and others was everything is fine the way it is. So, it just tells you how very, very difficult it is to get the juggernaut to even think about some helicopter thinking about how this could be done better.

- Q. If you start from paragraph 109?

- A. Yes, it's easier for me to read out what I hope for the Royal Commission because I don't want to get it wrong, my language is a bit loose, it's also emotional this, you know. It brings it all back to me.

- Q. Aspirations for the Royal Commission.

- A. I hope that the staff at the Royal Commission and the Commissioners are aware of the potential trauma for the participants who decide to re-engage with another process

and that they take due care when encouraging evidence and engagement. These participants have already provided so much. Their bravery and courage in coming forward for the service was remarkable.

In my view it is crucial to consider in detail the practices and policies of the social services agencies working with children in care, particularly with regard to systemic failures. The service was unable to investigate these policies and practices and there must be a comprehensive assessment of the system in place which at present appears to be invisible from external assessment.

So, you know, you have to turn over every rock. You need experienced people to tell you where to look because it's not easy. When I did something, I read the auditor's report, it said all the plans for these children had been changed and they'd said that every family had been contacted. When they did an audit, they found no families had been contacted. So, I am alerting you to there's many places that you can look and should look if you want to be able to make the system better. How is it able to continue on and everybody glosses over known errors, probably because it's so very hard but nevertheless, it needs to be simplified and made clearer.

I would expect the Royal Commission to speak directly to staff who have worked there over the years and are willing to share their wealth of knowledge of the systemic issues.

So, I know it must be difficult for staff listening to all of this because they will be thinking that they're under siege but they're not. I met a lot of staff and outside the service, who said to me I know we could have done a lot more for that family or I know but you know they hadn't ever been challenged and it was only a Court

case that challenged their thinking. So, I think we need to get that advice from staff who worked there and find out what their views are and collate those because they will expose another painting.

Because it's not always about money, you know. It's always about just thinking needs, what do we need to be doing? Not do we need to just, you know, answer our budget remit or our Minister's thoughts of the day. It's the job you are asked to be doing.

So, I did not think that a Royal Commission with wide ranging investigative powers would be necessary, that is when I finished our CLAS service because I thought there would be an investigation of the care system as a logical follow-up from the findings. As the Ministry or Department's response was as shocking as it was dismissive of the voices of the victims who had been abused in State care, I was disheartened by the fact that the Cabinet Committee accepted the response without reservation and to my understanding not much progress was made with our recommendations.

I know that they were making a new department and, to be fair, that's been a big piece of work that's underway and we all hope the components of that department will answer many of our worries but I do really emphasise I want, if nothing else the Royal Commission does beyond this Inquiry, it focusses on the Department.

I think I said this before but I will repeat it. I believe there are many dedicated people working to achieve the best care for children in New Zealand. Occasionally over the years I have encountered an attitude at the high levels within the social service agencies that there is little wrong with the present

structures, that they know best and that actual risk or harm is minimal.

The way the systems are set up contribute to this issue and commonsense does not prevail. Maybe financial considerations are the driver but to that end, I consider the Royal Commission's assessment of the social services industries practice, policies and attitude therein to be essential. That's just saying formally what I've just said more loosely.

So, likewise it's important for the Royal Commission to look at the systems of accountability what currently exist and might be made more robust.

And it's not, what you're going to be faced with the same challenge that we did, we made a report but at the end of the day is anyone going to do anything about it? You know, there's a bit of a joke in New Zealand about Royal Commissions being door stops and all that, you will have heard those. You hear cynicism in the media, you know, it's difficult, nobody is going to be helpful. So, it's a mountain you have to climb but it's worth doing and I think it's a great honour to have a crack at it and I do hope that you can do the work that's needed for our country. After all we remind ourselves, 4.5 million people here, how hard can it be to shape up a system that's going to work culturally for all of New Zealand, for Maori, for all of us?

So, do you want to ask me anymore questions or shall I read this letter?

Q. I do want to cover one more topic briefly.

A. You can. I am open to questions. I have been talking a long time.

Q. You will see in the government response document -

A. Yes.

Q. - near the end, clause 44, under the heading, "Disability perspective", answer "none".

A. Who wrote this thing? I don't know.

Q. You mentioned earlier that there's a challenge for CLAS to hear the perspective of particularly intellectually disabled people?

A. Yes, yes.

Q. But do you have any thoughts that you can offer to our Commissioners about how they could do better in terms of ensuring that the disability perspective is heard and addressed?

A. Well, there are people working in the sector who are very knowledgeable and wise, and I am sure that they will come forward. How you get to engage with individual citizens who are suffering from a significant disability will be a big challenge. I am pleased that you have this as a specific entry point at the Commission.

I'd like to think some more I can tell. I mean, we went endlessly to organisations that purportedly represented the disability sector and besieged them to help us get access to the people but we were not successful because it was all of the blind people, we didn't see really more than one or two. As I said, the Deaf Community, but then there were individuals in wheelchairs, the carers did bring them forward and we did struggle through but I felt that lacked, that we didn't do a good job. Not that we weren't willing but we couldn't find a pathway through. So, I wouldn't give us a high mark on the report card for that.

But when you look at this document here, it says, "Human rights implications. The government's response to the final report of the Confidential Listening and Assistance Service is consistent with the Bill of Rights and Human Rights Act 1998." Well, that's a pretty strong

statement, given everything I've been saying, and they felt they were consistent with our human rights. It's really extraordinary.

"Gender implications, none. Disability perspective, none." You know, so, as I said, I don't really have much confidence in this response but more disappointing is that the Cabinet Committee was not more on its toes to see through this response from the Department. And it wasn't a truth and reconciliation response that was handed over to the welfare department to write back and CLAS and that I felt was very, what's the word, I can't even find a word. I didn't think it was a lawful structural strategy that should have been followed.

MR MOUNT: Mr Chair, may I take one moment to talk to Ms Haronga who worked with Ms Henwood on the statement?

CHAIR: Certainly.

MR MOUNT: Your Honour, thank you very much for your evidence. I think you wanted to close by reading paragraph 115?

A. Yes. The reason, when people came to see us, we tried to assist them or give them as much support to do something positive in their lives, albeit get their life story written or connect with whanau or their cultural background. And one woman came to see us and she'd written us this poem, she lived in the South Island, she was not a Maori person and she wrote this poem and we could think of nothing that we could do to help her, so we decided to see this poem was sent to the Prime Minister of the day, who was John Key, and get an assurance that he had actually read this poem. And we did get that assurance. I hope that when he head it,

because it does sum up everything that I've been trying to say and it's called, "A letter to the system:

To whom it may concern

To the one without a face or a name, here's a letter from a ward of yours who carries your whole system's shame.

You pulled me from my parents

This I accept and understand,

But while I was taking this journey.

Who was there to hold my hand?

I was told I belong to you,

It was your job to watch me grow,

But I don't think you were able to see me,

With so much moving to and fro.

I was quiet and shy and unsocial,

Distrusting everyone as I grew

You were blind to all that bruises them,

Please don't be blind to the scars now.

In your care I learnt my value,

I learnt my lesson, my worth, my place.

In short I learnt I was not a child

But simply another hopeless case.

Your carers stole my childhood,

He with his dirty old man hands.

And her leather belt and punches,

No-one caring where I land.

So I write this letter to you

And I ask that you take some blame,

But I cannot sign it sincerely

When you left me with so much pain."

MR MOUNT: Judge Henwood, thank you very much for your evidence.

Mr Chair, we are at that stage where it's appropriate to inquire of the participants if

anyone wishes to seek permission to ask questions. I wonder if we go through that exercise now before we break, so that we know whether there are any questions on the topics that people would like to ask about?

CHAIR: Yes, I think that would be a sensible way in which to progress things.

Are there any expressions of a wish to ask Judge Henwood questions? Counsel first? There aren't.

MR MOUNT: On that basis, Mr Chair, I wonder whether it's appropriate for Commissioners now to ask any questions that you have or whether you'd like to have the break now for an hour and return to that after the break?

CHAIR: I will just solicit a view about that. (Chair consults with Commissioners).

Judge Shaw and Dr Erueti have two questions.

CAROLYN HENWOOD
QUESTIONED BY COMMISSIONERS

COMMISSIONER SHAW: Mine are very short but before I do, I want to acknowledge your evidence, Judge Henwood, and thank you very much for it.

The first one is a matter of detail. You referred to Paula Rebstock and the fact you referred your report to her or in some way consulted with her. For the record, can you tell us what was her role at that time?

A. Well, we gave the report to Minister Tolley and she gave the report I believe to Paula Rebstock.

COMMISSIONER SHAW: In what capacity was Paula Rebstock?

A. Paula Rebstock was doing the report for the government on State care.

COMMISSIONER SHAW: I am trying to make sure we get that clear for the record.

A. She met with us for many hours and talked to us about anything and everything that we could advise her. But her report came out on a date a long time after that. I don't know whether it was taken into account but I'm sure she did.

COMMISSIONER SHAW: Okay, that's the first question.

The second one, you referred in your recommendations to your belief in an independent care service.

A. Yes.

COMMISSIONER SHAW: And I'm just wondering whether you see any relationship between that and the current Children's Commissioner role or do you see it as something different from that oversight role that the current Children's Commissioner does?

A. I'm talking about the actual care service, those delivering the care. The Children's Commissioner is the accountability. I'm talking about the services delivering the care to the children right now. I don't mean independent necessarily from the State. I mean independent from the Department because the Department is a big department.

COMMISSIONER SHAW: Yes.

A. My understanding, at that time when we said that and made the change, the social workers were doing emergency call-outs. It was not a dedicated just doing the care. So, everybody was rushing around doing a variety of jobs and I couldn't see how you could have a coherent care system without an actual care system.

COMMISSIONER SHAW: So, the difference is between the oversight of the Commission, of the Children's Commission but you're talking operation?

A. Delivery of care.

COMMISSIONER SHAW: Delivery of the care?

A. Yes, not such a haphazard way.

COMMISSIONER ERUETI: My question follows really from my colleague. You also mention that in your recommendations that there could be an independent body akin to the IPCA to hear complaints about historical and contemporary work. Was the vision that that would replace the historical claims unit administered by MSD and redress schemes operated by the Ministry of Health and other agencies?

A. Definitely, yes, that's all the Department doing their own thing. I am talking about an independent organisation setup specifically to receive complaints, like a Tribunal or like the Police Complaints Authority, for those people who are children, who suffered in the care of the State.

COMMISSIONER ERUETI: Thank you. And I want to ask about the Treaty. You do note that from participants the view that you had was that Maori children were more likely to be escalated up to the residences and also to be picked up for quite trivial reasons like truancy for example. I just wondered from your view, what you got from the participants about the reasons why this was the case?

A. Well, we didn't talk politics with the participants because they'd come to talk about their family life. So, in a way we didn't but then as we went through, we started to see a pattern emerging; oh, isn't it funny all these Maori boys seem to go straight into a home, into like the Hamilton Boys' Home or into a place where they were incarcerated, rather than another kind of placement. It started to become noticeable. So, it's hard to imagine when you're doing these hearings you're not talking to them about - you're talking about Mum and Dad and their life, not about the rearrangements of the State and all of that. But we noticed it over time, just as we noticed a lot of people hadn't developed as adults because of the suffering that they had as children, even physically.

COMMISSIONER ERUETI: Okay. Just another question on the counselling that was provided. I see that participants were offered 12 hours of counselling?

A. Sessions, yes, 10 or 12.

COMMISSIONER ERUETI: Just for clarity, for those tuning in, the ACC funded counselling was for only those who had been subjected to sexual abuse while in care; is that correct?

A. ACC counselling, yes. The counselling we provided was for coming to see us and also for getting their files.

So, that was a separate piece of counselling and we spent a lot of time trying to match up the right counsellor for the right person because it's very difficult for some really angry gang members to get them a right counsellor, it is an art form to help people. But those that were referred on, our facilitators and so on negotiated with ACC to get that ongoing counselling.

COMMISSIONER ERUETI: Yes, I see that. And the significance of ACC funded counselling is that it endures beyond the 12 sessions?

A. Yes, long-term.

COMMISSIONER ERUETI: Could be long-term but that's only - it's not available to those who have not suffered sexual abuse while in care?

A. That's my belief, yes.

COMMISSIONER ERUETI: One last thing. I thought it was interesting the innovation, the pastoral care about how you provided help to participants keeping the lights on?

A. Yes, getting the power on. We worked hard to get jobs for them, tried to get them work, counselling, just rebuild their lives. Some people who were on parole who were showering in public toilets. A plethora of things we tried to help with and get them connected to their Probation Officers. Just trying case by case an intense pastoral care package which I think is quite unique, it's not been done in any of the Royal Commissions, so I think it was a very, very valuable service because we were there 7 years. I think we had one person who rang us every day for 7 years and we didn't mind that because we were there to support. Thank you.

COMMISSIONER ERUETI: Thank you.

A. At the end of this I wanted to acknowledge the people because today I have come forward for the participants, I

didn't want to concentrate on the staff or the Panel members of CLAS because that was not our focus and that was not my reason for coming, it wasn't about the service we provided, it was about how we were honoured by the people coming forward and sharing their stories. But in the end I do want to refer people to page 7 of the CLAS report which does have the listings of the Panel members and the staff that were there. I wonder if I could take one second to say that because you can't know the effort that was made by them. So, I just would like to say Gordon McFadyen as Executive Director, Claire Booth, Shelley Gabrielle, Kellie Coxon, Audrey Barber. And Claire, Shelley and Kellie, they were the ones that interfaced personally with every single participant and took their phonecalls and registered them and gave them all the pastoral service.

And then Phillipa Shierlaw, Ruth Lewis, Jill Leech, Matt Hakiha and Wiebke Ashby, all of those were on the staff. Then Dr Barbara Disley, Paula Daye, Malia Hamani, Bob Newson, Dr Ian Hassall, Doug Hauraki, Janice Donaldson, Winifred Jackson, Areta Koopu and Mike Noonan, they were our Panel members and their warmth and support given to the participants that came forward was outstanding. I just wanted to mention them in closing.

MR MOUNT: Judge Henwood, thank you again very much for your time and for your evidence.

CHAIR: Thank you, Judge Henwood. Thank you, Mr Mount. That does now seem a suitable time for us to take the luncheon adjournment.

Hearing adjourned from 1.22 p.m. until 2.30 p.m.

MR MOUNT: Mr Chair, just before we start with the next witness, I can advise the Commission that, as you know, the National Collective of Independent Women's Refuges have been granted leave to appear at this hearing.

CHAIR: Yes.

MR MOUNT: They are to be represented by Jane McCartney QC and Ms Naughton. Ms McCartney QC who was here earlier and had to go to another matter but Ms Naughton is here and I wonder if it's appropriate to acknowledge her presence at this stage?

CHAIR: Thank you.

MS NAUGHTON: I am appearing for National Collective of Independent Women's Refuges.

MR MOUNT: I suspect that may not have been picked up by the microphones. The National Collective of Independent Women Refuges have been granted core participant status and on behalf of the Inquiry we look forward to their participation in this Inquiry.

CHAIR: The Commissioners endorse that, thank you.

MR MOUNT: The next witness is Mr Keith Wiffin.

KEITH WIFFIN - AFFIRMED
EXAMINED BY MR MOUNT

Q. Mr Wiffin, good afternoon. For the record, your name is Keith Wiffin and you live in Wellington?

A. Correct.

Q. In front of you, you should have an 11 page statement dated today, 29 October 2019. Can you confirm for us that that is true and correct, to the best of your knowledge and belief?

A. I can confirm that, yes.

Q. Mr Wiffin, we are going to take as long as it takes and if at any stage you would like a break, please just say so.

A. Understood.

Q. The first topic we have addressed in your statement is how it came to be that you went into State care in the first place. Could you tell us about that?

A. I went into State care after the death of my father on his 39th birthday which left our mother trying to care for four children with very little income or support. I was 10 years old at the time, I had two sisters and a younger brother.

My mother was not able to care for us after my father's death. This, plus my reaction to my father's death, led to the decision to place me in care.

Q. This was in late 1970, I think?

A. Correct.

Q. I think there was a brief Court appearance. You probably don't remember the details of that being 10 years old at the time?

- A. I don't remember the detail, I remember the event and there was, yes, a Court appearance.
- Q. And you said the next thing that you remember was being in the back of a van heading out to Epuni Boys' Home in Lower Hutt?
- A. Correct, and it was my first introduction to the culture that awaited me, as on the way out there in the van with other boys, one of the other boys, for some reason, didn't like the look of me and smashed a guitar over my head. So, I walked into the institution picking bits of wood out of my head.
- Q. We are just going to adjust the microphone for you, Mr Wiffin. Don't feel that you need to strain in any way, that's our problem to worry about the sound.
- A. Okay.
- Q. I want to ask you about the culture at Epuni, you were 10 years time at the time but from what you're saying I think these memories are strong, so tell us about the culture that you found when you got there?
- A. Well, the culture was a very violent one. The boys, for example, had what we knew as the kingpin system. That system was overseen by the staff, used by the staff to sometimes sort people out as they saw fit. It was totally foreign to me and it was devastating coming from that previous environment which was essentially a loving home. There was a lot of hardship but there was no abuse.
- Q. The kingpin system that you talked about, what did that involve?
- A. That involved a lot of fights and a lot of violence to determine sometimes who the kingpin was and it was used as a means of control by the staff.

- Q. I think we'll come back to talking about a particular trip where the kingpin system was something you were involved in, in particular fights.
- A. Yeah.
- Q. We'll come back to that. How much contact did you have with your family after you moved to Epuni?
- A. Not much at all. It wasn't encouraged. There was a little bit of letter writing but in terms of visiting, not very much at all.
- Q. Looking at your paragraph 9, can you tell us about the role of the staff at Epuni and the violence that you saw or experienced?
- A. Well, the staff were very violent, the house masters wouldn't hesitate to use violence against the children. Psychologically, they made it quite clear that we were second class citizens. They were to be obeyed at all times and to not obey them was to risk corporal punishment or other negative things.
- Q. You mentioned the staff making it clear you were second class citizens, what was the message you got about your prospects in life?
- A. The prospects in life for us were you are most likely going to end up in prison and there was very few positive messages about your future that I can remember. As it's turned out, that has been the case. In terms of Epuni Boys' Home, for example, 80% of the kids who went there in its lifetime have seen prison time. So, it was reinforced at that level and it became a fact.
- Q. What's your view about the role of Epuni in people ending up in jail? Do you think people would have ended up in jail in those numbers if they hadn't gone into care?
- A. Absolutely, I think once trapped in that culture it was very hard to escape it and to get any sort of successful outcomes. There are kids there who would have had a

thoroughly different outcome and future but for being trapped in that environment. If I could use an example, I will refer to this a bit later on, I participated in a criminal trial against my principal perpetrator. There was three of us. The other two boys both have had extensive criminal records associated with their names and they have spent a lot of time in prison.

The Police Officer said to me one day, "Keith, can I take my Policewoman hat off for a minute?" I said, "Of course you can". She said, "I get it now". She said, "Wayne said to me one day the only thing I ever wanted to be was a Captain in the Army and he may well have been that but for being trapped in that environment". And bear in mind that was coming from the Police.

And I think that is symbolic of what the outcomes have been.

- Q. Coming back to the kingpin system, you talk in your statement about a particular camp and fights between the boys in the cabins, tell us about that.
- A. It was in the Akatorua Valley. Probably about half the institution, maybe more, was at this camp, it was three, maybe four cabins, and there were fights going on to determine who would be the kingpin. And that was overseen and encouraged by the staff. I, myself, was involved in two of those fights and I went back to the institution via Hutt Hospital with a broken hand. When I arrived back at the institution, and I will always remember this, a staff member said to me, what's going on up there, you're the fourth one to come back with the same sort of injuries? And when I told him, he just looked at me and he walked away, which was, for me, made him, and still does today, as complicit in what happened as the other staff who were there because nothing was done about it.

Q. You talked about the staff using the kingpin system as a way of control.

A. Mm.

Q. Just explain that for us?

A. Well, it was an environment where it was disruptive and if the staff thought they needed to control a situation, they would use the kingpin and his associates to be heavy handed and meter out punishment to control any situation that they thought was out of control.

Q. Moving on now to the topic of sexual abuse, moving to page 2 of your statement. You talk about there being some serious child abusers working at Epuni?

A. Yep.

Q. And from the top of page 3, you tell us about your particular memories. Can you explain that for us?

A. Yep. My principal offender was a person by the name of Alan David Moncreif-Wright. In my opinion, he was a prolific offender and in terms of Epuni, I believe he was caught offending in a similar institution in Hamilton but he was allowed to leave the institution and get a job at Epuni.

He was a House Master which is roughly the equivalent of a prison guard. I remember the first time that he abused me, he found a reason, a pretext to send me to my room, and he came back and he sexually abused me. That was the first time of many over my first period of time in Epuni.

Q. And again, you were aged 10, I think that first stint was about 9 months, is that right?

A. Yes, possibly a little bit less but the thing I would say about it, is it was actually quite a long time for the way that institution was constituted, in that it was supposed to be 3-4 months, so I was there for quite some time.

- Q. You talked about the role of House Master, how powerful are House Masters?
- A. They are all powerful and very scary people, especially when you're 10 years old, not to be disobeyed.
- Q. In paragraph 13, you talk about a particular memory of yours. Feel free to read that or tell us about it.
- A. This still affects me to this day obviously. I will never actually forget being locked in a room in one of the wings and the boy in the next room being raped by a staff member and me wondering when was going to be my turn. This was Alan Moncreif-Wright again.
- Q. It was many decades before you spoke to the Police about what Mr Moncreif-Wright did, how did it come about that you ended up talking to the Police?
- A. The Police actually got in touch with me. A complaint had been made. They asked if I would be interested in being a witness. I thought long and hard about that, it was a very confronting thing, but I ended up telling them my story and, as a result of that, I and two others participated in the criminal trial against Alan Moncreif-Wright.
- Q. And I think he ultimately pleaded guilty?
- A. He did.
- Q. To eight sexual offences, including six against you?
- A. Correct.
- Q. In the Wellington District Court. Those offences all went back to the early 1970s?
- A. Correct.
- Q. Did it also turn out to be the case that in 1972, he was convicted of three charges of indecent assault against boys under 16, and two charges of attempted assault?
- A. Correct.
- Q. And in 1988, he was sent to jail for 4 years for serious sexual offences?

A. That's correct, yes.

Q. And I take it, that's why you say in your view he was a prolific sexual offender?

A. Yes, and what he was convicted of in my trial, was purely - it wasn't even representative of what he actually did and what he actually got away with. So, I had a restorative justice meeting with this person and one of the things I walked away with was the strong feeling that this person had committed so much, had done so much offending he'd forgotten half of it. And I reported that back to the Police and they totally agreed with me.

So, what needs to be looked at, is why he was able to leave that institution having been caught and reappear over here and do a whole lot more offending. The way it was handled by the administration at the time, and I asked him this in the restorative justice meeting, and I said to him how did the administration at the time deal with that, I said were you sacked, he said no, I wasn't sacked, he said I was allowed to resign so it wouldn't appear on my work records, which enabled him to do a whole lot more offending.

Q. We'll come back shortly to talk a bit more about Mr Moncreif-Wright but staying for the moment with the chronology of your time in State care, you've talked about the first stint at Epuni for 8-9 months.

We are now at the top of page 4 talking about family homes. Tell us about that move to what they called a family home?

A. Well, I was ecstatic about being free of Epuni and looking forward to something much better. When I arrived at Titahi Bay, Tairua - and, and just for the record, I call it Tairua not Porirua, I have a connection there, so when I arrived there, much to my aghast and

disappointment, the same culture existed. So, on my first day there I was sitting in the lounge and a boy came in who I'd never met before in my life and punched me in the face, so I'd just come from Epuni Boys' Home where I'd seen plenty of that and I reacted which got me into trouble but later on I said to that boy, "Why did you do that? I've never met you before, I've never done anything to you". He said "because the kingpin sent me down to do it".

So, that was just soul destroying because I knew I'd walked into a similar culture.

- Q. For those of us who don't understand these systems very well, what was the difference between what they call a family home and a foster placement?
- A. Well, I suppose you had - where I'd just come from, Epuni Boys' Home, to supposedly a better place in the family home, and the foster home was supposed to be better again. So, that was what everybody aspired to be in Epuni, to be in a foster home to escape. So, there was tiers.
- Q. When you were in a family home, did that involve several children being in the same home at the same time?
- A. Yes. So, there were wards of the State, probably at least eight, and the guardians had their own children. And so, once again, in that environment it was made clear to you that you were a second class citizen. So, there were privileges available to their own children that weren't available to the wards of the State. For example, if you walked into the lounge, sat on the wrong piece of furniture, you would be disciplined. Never sit in the front seat of a car, always the back, and so on.
- Q. You talked in your paragraph 23 about the male guardian at this particular home, tell us about that?

- A. He was a violent individual. He sexually abused the girls, not me. And it was just a continuation of what the House Masters were at Epuni.
- Q. I think you were in this family home environment for three or four years, something like that?
- A. Yep.
- Q. Tell us about any contact you had with social workers over that period?
- A. It was rare, it was sporadic and looking back on it, it was interesting because before their arrival the day before the place would be swept up and when the social workers arrived, one particular social worker said to me in person many years later, "It felt like we'd walked in with a halo on our heads and we were being protected from what was actually going on" and that's exactly what it was like.
- Q. And what about at Epuni, did you see social workers coming and going from there?
- A. Me personally, no.
- Q. After the period in the family homes, you ended up back at Epuni at about the age of 14, I think?
- A. Correct.
- Q. For about three or four months?
- A. Correct.
- Q. What was your memory coming back into Epuni?
- A. Oh, I certainly still remember it, I was petrified at the prospect of going back. I was taken back there by a social worker and I just, I almost begged him not to take me there but the deal was done and I ended up back there.
- Q. Was Mr Moncreif-Wright still there when you went back?
- A. No, he wasn't and I'll always remember that was the first question I asked of another boy when I arrived, was he still there? And to my relief, he wasn't.

But I also remember that boy's response because he said to me "no he's not here but make sure your light is out at night and you'll have a better chance" and I knew exactly what he was referring to and he was referring to the fact that you had a better chance of not being abused by a staff member if your lights were out.

Q. What was the culture like the second time around?

A. For me personally, in my second stint there was no more sexual abuse but the violence was exactly the same and then perpetrated by some of the same staff members who were there in my previous attendance. It's probably best described by a House Master who was overseeing a vicious fight that was taking place in front of me and he turned round to me and he said, "Oh Keith, these boys are not quite as tough as when you were here last time" and he was kind of just salivating over these two boys trying to kill themselves.

Q. Nothing to stop the fight?

A. Kill each other.

Q. Sorry, nothing to stop the fight?

A. Nothing to stop the fight at all, no. The fight stopped when one was so badly dealt to, it was the end of it.

Q. How typical was that of the staff attitude to violence at Epuni?

A. Pretty typical of what I saw. It was either they let it run its course or the participants would be severely disciplined, metered out more.

Q. You've said the second time round you weren't sexually abused, were you aware of any other sexual abuse going on?

A. I was, I was, I was.

Q. Obviously we don't need to know any details but how well-known or not was that?

A. It was kind of knowledge amongst the boys because what was happening is boys were being taken away, for example, at the weekends by staff members back to their own residence and being abused and coming back after the weekend.

Q. At 28, you've given a view about whether it's possible that the staff were unaware of the abuse that was going on at Epuni; what do you say about that?

A. It's not possible, in my mind, that they didn't know because there were multiple offenders and I got a feel of that, once again, in that restorative justice meeting with Moncreif-Wright when he indicated at the very least there was strong rumours amongst all the staff about who the offenders were.

So, they were as complicit, in my eyes, as the offenders.

Q. Were you ever aware of staff facing consequences for their role in abuse?

A. I never saw that, no. And, once again, that comes back to those other staff who knew what was going on not doing anything about it.

Q. I want to ask you now about the effects of the abuse throughout your life which you've talked about from paragraph 30 of your statement. Again, feel free either to read or to explain this to us.

A. Well, after I came out of a family home, I was given an ultimatum and an option, I suppose. My behaviour had deteriorated and I was expelled from Mana College and given the opportunity of going to Invercargill Borstal or getting school dispensation as a 14 year old or going to work, so Invercargill didn't appeal to me and I ended up working for the Post Office as a 14 year old throwing parcels in the sack.

But I was in bad shape and I drifted from menial job to menial job, from boarding house to boarding house, abusing alcohol, linking up with other boys from Epuni Boys' Home and getting into trouble, getting myself a criminal record and so on. So, I got off to a very bad start.

It felt like I was actually just dumped on the street and told to look after myself, and that was not a good outcome.

Q. Do you recall any positive support being available to you as someone at the age of 14 leaving Epuni?

A. I had a social worker who was a good person who tried to help me but that's the only thing I remember positive about leaving. The only other good thing about leaving Epuni was leaving it.

Q. We'll fast forward now all those decades in your life to the time of the criminal complaint against Mr Moncreif-Wright which you already talked about.

What do you want to say about the work of the Wellington Police?

A. The Wellington Police, in my case, were fantastic, especially one detective in particular. She was a bit, sort of, outside of a normal Police person, if you like, in that she, for example, had a degree in Psychology. She was a bit more empathic, she would say to victims than what had happened in the past she was determined to get all three of us justice. So, she, for example, by that time Alan Moncreif-Wright was in hiding. He had left his Tauranga base and was hiding in the South Island. And she was determined to find him and he was arrested because he jumped on a ferry and the Police were notified.

She did a very good job, both in terms of the prosecution and afterwards.

The trial itself didn't quite have the outcome we were hoping for and she herself was disappointed about that. Even though we got the convictions, the sentence wasn't quite up to scratch.

The restorative justice meeting, for example, that I was supposed to do with Moncreif-Wright was supposed to be Court ordered, it wasn't. That came down to, in my opinion, negligence on behalf of the Crown Prosecutor.

The Police helped me organise that off their own initiative.

Q. You also talked about an intervention by the Judge at one point, what do you remember about that?

A. Alan Moncreif-Wright started to waiver on what he was going to plead. It got to the point where the Judge had had enough and he said to Alan Moncreif-Wright "you've got exactly 5 minutes to show these people some compassion" and at that point his lawyer jumped up and they went out the back for 5 minutes and came back and he pled guilty to all the charges. Alan Moncreif-Wright was interested in only one thing, staying out of prison. His apologies were insincere and he had no remorse.

As I said, the Police, in my opinion, did a fantastic job. I can't say the same of the Crown Prosecutor. He gave me the impression he didn't want to be there and at one stage I said to the Police Detective, "I want to ask him whose side he's on".

Q. If we now talk about the civil process, rather than the criminal trial. You've said at 36 that the civil process was completely different?

A. It was, yeah.

Q. And you've talked in 37 about when you first had the idea of pursuing justice through the Civil Courts, just tell us about that?

A. I'd become affected by what had happened to me and I was wanting to do something about it but I didn't know who to turn to and there was no way I was going to the Ministry of Social Development with my claims because they represented the perpetrators and I didn't trust them.

And then probably about 12 months later, I saw something in the paper about a Wellington lawyer by the name of Sonja Cooper who was acting on behalf of some claimants who had been abused. So, I gave her a call and I became one of her clients.

If I'm to summarise that, what that was like, going through Sonja's own systems was rigorous and challenging. She's a very thorough and professional lawyer and, for example, I had two - three sorry, two our interviews with three different people to establish the merits of my claim. They were very rigorous and very challenging.

At the end of that, I thought that the Crown would see it for what it was and want to sort it out without it going to Court. That didn't happen.

As I understand it, my case came up off the ballot and I had to make a decision whether to proceed.

Q. You've talked in 42 about the White case which had happened I think by that stage and which affected your decision, just explain that for us?

A. In the White case, it seemed to me that it was lost on technicalities, despite any evidential findings. Those technicalities, I considered after much thought, were in all likelihood going to apply to my case. And at the time, I just wasn't willing to put myself through all of that and at the end of it be struck out on some legal technicality, so I made the really tough decision not to proceed. To this day, I am not sure I've made the right decision.

Q. You just pulled your case?

A. I did.

Q. At 45, you've talked about the MSD Historic Claims team and that process, as opposed to the Courts.

A. Yes.

Q. Tell us about that process? You talk about a meeting with MSD people?

A. It was totally flawed, it was totally disrespectful and it was not meant to serve the needs of the victims and the claimants.

When I went along and did my own presentation, I had a lawyer supporting me. There were three people in the room waiting for me; two from the Ministry of Social Development, one from Crown Law. One of the people from the Ministry of Social Development was the head of Historical Claims Unit, the other person, and this was his total contribution to proceedings, said I'm only here because someone else is sick. The Crown person sat there the entire time and occasionally gave me a disdainful look and that was her entire contribution.

So, from the moment I walked in I got the feeling they were looking for anyway to disbelieve me and they didn't believe me and they were looking for a way to dismiss my claim, and as it turned out that's exactly what happened.

Q. We know that your abuser had been convicted in the 1970s of sexual offending against children, he'd been convicted and imprisoned in the 1980s for serious sexual offending. So, by the time you were talking to MSD, this was all on the record?

A. Mm.

Q. Was there any acknowledgment of that to you?

A. No. And, at that particular time, I didn't know that myself which made it even more hurtful to find that out later on and more angry.

Q. At 48, you were told by MSD that they had done a thorough investigation of your claim?

A. Correct.

Q. But they hadn't interviewed Mr Moncreif-Wright?

A. Correct.

Q. What do you say about that?

A. Well, as you've quite rightly pointed out, they indicated to myself and my lawyers that they'd done a thorough investigation of my claim and on the basis of that thorough investigation they dismissed my claim. But that investigation wasn't thorough at all.

I first tweaked to it when many years ago I did a 60 Minutes programme and in the course of that, making that, they tracked down Alan Moncreif-Wright. And in that interview with him, when they challenged him about my name, I realised that he hadn't heard of my name for quite some time. So, I went to the interviewer, the journalist Rod Warn, and I said to him if you are talking to the manager of the Historical Claims Unit, can you ask him in the course of their so-called thorough Inquiry whether they've actually been to Alan Moncreif-Wright and asked him about my claims, given that he is my principal perpetrator especially. And he did that and I'll never forget, he rang me up and work and said I've just asked him that question and he said it took him 30 seconds to answer it with his mouth wide open and he said, "No, we didn't". And I thought, I thought, and I still think now, the reason they didn't because they didn't want to hear any corroborating evidence that Moncreif-Wright might give them. They did not want to hear what he had to say in case it supported my claim. And I strongly feel that, I felt that then and I feel that now.

Q. So, the message from MSD to you, this is your 49, was simply "claim denied"?

- A. "Claim denied". They, from memory, offered me some counselling sessions but essentially the claim was dismissed. But one thing that also came out of that 60 Minutes programme was they said to that person, "Oh, we'll reopen this investigation of this case, his claim, and look into it again". So, without any further evidence, a wee while later I received apologies and an ex gratia payment of \$20,000.
- Q. We will come to that in a moment. There is a paragraph we've skipped over, 38, where you gave your comments about Cooper Legal who represented you.
- A. Yep.
- Q. Is there anything you'd like to say about that?
- A. Oh, I met Sonja first in 2003. I hold Sonja Cooper in the highest possible regard, both as a lawyer of the highest calibre and a person. She has stuck to her guns, she has borne the brunt of the State's resistance to us getting justice. She, for example, is held in very high regard in the United Nations but here in our own country she is vilified by the State and the Crown Agencies. That is an absolute disgrace. She is vilified for having the temerity to raise, in my opinion, as the single biggest human rights issue this country has faced in modern times. She should be applauded.
- Q. We were up to about paragraph 50 where you talk about going on to Judge Henwood's Confidential Listening and Assistance Service; tell us about that?
- A. It was really good to see Carolyn today. I hold Carolyn in high regard as well and I participated in the Listening Service and it was completely different, it couldn't have been more different than the MSD process, even though they had limited powers, the Terms of Reference were very restrictive as to what they could

provide. Carolyn and her Panel did their very best for us and they pushed those boundaries.

When you went in that room, you knew, as opposed to the MSD process, that you were being respected, they were non-judgmental and you felt you were being believed. And that was a really big deal for me at the time, just having that because up to that point, there was none of that.

Q. Are you okay to keep going?

A. Yep.

Q. I think you credit CLAS and Judge Henwood's team for the momentum that came back to your claim, is that right?

A. I think she played a part in that, yes. She looked at what I came with and part of that was my criticism of the MSD process and she was dismayed by that and I produced the correspondence around it. And as a result of that, she made a fairly strong representation to the then Chief Executive of MSD and I think that played a part along with the 60 Minutes exposing it as being a sham as part of the reason all of a sudden I received the ex gratia payment and an apology of sorts.

Q. If we pick it up at paragraph 53, you talk about the contact from MSD wanting some school records from you; what was that about?

A. Well, that came after the 60 Minutes stuff, after the dismissal of my claim, the original claim. So, the national manager of historic claim got in touch with me and said we want to do a review and as part of that review we want your consent to have a look at your records from Mana College, and Mana have an archive out there. And I denied him access to my accounts and in response I said - I was very, very angry at the time and I said, "You don't have my consent to do anything. I will wait, I will wait to give evidence to something that

has got objectivity, integrity and impartiality attached to it which your processes definitely do not have".

Q. I think you told them they could get in touch with your lawyer, is that right?

A. Any future correspondence will be through my lawyer.

Q. And then comes the offer that you've talked about, it's not really an offer, it's -

A. Well, yeah -

Q. It's a take it or leave it?

A. It's a take it or leave it. You don't, or I don't, if a cheque for \$20,000 turns up it's hard to turn down but had I have known what I know now, I definitely would have turned it down. It would have been return to sender.

Q. Just explain that for us?

A. Well, in no way does either the wording in their apologies or that amount cover the gravity of what's happened. For example, I've become aware of Alan Moncreif-Wright offending in another boys' home in Hamilton before he arrived at Epuni Boys' Home. He was caught there, allowed to quietly slip away and reappear at Epuni. Had I have known that then, there's no way I would have accepted that.

The other thing that I didn't have when I accepted that, was those criminal convictions against Alan Moncreif-Wright and also they just lied to me, bold face lies to my face.

So, it just got nowhere near covering the gravity of what actually happened. They did not take responsibility.

Q. One positive out of your settlement with MSD, was that you reserved the right to keep talking to them?

A. Yeah, I said to them if ever there is a day, and it seems unlikely, that you do apologise, I would like put in that apology that I can continue to raise things with you

people around things historical and about the future of people who are in care today.

So, I have that in writing and over the years I've now and then activated that clause, if you like, but I would have to say that nothing much positive has come out of it.

- Q. Just going back to the apology letters, you've explained in 54 that you do accept that the apology letters you received were intended as genuine apologies but they fell short; is that because of those points you didn't know about at the time, you felt the Crown really ought to be apologising for all of the failures?
- A. In the main, yes. At the time, the apologies did have a certain genuine ring about them but as time has gone by, they certainly don't.
- Q. We're on to page 10. Before we move on to the topic of how things could be done better in the future, is there anything else you want to say about this backwards looking period?
- A. Just that there was nothing positive that came out of it. But for myself teaching myself how to read because there was little or no education, I would have been another statistic, i.e. I'm pretty sure I would have either ended up in prison or taken my own life. So, in some regards I consider myself one of the lucky ones because I'm still sitting here talking to you today.
- Q. You taught yourself to read?
- A. I did, yeah. The first book I read to any great degree was the dictionary in the Wellington Library.
- Q. The next heading in your statement is, "How could things be done better?", do you want to pick it up from 58?
- A. Well, things can be done a lot better but it won't be done better until there's, and this is a bit of a buzz word, buzz phrase, a badly needed culture change in the

relevant government agencies. And what defines that culture change for me is positive engagement with survivors, positive engagement with vested interests, to look at how we could do better in the future.

And, for example, new models not only have to be talked about and discussed, they have to be implemented. So, when a child, a young person goes into care, for example, that child's future needs to be determined by the wider family group in conjunction with the government agencies.

So, it means the government agencies relinquishing a bit of their power and control in the interests of those children and young people. There needs to be an independent inspectorate in place for these institutions. There needs to be concepts of whanau, care implemented, not just talked about, because, for example, since the 1980s we've had some 14 different reviews, some minor, some major, but the outcomes have been the same. So, what we definitely do not need is another investigation by another group of bureaucrats who write another report which sits on another dusty shelf. We need action, we need change. Otherwise, the outcomes are going to be the same.

Q. At 63, you talk particularly about better redress processes and I think you've said you want to get these things out of the Courts. Just tell us about that?

A. The Courts are not the place for these things to be played out. They're adversarial, they are about conflict and they are about the Crown's agenda.

What needs to happen, as far as I'm concerned, is there needs to be an independent claims process put in place that deals with the merits of the claims. It needs to be independent of the Ministry of Social Development who represent the perpetrators, that's how we see them.

We see them like that because that's what they are. And those outcomes have been all about appeasing their agenda.

Q. You've also talked at 64 about better staff training and better oversight, what do you say about that?

A. In my day, for example, the House Masters had no training at all and I can give the example of one House Master who was stacking shelves in the supermarket and then he went to be a kitchen hand and without any training whatsoever was promoted to a House Master. Alan Moncreif-Wright himself after leaving Hamilton was working in a bakery as a bakery assistant and ended up getting into Epuni Boys' Home, and that was common. So, these people had no formal training and that was confirmed to me in the restorative justice meeting I did with Alan Moncreif-Wright, none of them did.

So, I would hope that things have improved a bit since then but I would like to see evidence of that to confirm that.

Q. Is there anything you can tell us about your involvement in the different campaigns for an independent Inquiry for this Royal Commission?

A. Well, I've been an advocate I suppose for probably about 18 years to get something done and it has taken a huge toll on me. And so, I was involved in the Human Rights Commission campaign, for example. I've been involved with lobbying politicians. I have done 60 Minutes documentary, numerous media stuff. And my whole goal was to get this addressed by the politicians in the first instance because this is such a big issue for the State to deal with, that's what had to be done. It needed a change in political thinking and government thinking before there was going to be change. And I think we've got that at the moment. I think finally we've got a

government that has shown genuine compassion to victims and wants things done much better in the future for those who are in care.

What hasn't happened, is that change of attitude at that level has not filtered down to the relevant government agencies. The resistance and the belligerence from what I can see still exists to this day and for me personally, is exemplified by the fact that next year there are trials set down for this. Once again, the people who need to take responsibility for that is the Crown. Put some remedies in place. You're going to the Courts at great expense to everyone, not in our interests, in your own interests.

Q. From 65, you've talked about your hopes for the Royal Commission. Would you like to explain those to the Commissioners directly?

A. I have some feeling hard hitting things to say in relation to this. And it was really hard for me to listen to the Crown presentation earlier on and it was very difficult for me to afford that any sincerity. I'm very cynical of their claims that they want to aspire to the lofty goals they set out. I think I would want to see some hard evidence of that because what I say, is the way the Crown officials have conducted themselves in relation to this subject has been (a) tantamount to making sure we don't get justice. They have obstructed the course of justice, as far as I'm concerned. They have been willing and able to defend and protect some of New Zealand's worse child abusers. They have badly let down their own profession. They have badly let down the victims. They have badly let down this country. I am hoping this Commission can expose them, explain it to the public and make some of those people accountable.

Q. You've talked about some other hopes at 66 and 67?

A. Yep.

Q. They're very much focused on the future?

A. Very much so. I have alluded to some of the things I think need doing and that's about, in the first instance, a will to want to do that. So, it's about having effective engagement with the vested interests. Not just listening to them and then when they walk out of the room it's in the bin. Start putting things in place. Start change being the way you operate because it's in the interests of the young people who are in care today.

I think the Ministry's own statistics and data represent that not much has changed. As I alluded to earlier, there's been all those reviews. The outcomes substantially have been the same today. We have had a name change that came out of it, Department of Social Welfare to Ministry of Social Development, to Oranga Tamariki, outcomes are the same, culture hasn't changed. So, there needs to be effective engagement with the vested interests to determine a better future for those kids who are in care today.

In terms of 67, I'm hoping that what will lead on from this Inquiry is that we as a nation grapple with the question of why do so many young people in this country go into care in the first place? That's a root cause of this. And there is, in my opinion, no country in the world, and I have looked at other countries, where this has had a bigger impact than this one. 100,000 State wards, for example, for most of that time our country's population was 3-3.5 million. That is a huge percentage and the abuse rates were huge as well.

The scale of it and the impact of it, on this nation as a whole and the important part about the impact for me, is that impact is very much ongoing. The negative things to come out of this are our intergenerational

prison population, our two main gangs, our welfare dependency. So, it's not just the victims affected, it's all of us. And unless it's dealt with at that level, in those young people's formative years and the investments not made there, we're going to get the same outcomes.

So, I'm hoping what will come out of this Commission is that they will be able to identify that and make strong recommendations and help put in place the things to see it change for the better.

Q. You know that one of the main points of focus for this Inquiry is the disproportionate effect on Maori and Pacific people.

A. Mm.

Q. What's your memory of Maori and Pacific at Epuni or otherwise in your experience of State care?

A. Oh, just Epuni reflected what would have been similar in other institutions and homes, in that in Epuni 70% of the young people would have been Maori. That seems to me to be fairly typical, so it's right there.

Q. Mr Wiffin, is there anything else you'd like to add before I inquire through the Commissioners whether anyone wants to ask the Commission to ask questions of you?

A. I think I've pretty well covered it. I'd like to make a few acknowledgments.

I've sat here and I've heavily criticised the government agencies and in my opinion they thoroughly deserve it. But I would also like to acknowledge that there are good people working in those agencies who have tried to do their best and that largely is the frontline workers, those at the coalface of it. It's when you go up the strata, up the ladder a bit, that it starts to go pear shaped. So, in walk the legal people, in walk the policy-makers and the decision-makers and the power brokers. So, those people get let down, a bit like we

do. And I'm looking here now, and I see a raft of legal people. What I would like to say is that in terms of the law in relation to this subject, it has fairly and squarely been used against us. We have had the Crown in my opinion support the perpetrators when they were duty bound to support us.

Q. Is there anything else you want to add before I check with the Chair?

A. I would also like to make one last acknowledgment, and that is to all of the family, whanau and friends of all the victims, they carry a bit of our burden and our pain, and I want to thank them for their support and Aroha through this.

MR MOUNT: Thank you very much, Mr Wiffin. Mr Chair, I wonder if that's an appropriate time to inquire through you whether any participants wish to ask for permission to question?

CHAIR: Thank you. First of all, are there any counsel who wish to address questions to this witness, Mr Keith Wiffin? There aren't. I will just inquire among my colleagues if there are any questions. Mr Gibson has a question.

KEITH WIFFIN
QUESTIONED BY COMMISSIONERS

COMMISSIONER GIBSON: Kia ora Keith, first acknowledging the power of your testimony and the leadership you bring today, it can't be easy to be the first person, first survivor off the mark here today, so we welcome that and acknowledge that.

You ask why are so many people ending up in State care and we've heard some of the over representation of Maori. You talked yourself about the hardship poverty in your family. From your experience the people in Epuni and other places to you, to what extent was that part of their lives and to what extent is that part of the future in solving some of these issues?

A. It was almost the entire population at Epuni had come from that same demographic. It was very unusual to find someone from, shall we say, a well to do background ending up in a place like Epuni Boys' Home. So, it was from the working classes and it was from the poor, and that was definitely one of the root causes of why so many young people and children ended up in State care.

COMMISSIONER GIBSON: Thanks.

CHAIR: Thank you, Mr Wiffin. I think we can take the afternoon break, thank you.

MR MOUNT: Thank you very much, Mr Chair.

CHAIR: I overlooked the fact that my colleague, Judge Shaw, did have a question, so can I invite everyone to be seated for Judge Shaw to do that.

COMMISSIONER SHAW: Apologies, and I only want to ask one question, and then you can be released unless my colleague here has a question. Again, thank you

so much for your testimony which I know has cost you a lot and we acknowledge that.

Mine is a very limited question but it goes to the question of remedies for survivors. It really interested me that you wanted to meet your perpetrator, the perpetrator, in a restorative justice setting and you went so far when you were let down by the system to actually arrange a restorative justice meeting for yourself through the Police.

This is an option, of course, that we will be looking at down the line, so while we have you here I would be really interested to know why you would want to face such a person and what you hoped to get out of it?

- A. I think the restorative justice process is a very good one but I have to say, in my case I did not go to meet with Alan Moncreif-Wright out of any hope of getting a sincere apology. I had observed him through the trial process and there was nothing sincere about him.

I went there and that meeting took three hours and I have a 30 page document which outlines what transpired. It is the only copy, there's no digital copy. I went there first of all to make it quite clear to him the damage he had done to me and all his victims in the first instance.

Secondly, to get as much information as I could about what, for example, the administration was like at the time, who the other offenders were, because one of the things that the Ministry, for example, has been keen to say, is there's only one or two bad apples. My feeling is that the apple tree was quite rotten and there were only a few good ones.

So, Alan Moncreif-Wright was able to give me a bit of a heads up that I wasn't far wrong. That's the sort

of thing I went to find out. That's the sort of thing I got.

COMMISSIONER SHAW: So, you were, in effect, conducting a mini-investigation of your own?

A. In effect, yes.

COMMISSIONER SHAW: You have that record?

A. I have that record, yes.

COMMISSIONER SHAW: Are you prepared to share it with us?

A. At some stage, I will share at least some of that, yes. It is a very personal document.

COMMISSIONER SHAW: I'm sure.

A. And, as I said, there is only one copy and I'm the only person who's seen it. Sharing it is not an easy thing for me to do.

COMMISSIONER SHAW: Sure.

A. But I will be, if given the opportunity, sharing at least some of that.

COMMISSIONER SHAW: Obviously, it is a personal document but maybe some important matters can be gleaned from it and extracted from it that we could perhaps use and that's something for you and for us to think about and maybe talk about at a later stage.

A. Yeah, sure.

COMMISSIONER SHAW: Thank you very much for referring to it and thank you again for your evidence.

A. Thank you.

CHAIR: Thank you, there are now no further questions from Commissioners. It is time, Madam Registrar, for us to take the afternoon adjournment.

MR MOUNT: Thank you, Mr Chair, and thank you very much, Mr Wiffin.

Hearing adjourned from 3.54 p.m. until 4.05 p.m.

ARTHUR WILLIAM TAYLOR - AFFIRMED**EXAMINED BY MS BEATON**

MS BEATON: Mr Chair and Commissioners, our next witness is Arthur Taylor.

CHAIR: Mr Taylor, can I ask you to make your commencing statement under the Inquiries Act as follows? (Mr Taylor - affirmed).

MS BEATON:

Q. Mr Taylor, can you confirm please that your full name is Arthur William Taylor?

A. It is.

Q. And I think you currently still live in Dunedin?

A. That's correct.

Q. You have prepared a witness statement for the Royal Commission's hearing today?

A. Yes.

Q. Which I hope you have in front of you there?

A. I do have it.

Q. You can confirm that it's dated 3 October and that you've signed it on the last page, page 16?

A. Yes, that's my signature on the final page, page 16.

Q. Mr Taylor, the Commission has already received your statement, so can you just confirm again that it's true and correct?

A. It is true and correct.

Q. Thank you, we will ask you some questions coming out of that.

Perhaps if we could start on page 2 with the circumstances of you going into care when I think you were aged 11.

- A. Yes, that looks correct, I was aged about 11 and I was put in Epuni Boys' Home through what we commonly call wagging school.
- Q. Why did you used to wag school?
- A. Well, I was I suppose ahead of the other students in my class and school got quite boring for me at times. I actually used to like to learn at my own pace, so I'd quite often take days off school and go up to the local library because we didn't have the local internet and go up there and learn out of books and things.
- Q. Sometimes when you weren't at school you were actually going to the library?
- A. I was. Sometimes I would be out fishing or swimming but yeah, a lot of the time I was up at the library, yeah.
- Q. You were living in Masterton, I think, with your family?
- A. That's right, yes, my parents owned a business in Masterton and I lived with them and we were all family, I think 5 children at that stage, yes, and my youngest sister Joanne was born in 1969, I'd already been Epuni by that stage.
- Q. We might be going just a little bit too fast, you will be conscious that we have a stenographer and some sign interpreters here.
- A. Sure, just put your hand up if I go fast.
- Q. You told us you were 11, you were wagging school?
- A. Mm-Mmm.
- Q. How did you come to the notice of child welfare, as it was called?
- A. I assume the school authorities reported it. In those days, what we now call, I suppose, OT, Oranga Tamariki, that was a division of the Department of Education, Child Welfare Division, they were directly connected with the Department of Education and I assume they receive regular

reports on who was attending and who was not attending school.

Q. So, what was the first contact that you had?

A. The first contact I actually had with the Child Welfare Officers was when two of them turned up one morning at my parent's business and told my parents and me that I had to come with them. Apparently they had some sort of warrant from the Court to uplift me and I want to say quite clearly here that we never had any prior notification of this, we hadn't gone to Court, and they were going to take me off somewhere, yeah.

Q. At paragraph 11 of your statement you refer to NUPC, what was that?

A. That is what the term used, not being under proper control, NUPC, there had been no criminal offence being committed by me or my parents. They had a charge under the applicable legislation of not being under proper control NUPC and that's what they called it.

Q. Moving to I think paragraph 13, Mr Taylor, page 3, you've said just before that two welfare officers turned up?

A. Yes, I did.

Q. To your parent's business?

A. Yes. After it sunk into my parents what was going on, my Mum was, me and my Mum were particularly close, my Dad was sort of not so close because he'd been through the Second World War and the sort of stuff that I guess he'd gone through, he was sort of a bit, didn't express his feelings too well. They were sort of reserved, my Dad. But my Mum didn't, she was very distraught when she realised what was going on.

Back then, you know, now they'd be challenged about it but back then people thought the State knew what was best and they didn't, yeah, they thought they couldn't

take them on. So, I guess, they sort of surrendered to it.

Q. What were you told?

A. I wasn't told anything. I was just told I was getting taken away from my family. Our family is particularly close, we came from a farming background, I was actually born in the Hokianga which is right up north. It was pretty much cutoff from the rest of New Zealand actually. The nearest road was to Dargaville which was a gravel road through the Waipara Forest. The other one was a gravel road to Kaikohe. We were predominantly a Maori community, 70% of the community is Maori, 30% Pakeha, we were a very close supportive community. And up there sort of wagging school, I suppose is what you'd call it, was pretty much tolerated because children would take time off to do hay-making, help with hay-making, help with farm operations, things like that. It was sort of tolerated.

Q. You said it was sort of tolerated?

A. Sort of tolerated. It was I guess in the community's interests.

Q. What do you recall of the time when these Child Welfare Officers arrived at your parent's business?

A. That was relatively early in the morning. As I say, two of them turned up. And I got very upset and angry when I thought I was being taken away from my family because we'd never been sort of apart before. So, you know, I guess I started yelling and screaming and getting very distraught. At one point, they were going to call the Police but they didn't call the Police. They ended up calling a doctor and I remember that doctor because I was really screaming and I realised he was going to inject me with a syringe because I hate needles, you know, yeah.

Q. What happened?

- A. I was actually injected with some sort of sedative and, yeah, two more welfare officers turned up. I remember very, very vividly, my Mum was obviously crying and very distraught, yeah, it was a very harrowing time, yeah. And I eventually was - the sedative had some sort of effect, it didn't knock me totally unconscious but I remember being carried out and put on the backseat of the car and transported over the Rimutaka Hill to Epuni Boys' Home.
- Q. Did they tell you where they were going?
- A. No, they didn't, they just said they were taking me somewhere.
- Q. What happened when you arrived at the boys' home?
- A. I was taken in. Back in them days, this was 1968, they hadn't built the secure block at Epuni yet which later became just like Police cells, so they used to put you in a room, I remember it was on the right side as I went in through the main doors of the entrance to the place, taken in there, the curtains were pulled and all your clothes were taken off you and they were replaced with sort of like school uniform type clothes. And you were left there just in the dark and they told you you had to go to sleep.
- Q. Looking back now, did you have any kind of induction or proper introduction to why you were there?
- A. Not that day, no. Later on, a House Master called me down to the office at some stage and told me that I was going to be there for some months at least. He couldn't be precise about that. And that's where I'd be staying and I'd better get used to it, yeah.
- Q. What about social workers, were there any present at that time in your first stint at Epuni?
- A. No, I can't remember any. I remember the House Master and the cook very well, Ms Heart, and people like that,

but not likely to have an assigned social worker now I guess that takes on your case and manages it and keeps you up-to-date with what's going on. No, you didn't have any of that. The House Masters were the people that ran the place and carried out the social work function, I guess is what you call it nowadays.

- Q. At paragraph 20 of your statement, you refer to a memory of your parents arriving to visit you, you think within the first week of being there?
- A. I think it was the first weekend I was there my parents turned up and they brought me comics and chocolates and things, you were allowed that sort of stuff brought in. My Mum was very upset, she was wanting to know how long I was going to be in this place and no-one was able to tell her. She asked the management. She tried to see the manager there, Mr How, and she couldn't find anything out. She phoned him. In those days toll calls weren't like today they were quite expensive. She had been phoning him from Masterton trying to find out what was going on.
- Q. Paragraph 21, you said you had no idea whether your parents ever appeared in Court or were charged for your truancy but you make a comment there something your mother told you years later?
- A. Yes, yes, my parents were charged board for me while I was in Epuni. They had to - they were still paying it off when I got out. They had to pay. They stopped family - we used to have a payment called family benefit, they stopped all that which my parents relied on, you know, I think they had a housing loan back then and you had to capitalise the family benefit and they had to pay it all back, they were put in quite bad financial states over this but they definitely had to pay board for me while I was in Epuni Boys' Home.

Q. I want to move on to page 5 of your statement under a heading, "Abuse at Epuni Boys' Home".

A. I very quickly found out, you know, I always vividly remember my first night in that place. We were in what was the old gym, they later built a new gym but they had an old gym, relatively small room, as big as this. And one of the other kids, one of the other kids asked me what I was doing there. I thought, well, I'm here for wagging school because I thought at that stage that was what I was supposed to have done, and it must be such a horrible crime, you have to remember I wasn't acclimatised to crime in those days, that I didn't want to tell him what I was in there for, I sort of fobbed him off. You end up in a place like that, you think you've done something really bad, like in my opinion, my sort of understanding.

Q. How many boys do you think were there when you first arrived?

A. Probably would have been 30, I would estimate 30, and they ranged in age from probably about 9 through to about 14. They had the younger ones in a unit called Kauri Unit right by the House Master's office and they were the quite young ones, and the other ones were spread through Rata and the other ones.

Q. What was your impressions of this boys' home after a few days there?

A. My overwhelming impression, of course, is I'm away from my family who I've never been apart from in my life before and I'm in a place with strangers and I don't know when I'm going back to my family. That's my overwhelming impression. But it wasn't a nice atmosphere around the place either, there was bullying going on, there was you know the staff weren't helpful. You just felt, you didn't know what was going on. You weren't given any

information about what you were doing there. And the strange thing was because I was in there for not going to school and they never gave me any schooling. They never even had a school. I think some of the other children did correspondence later on and they built a school at Epuni but when I first went there, there was no school.

Q. Did you ask about schooling?

A. No, I didn't. You didn't used to ask them anything because they weren't very helpful. You didn't want to do anything to stick out, you didn't want to stick out from the other kids because that could attract unwarranted attention to you.

Q. You said there was bullying, can you explain what you mean?

A. The bigger kids used to beat up the littler ones, you know, because we'd get outside and play games and that outside and you know you had a kingpin there, sort of thing, I suppose you call them nowadays.

Q. We heard the evidence, you will have heard Keith Wiffin's evidence earlier about kingpin, is that something you experienced as well?

A. I never heard that term at that stage.

Q. I think to be fair he was a couple of years after you.

A. Yes. We used to have a guy that predominantly, like in any relationship, society, someone is the top dog and someone is not the top dog, sort of thing. Yeah, the bigger and stronger kids, they were running the show. They used to beat the little kids up, yeah, and I was horrified about that because I'd never been exposed to violence before this. My family was a close and loving family and I hadn't seen any of this sort of stuff going on, you know. It was totally foreign to me.

Q. What did the staff, if anything, do about the violence that was going on?

A. Nothing that I can recall, no-one was ever punished for fighting or anything. They'd soon punish you for other things, like not doing the dishes properly and stuff like that or not doing the cleaning jobs properly but the fighting, no, they seemed to almost enjoy it, some of them. I am not making a generalisation here because I do remember a couple of reasonably good House Masters but, you know, generally it was the ones, the bad ones that predominated, they had the say. Mr How, he used to live over the back in the house behind the place but you never really saw him anyway, he was like the manager of the place.

Q. If I could refer you to paragraph 29 of your statement.

A. Yes. Well, the things, I didn't myself experience any sexual abuse or anything, it was mainly physical abuse, but you knew what was going on around you and I'll tell you a bit more about that in a minute, something that really stuck in my mind that used to happen almost every Sunday.

A couple of the House Masters used to live on the premises but there was an atmosphere like stress, anxiety I suppose you'd call it now, that was pervasive. You know, that's like, it's coming from a loving family atmosphere and being thrown in the middle of this, you don't know what they can do to you and what they can't do to you which I suppose is what triggered my interest in starting in later years.

Q. We'll come back to the sexual abuse issue in a second. You though in your statement at the top of page 6, paragraph 30, refer to a report that the Education Department Psychological Service completed on you in June 1968 where it describes some of your qualities?

A. Yep, that's right. As a result of the CLAS process, which I went through, my records were divulged to me. I

came across a psychological report from 18 June 1968 when I was aged 11 years 10 months. It was interesting to observe that on the vocabulary test I had a mental age of 18 years plus. And an IQ of 140 and 150 which is above the 99th percentile for my age group and that report has been provided to the staff at the Commission.

The same report said, and this is very interesting to me:

"The profile here does not show any extreme responses, but there are some significant and perhaps conflicting trends.

He appears as being basically warm-hearted, good-natured, co-operative and easy going, with a tendency to be impulsive at times. He is also shown to be sentimental, emotional, and artistic, with a liking for people. On the other hand there are features associated with disobedience and rejection of authority", I reckon that came about after my placement in Epuni, "There is also a tendency for him to be self-effacing, depressed and incommunicative".

- Q. And the same would apply, would it, you think those were features?
- A. At that point I'd been in Epuni I think about 3 months when they did that test, yeah. So, the interesting thing was, my wagging school hadn't affected by ability to learn or my education, you know, and here I was in this place because of this. They had this report.
- Q. So, just moving to paragraph 32, Mr Taylor, you told us that you recall being in Epuni the first time for about 3 months?
- A. Mm-Mmm.
- Q. And there were punishments that you, I think, suffered and also witnessed during that time, can you tell us about those?

- A. Yes, yes. Well, if you disobeyed any of the rules of the place, they had a massive leather strap that they used to really whip you with. You know, I remember one night I was in the showers and I'd been whacked with this strap several times obviously for some transgression and one of the other boys said, "Look at those big welts up your back, Arthur". They had been belting the hell out of my back with the leather strap and that was like a punishment there for whatever the heck I'd done, you know.
- Q. Did you witness physical abuse on other children?
- A. Yeah, I did, yeah.
- Q. Tell us about that.
- A. The same sort of thing, the strapping going on, yeah. You know, you just didn't know what they could do to you. That's the whole, that was one of the big things about it. You just didn't know what they could or could not do to you and they led you to believe that they could do anything, that you were right in their power. They could stop you from going home, they could stop you from seeing your parents. There were no phones in them days so you couldn't ring anybody. The only mail that went out of the place went through the House Masters and if you wrote something they didn't like, you said to your parents what's going on here, they just wouldn't send it because my parents never received any, very few letters from me. I used to write to them what was going on, what was happening to me, and they never received those letters.
- Q. What other types of punishments did they have at Epuni while you were there?
- A. One particularly sticks out in my mind. They used to have a massive rugby field there, a really big rugby field out the back of the place. One of the punishments was they would put you in bare feet in a pair of shorts,

this would be sometimes in the middle of winter, and a t-shirt on, and they'd get you to mow this massive rugby field with a hand mower. These are little children, relatively small kids we're talking about. And of course when you're a child, I always remember the rugby field seemed massive to me and you'd have to mow this thing and you weren't allowed to stop. You were allowed to stop and go to the toilet and things but you weren't allowed to go off and do anything else until you'd done what they wanted you to do.

- Q. You refer in your statement to standing on the line, what was that?
- A. At the House Master's office they had I suppose it was a 4 square thing marked out, for playing 4 square. If any of the other kids caused any problems there or there had been some problems with the staff, they'd get all the children to stand on those lines and you wouldn't be allowed to move until a suitable time had gone by, sometimes a couple of hours you'd have to stand on this line and not move. That was like a punishment for the whole boys' home for anything the other kids might have done, if they decided they'd impose what you call a group punishment.
- Q. You mention in your statement at paragraph 35 that the children would sometimes self-discipline; what did you mean by that?
- A. If the kids, if one of them had been taken away and strapped, if they fell over, it had happened, you know, particularly in the heat, we were all driven by fear, what they could do to us. We had no sort of come back. You just didn't have a clue about anything.
- Q. You go on at paragraphs 36 and 37 to talk about older children beating up little ones and also staff members?

- A. This used to really distress me because I don't like people using, you know, beating other people, you know. And they'd get pleasure, I've never seen this before, they get pleasure out of inflicting harm on other people, other children. And it had a real big impact on me, you know. I didn't think people could do that sort of thing but they did. These were other children.
- Q. What, if anything, did the staff at Epuni do about that?
- A. I don't recall them doing anything because it carried on happening. So, if they'd done anything, it wasn't effective at stopping it.
- Q. At paragraph 37, Mr Taylor, you describe an opinion that some of the staff seemed to think that the violence was sport. Expand on that?
- A. Well, some of the staff, some of the staff almost, you know, I suppose it would be like watching a boxing match or something, they thought this was like entertainment, some of them. You know, again it's not all of them, it's just a few of them but the other staff that were the good ones, they never did anything about stopping it. And these were kids we're talking about. Some of the older boys would get favours from the staff like cigarettes and things, you know. If they had any of the kids that were causing problems around there, some of them would be wetting beds and things like that, they'd get them to beat them up and reward them with cigarettes and things like that.
- Q. Can we move now, please, Mr Taylor, to the issue of sexual abuse at Epuni? I understand that you yourself were not a victim of sexual abuse while you were at Epuni?
- A. Correct, that's right.
- Q. What did you know about that?

- A. There was a little Maori boy, about 9 years of age I suppose, I liked this little fella, he was quiet, I wondered why he was so quiet. Then I found out every Sunday one of these House Masters used to call him over to his private quarters which were on the boys' home premises and he'd sexually abuse him over there. This poor little fella would be terrified for days leading up to this. It really affected me that, yeah, because I couldn't do anything about it to help him stop it.
- Q. Was there talk among the children?
- A. Yeah, that's right, about certain House Masters, there was, yeah, what they used to do to them. They wouldn't go into any detail but they were terrified, really terrified.
- Q. Was there ability for you or any of the other boys in the home to make complaints about what was happening?
- A. No, we didn't know anything about complaints. As far as we were concerned, these people had power, ultimate power over us. I mean, they were like, you know, they were like, I guess, what you'd call the State. There was no complaints procedure or nothing explained, there was nothing like that in them days.
- Q. In your statement, you tell us at paragraph 38 about absconding a couple of times during your first stint and at paragraph 39 you talk about why you were not sure why eventually you were able to go back to your parents but you went back to school when you went back to your Mum and Dad?
- A. Yes.
- Q. What happened when you went back to school?
- A. Well, word soon got around that you were like a welfare kid, you'd been in Epuni Boys' Home and the other kids would make fun of you and ostracize you because you'd been in trouble, I guess. For a little town like

Masterton, they looked down on that sort of thing in them days.

Q. And I think you were having to report regularly to a Child Welfare Officer that was assigned to you, is that right?

A. That's right, I had to report to a particular Child Welfare Officer. I used to have to go to his office and report to him there, yeah.

Q. Do you remember how it is that you went back into Epuni the second time or why?

A. No, not really. You know, I think it was again for wagging school, you know, yeah, something like that. I hadn't committed any crime. I will tell you what my attitude to crime was back then. When I used to abscond from the boys' home, some of the other kids would steal cars, I wouldn't, I'd catch the train because I couldn't commit crimes. Like I'd steal bottles of milk and vegetables out of people's gardens rather than commit burglaries and crimes like some of the other kids would do. You know, crime was still abhorrent, it wasn't on my radar screen, yeah.

Q. When did it change?

A. Well, the third time it changed when I was in there because the third time I started absconding with other kids and they'd steal cars and we'd get arrested by the Police and then we'd come into contact with the Police and end up in their cells and things like that, and I started to take a dislike to the Police because of the way they used to treat me. And that's I guess when it started. And yet, resistance to crime starts crumbling away, you know. You're in with people that, you know, are doing things and I guess you take on the mores of your peers, you start taking that on, yeah. What was

repugnant to you earlier suddenly becomes not repugnant and that's how it happens.

Q. In your statement at paragraph 42, you talk about your third time at Epuni which was in 1970, I understand?

A. Yes, that's right.

Q. You talk about being in Police cells when you absconded, by that time there were cells at the boys' home?

A. The third time I went to Epuni, which was about 1970, they'd built these cells. They were exactly the same as the Police cells in like Masterton and they'd put you in there. When you first went there, they'd put you in there to not abscond because people naturally wanted to run away from that place. So, they'd put you in there so you couldn't. These cells were the same as Police cells, nothing to do, they locked you in there, a cold concrete box, like bare a concrete room with nothing, everything was concrete, except I think the sink, exactly the same as a Police cell.

Q. Was there any contact between you and social workers?

A. No, they just put you in those cells and just leave you there. Some of the kids used to go nutty in there. They would be banging the doors and their heads on the walls and stuff like that, you know. They couldn't really handle it, you know.

Q. If we could just move to the bottom of page 9 where you've deposed to spending you think about 18 months in total in Epuni over the three times you were there?

A. It would have been about that, yes.

Q. You talk in that paragraph about forming friendships and associations with the other boys at Epuni?

A. That's right. When you're in a situation like that, I suppose a bit like the Army when you're under fire, you start bonding with the people around you and that's what happens. I formed associations with some of those kids

and we became quite close, some of us. We had to support each other and that was our way to survive.

Q. Did those associations continue into your adulthood?

A. They did, yeah. I come across many of the children from Epuni in the prison wings around the country and Borstal, you know, and all over the place, you know. In many of the prison wings I've been in, the majority of the prisoners in there are ex-welfare kids been through the system. Yeah, if you took them out of there, half of the prison wings would be shutdown.

Q. Just for those who don't know your story, Mr Taylor, I understand you are 63 years of age?

A. That's correct, yes.

Q. How many of those years do you believe you've spent incarcerated?

A. Probably about 40. I will just add another thing too, I noticed when I was in the Borstal that a lot of the kids seemed to come from Porirua or Masterton which probably might reflect how they were enforcing the legislation in those sorts of towns, those two particular towns always stuck out to me that most of the kids were from Porirua or Masterton. In those days, everybody south of Palmerston North went to Invercargill Borstal and everyone north of Palmerston North went to Waikeria.

Q. You were saying Invercargill or Southland?

A. South of Palmerston North and Invercargill, you imagine a kid from Masterton sent to the South Island, to Invercargill Borstal, they have no family support, no visits, no nothing. We know how vital it is to any sort of rehabilitation to retain family contact, it's absolutely vital.

So, what chance was there? In those days, you could get sent to Borstal at the age of 15, yeah, like prison. The other thing about Borstal, is you didn't know how

long you were going to do there. The sentence of the Court was 0-2 which meant you can only be detained there 3 months or you might spend 2 years there, you just didn't know. That was the same, Masterton and Porirua.

Q. We have jumped ahead a bit, so perhaps if we can go back and talk about how it is that you ended up in Porirua Hospital?

A. Oh right. One day I was undergoing punishment that I have already told you about, of mowing the big rugby field, and a certain House Master decided that he'd add to the punishment and he not only after mowing that field, he wanted me to rake all the grass up as well, which is to a little child I guess I was then, it is a particularly onerous thing after you're pretty tired and stuffed from mowing that field and it takes you away from I used to like getting, you know, in and read books and things like, you know, when it's all finished. So I ended up throwing the rake at him, right at Mr R, who is known to the Commission. And, as a result, they took that as a sign of violence. So, within two days I was put in a car, taken out of Epuni Boys' Home and taken in front of a doctor, I think, and next thing I'm in Porirua Hospital.

Q. What input to that decision did your parents have, do you know?

A. None whatsoever, none whatsoever. In fact, by that stage my parents had moved to Porirua so they could visit me more often. The first night I was there, they drugged me up to the eyeballs with all sorts of drugs. I couldn't even stand. My Mum came up and she was in tears. She actually rang, I know from the records that I've read, she rang the boys' home and abused the heck out of one of the House Masters she got hold of, she was trying to understand what the hell am I doing in a psychiatric

hospital. And I was really drugged up to the eyeballs, yeah.

Q. In your statement, Mr Taylor, at paragraph 50 you describe being in that initial ward for about a week before being moved to a child and adolescent ward?

A. That's right. I think the name of the ward was Male 9, I think it was. I was in there for about a week and then I was moved to another ward.

In the one I was in to start with, there was adults in there, it wasn't just children. The one I was then moved to was all adolescents or younger children and adolescents, it was like a dormitory. There was probably about 25 kids in this dormitory, all housed together.

Q. All boys?

A. All boys, yes.

Q. And your memory in your statement was you were there for about 3-4 months?

A. About that, yes, yes.

Q. And had no schooling during that period either?

A. No, no schooling whatsoever. We used to go down to the library and study down there myself and I got in trouble for that because they used to say, well, you know you've been away without permission and stuff like that and threatened me with all sorts of punishments and take that as a sign of rebellion that I'm away from the ward without permission.

Q. You said in your statement that one of those punishments was ECT?

A. That's right, they used to threaten you with.

Q. Did that happen to you?

A. No, I've never been given ECT. They used to threaten it, that was bad enough. It wasn't used for medication or like treatment purposes, it was used as a punishment. And you know, you don't know what could happen to you.

They said they could fry your brain. Little kids think that, they're going to turn you into a zombie and it's terrifying, really terrifying.

Q. At paragraph 51 of your statement, you talk about what you witnessed and experienced in that ward, can you tell us about that?

A. These orderlies, they used to have orderlies, there used to be about two on each shift and I've seen, they weren't very, what we call, child friendly. You know, they're dealing with children, sometimes they don't do what people want them to do, they'd slap them, drag them around, maltreat them, they'd throw them in seclusion rooms, in consolatory environment. It was an atmosphere of fear that prevailed in that place.

Q. You talk about witnessing sexual abuse while in that ward?

A. Yes, that's the first time I actually witnessed it, saw it, you know.

Q. By children on other children, is that correct?

A. Older children on younger children, yeah. That's where I first saw it ever, yeah, and I didn't even know what was going on, you know. I wasn't wise in the ways of the world in that way myself in them days. I was still pretty young.

Q. Are you able to say whether or not that type of behaviour was happening with knowledge of staff?

A. Well, they must have known what was happening because, you know, I mean, I'm sure some of the younger kids complained to them, you know, because I actually remember one instance where one of the younger kids was beaten up by an older kid who had been sexually abusing him and he said you've been telling the staff and beat him up for telling them, so I don't know how the heck he found out.

There was nothing done about it, nobody was moved or changed around or no punishments were imposed.

Q. Did you have any treatment while you were in this ward?

A. No, apart from being dosed up with drugs, you know, no. I had to learn in the end to safeguard myself, the kids said, "Don't take those drugs, just pretend to swallow them, hide them behind your tongue and spit them out later". That's the only way I managed to keep on my feet, I guess.

Q. No counsellor or social worker or anything at that point?

A. No, no, neither did any of the other children there.

Q. Why were you released from the ward, do you know?

A. Eventually, I think the hospital authorities eventually told the Education Department, the Child Welfare Division, that I shouldn't be in that hospital and they decided to release me back to my parents and that's what happened. I went straight from the hospital back to my parents.

Q. And I think, just so you know where we're at, that's paragraph 53 of your statement, you were 15, you think, when you went back to your parents from the hospital?

A. It was about 19 - yeah, about that, it was about 1970-71, so I would have been 14-15.

Q. Is that when you started working? You didn't go back to school?

A. That's right, I got a job at the Griffin's Factory in Lower Hutt and started working there.

Q. You've described at paragraph 54 an escape from when you were in Invercargill Borstal, we don't need to go into the details of that today, the Commissioners have that in front of them but I think that ended, am I right, in your first sentence of imprisonment; is that right?

A. No, I'd already got my first sentence of imprisonment for forgery and that's why I got sent to Invercargill

Borstal. The Borstal weren't like the Child Welfare institutions, they were like prisons, part of the criminal justice system. They weren't under the Child Welfare legislation. You got charged with crimes and got sentenced to that Borstal from the age of 15 upwards.

Q. Can we move now, Mr Taylor, to talking about what you see as the impacts of the abuse in State care on you?

A. Well, I can say without a shadow of doubt, shred of doubt, if I didn't end up in the Epuni Boys' Home I would never have interacted with the Criminal Justice System. Up until I went to Epuni Boys' Home, my only interaction with the Police was there was a fight, I used to have two paper rounds, The Dominion in the morning and Evening Post at night. I used to do the early Dominion run and I come across a Police cell one morning, there had been a fight the night before and one of the policemen lost his helmet, so I took it up to the Police Station and handed it over. That was my only interaction with the Police up to that point. I didn't have any dealings with them whatsoever and neither did any of my family either. That was it. That's what you did. None of my family have had any dealings with the Criminal Justice System either apart from me. What's the difference between me and them? I went to the Epuni Boys' Home. You heard Keith earlier talk about most of the boys in Epuni were from the lower socioeconomic background, I wasn't because my parents were relatively well off, they had money and a business.

Q. What about effects on your health, your family, your ability to have a family of your own?

A. Well of course obviously being imprisoned, you can't have a family of your own. So, you know, that stopped me from achieving things in life that I felt I could have achieved. Basically, you see the point here also is that

it's not only the effect on the child themselves but their whole family. I mean, sisters come home to find their brothers missing, they don't know why or what's happened. It disrupts the whole family. It's not just - they just feel powerless. It affects them too, you know.

Q. And on your parents?

A. My parents, my father got withdrawn and things but my Mum was really distraught about this, you know. She tried everything she could to try and get me out of that boys' home to no avail. Like Keith, my best memories of that boys' home are leaving the place. That's my best memories of it, just the relief of getting out of there.

Q. Why have you decided to participate in this Inquiry's processes?

A. A lot of the children that were in Epuni with me, they're no longer with us, they're dead, and I think they need a voice to tell what happened to them so that they just weren't just a blip, you know, just gone without - sunk without trace. The other important thing is, hopefully, you know, I have a lot of faith in the fair mindedness and reasonableness of the New Zealand public which I recently had experience of. I pressed the issue of prison evading and I started campaigning relentlessly for prison evading which about 90% of the public were against. The most recent Colmar Brunton, 53% of the public were in favour of prison evading so I have great faith in the great New Zealand public's willingness to listen and be fair-minded about issues. This has happened nowhere else in the western world, prison evading. So, I have great faith in them and that's why this Commission is doing a very important job, in my view, because people just don't believe it happened. You know, it's like how the hell could this go on in

New Zealand? You know, a country that respects the rule of law, great human rights record, how could it go on? So, that's the important thing, we've got to, you know, make the public aware because this happened in their name. You know, it was the State of the people of New Zealand, Aotearoa New Zealand. It wasn't some State official that decided to do this off their own back through their own authority, so they need to know. Even if we only save one child from it, you know, it's worthwhile. I often say to people when they say, you're up against an overwhelming hurdle in some of the things you do, I say, listen, one person enters the Criminal Justice System, that can result in 50 victims, so that's why if we're saving, this is in the prison rehabilitation rather than here, why do you do it? One offender can result in 50 to 60 to 100 victims, they're all saved so it's worth doing even if we only save a few.

Q. Can I ask you about redress?

A. Redress?

Q. Because you participated in the process I think with both the Ministry of Social Development and the Ministry of Health?

A. That's right, I did.

Q. Can you tell us about that?

A. When I got my records through the CLAS process, I hadn't got legal training by that stage. I basically approached MSD, laid it out for them, they did their inquiries and I have to say they did a very good job. Within 6 months, they had accepted what was done to me was wrong and they offered an apology. I am not too happy about the terms of the apology because it was just a form written letter and I am going to contrast that with the Ministry of Health in a minute, and paid some compensation. But the main thing was having acknowledgment because, you know,

those involved in the Criminal Justice System know the whole aim of it and what you are told is show remorse, accept, own your actions but always the State was doing that here. That's what we can't understand. The State was a general perception out there it's doing everything it can. I'm not saying the current Crown counsel, maybe it's a complete shift, is to use every delaying device it can to frustrate people almost hoping they will die before it ever gets to Court or something. That's the perception and it's very important that some sort of remorse and acceptance and responsibility is shown by the State. The State supposedly was, you know, they are our teachers in this scenario. If they're going to do that, then it's not a very good example. You can't really close the book, you know.

So, that went some way towards the MSD did but then I approached the Health Department because the Health Department assumed responsibility for what happened at Porirua Hospital. Complete change, right. They very quickly investigated and found what happened and because I was representing myself, I dealt with the senior legal advisor for the Ministry of Health, I think it was Mr Knipe, the way he communicated with me and the way he dealt with me and the terms of his letter, that I felt was a genuine expression of remorse. He was genuinely remorseful for what had occurred. And that really closed the books on Porirua Hospital with me. Whereas, it's not completely closed with Epuni. Yeah. So, you know, there's a difference. You can pick up the tone and the vibe of these remorse letters. You know, there's a hell of a difference between a form written letter and a genuine apology because that really is what nails it for me, you know. And the hope that something has been learnt from it.

Q. Thank you. Can I ask you about the evidence you just mentioned also at paragraph 73, page 15, about a formal apology from the State; tell us your feelings about that?

A. The State, Head of State obviously is the point represented in this country by the Governor-General, I feel because this was the New Zealand Government who did this, it should come from the Head of state. It had more weight and impact. I mean, in some of the Treaty settlements we've got, you know, in the Treaty of Waitangi process, the apology comes on behalf of the Head of State. It has more impact. The whole community, not community but the government has accepted responsibility that something went wrong and they want to do what they can to make it right.

Q. Is there anything else that you think the State could do to make it right?

A. There's a heck of a lot of people still in prison as a result of having gone through this process that I don't think would be there if they hadn't. Obviously I'm not there anymore but there's still a lot of people in the prison as a result of this intervention by the State. I think some sort of special sort of procedural process should be setup in relation to prisoners who went through this process and it can be reasonably established probably wouldn't have been in there if they hadn't gone through the State care system. In other words, their lives would have been completely different, and perhaps in relation to helping them with extra, extra and above, rehabilitation and perhaps resettlement when they get out of prison to sort of put them in a position where they might have been if the State hadn't intervened in their lives in that fashion. Whereas, now they're dealt with the same as anyone else. I think the extra claim on the State over and above what anyone else has.

- Q. At paragraph 71 of your statement, I think you talk about that and you say in the last line there, there needs to be better support on the outside for people released. What do you suggest?
- A. Well, as a result of becoming involved with the State, a lot of them got quite serious drug and alcohol problems. Once they get that shackle around their neck, that's it. Until they remove it, that's it, their lives are doomed. Not to normality anyway, they will not lead a normal life. I think some special effort, some funding or something has to be put into particularly helping them in relation to drug and alcohol problems.
- Q. You mentioned before about your hopes that New Zealand as a society will do or respond perhaps?
- A. Yes. There needs to be a general recognition that the family, as in international instruments we've signed up to, the ICPPR, the rights of the child, that the family is the most unit of society, that that's where everyone gets their nurturing and protection and they venture out to explore the world, I suppose, from. It needs to receive proper recognition, you do not remove a child from their family, whanau, unless it's probably to save them from serious abuse or they're in physical danger. Now it seems to me too much lip service is given. We're probably all familiar with the recent upsurge in children being uplifted by OT from hospital and things like that. That's solely down, I believe, they put a couple of sections, I think 17(b) and 17(a) into the former OT Act and it basically said if a mother has had a child uplifted previously, then you go and uplift that next child. Now, these situations could be completely different, you know. They might be completely different to what they did 5 years ago, for instance you see and there's a heck of a lot of distress and anger and all

sorts of things being caused in our communities because a young, going back to how the law is actually administered, some districts seem to be, you know, there is a bit of discretion built into the Act but some is going in there, that's their first course, take that child, and it interferes with the fundamental bonding between the family and the child. There might be a Court hearing later but if the child has its bonding interrupted and disturbed, it won't be fixed up especially in the first 48 hours, so there needs to be strict guidelines and policies, perhaps brought out by OT, to govern how the sections in the Act are being used.

Look at some of the recent media publicity painting OT in a very bad light. Basically they're trying to do their job properly but some of the Officers believe that they have to go and do that without, you know, invoking some subjective judgement and it's as bad as it was back with children like me, throwing them in Epuni, it's having ongoing effects on these children, I believe. So, there needs to be a revisiting of that and quite urgently too.

Q. Mr Taylor, we've gone through what was a comprehensive statement that you provided to us, thank you. Is there anything else perhaps forward looking from now, that you'd like to comment on?

A. No, I think I've pretty much covered it. It's just great to see that we're finally airing these issues because until you realise you have a problem, you can't do anything about it, it's never going to be fixed and it's a great thing, I hope the people of New Zealand understand the Royal Commission is doing a very important job.

I also hope, as I think Keith may have commented earlier, that whatever the report that comes out of the

Royal Commission is not just pigeonholed or put away somewhere but has been the result of massive consideration of evidence, it's been the result of a lot of thinking and a lot of public money and isn't just done for nothing, you know it should be acted upon. You know, obviously the Commissioners, they're not going to be making recommendations that they don't feel are very soundly based. Why should they be pigeonholed and not acted upon? It's saving the people in New Zealand a lot of expenditure of public funds, a lot of heartbreak and distress that's unnecessary, that's the whole point of it. You know, I feel it's totally unnecessary. What happened to me was totally unnecessary but I don't hate anyone for it. When I think about it sometimes, I just think hey this little kid is up in Starship Hospital 3 years old, they won't have a life, you look at it that way and that helps to balance it a bit but you still wish it never happened.

MS BEATON: I wonder whether that's a time to inquire -

CHAIR: Thank you, Ms Beaton. Can I ask if any counsel has any wish to ask Mr Taylor any questions? Ms Skyes.

ARTHUR WILLIAM TAYLOR
CROSS-EXAMINED BY MS SKYES

- Q. In the commencement of your brief, you described this process as one of a stolen generation?
- A. Yes.
- Q. It is a context I'm very familiar with in terms of the Aboriginal peoples of Australia. You seem to use it in a broader way, could you please amplify that?
- A. Of course the context originally is removal of children, half-cast children from Aboriginal mothers, stolen for no particular reason, other than the State felt they would get a better life and education, much as what happened here I guess. It is in a wider sense because this was our stolen generation. There were 100,000 plus kids went through the system, 100,000. Our population at the time was, what, 3.5 million, I think. That's a big proportion, you know. The whole generation.
- Q. The generation we're talking of, is that which you were directly a part of?
- A. Mm.
- Q. So, those children impacted upon by State policy in the 1960s and the 1970s?
- A. That's right, yes.
- Q. There's also a generation that's followed that's been impacted on, hasn't it?
- A. That's right. Of course, as I earlier touched on, it just doesn't affect these 100,000, there's their whanau, their family. You know, their sisters, their parents, everybody. There's a whole, we're talking about direct impact on hundreds of thousands probably of people, you

know, that have been hurt by this. That's why I called it a generation, you know.

- Q. So, if we're moving forward, my last question, how do we deal with the systemic impact of dislocation of children like yourself into State care having regard to your family's loss as well, your whanau loss as well?
- A. Obviously, one of the things that I think is done through the FQC process is we make sure whanau/family are widely consulted. They know what's best for their mokopuna, their children. Some there's bad whanau, bad everybody, right, but they need to be consulted and listened to. That's what I often say, these people that are making decisions, they seem to impose what they want. I'll liken it to The Warehouse, in a commercial sense they tell their customers you're going to buy this at this price, it wouldn't be tolerated, but this is what happened with the State. They don't consult those most directly affected by their decisions, they decide what's best and impose it without the wishes of whanau, everybody.

CHAIR: Thank you, Ms Skyes. No other counsel?
Colleagues?

ARTHUR WILLIAM TAYLOR
QUESTIONED BY COMMISSIONERS

COMMISSIONER ERUETI: Mr Taylor, I have a few quick questions, thank you. Thank you for your testimony.

First of all, you talk about the context of redress about the idea of trying to restore a survivor to the position they would have been in had they not been taken into care, and that seems to indicate that forms of redress should be more than only monetary compensation?

A. Obviously, we could never restore them to the situation they might have otherwise been in but we can perhaps make special allowances for them when it comes to housing, perhaps State social housing, in recognition the State owes these people a particular, perhaps because it let them down with its duty of care in earlier days and now it will make up for it and make them feel a heck of a lot better and that's what it's all about, to feel they have been listened to and some effective steps have been taken. Rather than a lot of people look at it as empty words. Some concrete stuff, yes.

COMMISSIONER ERUETI: You also spoke about the mixing of children from care and protection background and those with a justice background, that's emphasised quite a lot in your brief of evidence.

A. That's fundamental. I don't know why would you mix kids that are in there for issues nothing to do with committing a criminal offence, why would you possibly mix them 24/7 with kids that are in for serious criminal offences and expect that nothing, it's not going to wash

up on them, they won't be affected by it or taken on? We don't accept it in any other area of life where you mix people that they won't take on any of the mores of the people you mix with, so why would you in that context? I understand MOT's dues they are very awake to this sort of thing now and they make every effort not to mix children in Youth Justice and Care and Protection.

COMMISSIONER ERUETI: Thank you. My last question is about your time in Porirua Hospital and it seemed that that was - the suggestion was that was directly linked to your throwing the rake at the supervisor. You're being punished by being taken to a psychiatric hospital?

A. I mean, it was my understanding, obviously not then because I had no understanding of it, I just knew I ended up in a psychiatric hospital. You know, you go to a psychiatric hospital for treatment? So why for throwing a rake? This is all documented in the records I got through CLAS, that's why I was there. The Ombudsman investigated this back when all this was happening. What was happening is the Child Welfare authorities thought because they had a State Ward Order that that entitled them to have you committed to a psychiatric hospital and of course that's not the case and the Ombudsman found that and it stopped but when I was going through it they still believed they could. That's why you had a lot of children ending up in Lake Alice and things. They had never been proper medically assessed as to whether they warranted psychiatric care. The State was using its guardianship authority to put them where it felt like, clearly in a psychiatric hospital where they could get subjected to all the things people do in those places, electric shock treatment and that sort of thing. I mean,

it's just amazing to me why there was no legal import to this, no legal consideration as to what their powers, you know, what they were authorised to do. We need to be a society under the rule of law. The moment we lose sight of that and public officials start acting as they feel fit and as they think this thing should be as they want them to be, we're going down the road to the law of the jungle and nobody wants that, do we?

COMMISSIONER ERUETI: Kia ora, thank you, Mr Taylor.

COMMISSIONER ALOFIVAE: Mr Taylor, thank you very much for the generosity and openness in which you gave your evidence, it was greatly appreciated.

A. Thank you.

COMMISSIONER ALOFIVAE: My question arises out of your comments which are really welcomed around the subsequent children's legislation and the impact that had intergenerationally in the context that you describe of the people that were then later on in jail that had already been at Epuni with you.

Going right back to 1968 when they did the psychological report on you which was actually very helpful but which wasn't used and the impact that obviously they do psychological reports today, but I think the point, and I just want to clarify, that you're trying to make, is the lack of investment actually in the back story of the prisoners and the road that they've travelled?

A. Exactly.

COMMISSIONER ALOFIVAE: Is that correct?

A. That's right. I mean, you know, the Criminal Justice System is set up to punish offenders but let's look at this. These ones that have been through the system, they haven't got the same level of culpability, I guess we'd

call it in law, for their offending, you know. Perhaps that can be addressed in the section 27 report process but there needs to be some recognition that they're not just someone who woke up one morning and thought I'm going out to break the law. They were put in that position by the State and, okay, there's people who are going to say not all of them went on to offend, well hey, the majority of them did. And those people too, what if this happened to you, what would your chances of leading a crime-free life be? We all know criminals aren't born, they're made. Despite the likes of people like certain talk-back radio hosts would like to lead the public to believe. So, they were made by the State, the State.

COMMISSIONER ALOFIVAE: So, the section 27 that you're referring to, there's a lever there but it's not used well enough?

A. It's not. I was at a recent legal conference in Northland where Judge Davis, he emphasised a lot of the legal counsel there that they need to start using the section 27 process so the Court is fully aware of the offender's background and what motivated his or her offending and the Courts will give substantial discounts in appropriate cases. The legal profession needs to take their share of this on board and start to utilise that process built into our Sentencing Act and going down that road.

COMMISSIONER ALOFIVAE: Thank you, Mr Taylor. No further questions.

CHAIR: Thank you, Mr Taylor.

A. Thank you, Sir.

CHAIR: That brings the proceedings for today to an end and I would ask you, Madam Registrar, to close the

Royal Commission proceedings for today with a view to resuming at 10.00 a.m. tomorrow.

THE REGISTRAR: If we could all remain seated. We opened this morning with a karakia and waiata and we'll close the day with a karakia and a waiata.

(Karakia and waiata)

Hearing adjourned at 5.24 p.m.