## ABUSE IN CARE ROYAL COMMISSION OF INQUIRY LAKE ALICE CHILD AND ADOLESCENT UNIT INQUIRY HEARING

Under	The Inquiries Act 2013
In the matter of	The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions
Royal Commission:	Judge Coral Shaw (Chair) Ali'imuamua Sandra Alofivae Mr Paul Gibson
Counsel:	Mr Simon Mount QC, Ms Kerryn Beaton, Mr Andrew Molloy, Ms Ruth Thomas, Ms Finlayson-Davis, for the Royal Commission Ms Karen Feint QC, Ms Julia White and Ms Jane Maltby for the Crown Mrs Frances Joychild QC and Ms Alana Thomas for the Survivors Ms Moira Green for the Citizens Commission on Human Rights Ms Susan Hughes QC for Mr Malcolm Burgess and Mr Lawrence Reid Ms Frances Everard for the New Zealand Human Rights Commission Mr Hayden Rattray for Mr Selwyn Leeks
Venue:	Level 2 Abuse in Care Royal Commission of Inquiry 414 Khyber Pass Road AUCKLAND

14 June 2021

Date:

1		Youth - something was achieved, and also acknowledging the three of you and the work of
2		ACORD on institutional racism.
3	DR S	SUTHERLAND: There are others of us here as you know.
4	CHA	AIR: Yes, to all of you as well, the work on institutional racism which was pioneering and
5		should be an inspiration to Tauiwi in this country to take on board some of this kaupapa
6		and, you know, I think you uncovered something more than that, something perhaps
7		compellingly sinister, and thank you and thank you for persevering and waiting 45 years for
8		something to happen. And we hope we can do something with that, kia ora, thank you.
9	MS ]	R THOMAS: Thank you.
10	CHA	AIR: On that note, we invite you to now have a rest for a short time, I know you never stop,
11		but in the meantime this afternoon it's time for afternoon tea. I think if we resume at
12		about – in terms of timing, sorry to do housekeeping all around you, feel free to go. Timing
13		for when we should start again?
14	MS ]	FINLAYSON-DAVIS: As I understand it the next witness is waiting to be called, he's
15		appearing from Australia so we can start whenever you see fit, Madam Chair.
16	CHA	AIR: All right, let's give ourselves 15 minutes and we'll come back in 15 minutes, is that all
17		right?
18	MS 1	FINLAYSON-DAVIS: Thank you.
19		Adjournment from 3.19 pm to 3.38 pm
20	CHA	AIR: Ms Finlayson-Davis.
21	MS ]	FINLAYSON-DAVIS: Tēnā koutou e ngā Kaikōmihana o te ra, tēnā koutou o te whare, ko
22		Emma Finlayson-Davis tōku ingoa. The next witness to be called is Tony Sutherland who
23		is appearing, as I indicated earlier, by video link from Australia.
24		ANTHONY SUTHERLAND
25	CHA	AIR: Hello.
26	A.	Hi.
27	Q.	That means you can see me so that's a good start.
28	A.	Well done.
29	Q.	How would you like me to refer to you? I see you're Anthony in your brief of evidence, the
30		lawyer's just referred to you as Tony, how would you -
31	A.	My mother called me Anthony, I like to be referred to as Tony.
32	Q.	I'm not your mother so I will refer you to as Tony.
33	A.	Thank you so much.
34	Q.	Let me just give you the affirmation and ask you to agree. Tony, do you solemnly,

- sincerely, truly declare and affirm that the evidence you'll give before this Commission will
- be the truth, the whole truth and nothing but the truth?
- 3 A. I do.
- 4 **Q.** Thank you. I'll hand you over to Ms Finlayson-Davis.
- 5 A. Thank you.
- 6 **QUESTIONING BY MS FINLAYSON-DAVIS:** Good afternoon Mr Sutherland. Before we
- begin, can I just check that you have somewhere in front of you the statement you prepared
- 8 for the Commission dated 20 October 2020?
- 9 A. Yes, I have.
- 10 Q. And just to let you know, Mr Sutherland, that statement has already gone to the
- 11 Commissioners and they have read it in advance, so today we'll just be taking -- I'll just be
- taking you to certain parts of that statement.
- 13 A. Yes, fine, thank you.
- 14 **Q.** To begin with, Mr Sutherland, just to cover your professional background, you joined the
- Police in 1965 and you were a Police Officer through until 1979; is that correct?
- 16 A. That is correct, yes.
- 17 **Q.** And in the beginning part of the 1970s, you became a Juvenile Crime Prevention Officer?
- 18 A. Yes.
- 19 **Q.** And at some point in time that transitioned into a role known as a Youth Aid Officer?
- 20 A. That's right, I think that was about 1973.
- 21 **Q.** That new role had a number of different aspects. One of them was to participate in weekly
- meetings with what was then called the Child Welfare Department?
- 23 A. Yes.
- 24 **Q.** And the Māori Affairs Department; is that correct?
- 25 A. That's right.
- 26 **Q.** What were the purpose of those meetings?
- A. All juveniles, people under the age of 17 years who were referred to or apprehended by the
- Police, a file was prepared, the file came to my desk. Before a decision was made as to the
- action by the Police, I took that file to a weekly meeting with The Welfare and Māori
- Affairs, and the child subject to the file was discussed and we, at the end of the meeting,
- would make a recommendation. I would go back to the station and report that, the written
- report, to the District Commander who would then make the ultimate decision as to
- whether the child was prosecuted or otherwise disposed of, the matter was disposed of.
- And another part of your role was perhaps community outreach where you would go out to

- various schools and talk about the role of a Police Officer; is that correct?
- 2 A. Yes, trying to lift within the juvenile population the image of the Police and trying to break down barriers that may have been there. Also [screen frozen].
- CHAIR: I don't know if you can hear us, Tony, but you've frozen on the Zoom. We'll just wait for a moment and see if that's going to come right. We don't have a living human being who's coming forward to assist us. I think we might have to have an adjournment. Sorry everybody, we'll just take a few minutes while we get the technicalities sorted.

## Adjournment from 3.44 pm to 3.49 pm

- 9 **CHAIR:** Sorry that we lost you, Tony, we're back again.
- 10 **QUESTIONING BY MS FINLAYSON-DAVIS CONTINUED:** Mr Sutherland, before 11 technology got the better of us, I think I'd asked you about your role going out to speak to 12 various schools in the local area.
- 13 A. Yes.

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- Q. One of those schools was Holdsworth residential school, wasn't it?
- 15 A. Yes, that is correct.
- 16 **Q.** You visited Holdsworth a number of times I think in that role; is that correct?
- 17 A. Yes, a whole series of visits to various classes within the institution, like a classroom situation.
- I think at paragraph 15 you touch on this, but what did you perceive the environment to be like during your visits to Holdsworth?
- A. It was very much an institution and not a classroom, not a school environment. The children -- I almost perceived that there'd be a prison-type attitude and environment as opposed to a classroom where the students were involved and active.
- Q. Now I want to turn now to a particular conversation that you had on one of these visits to
  Holdsworth school and you start discussing this from paragraph 17 of your statement,
  Mr Sutherland. You talk about a conversation you had with Assistant Principal John
- 28 A. Yes.

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Drake.

- 29 **Q.** Can you tell us about that conversation?
- As well as going into the classroom I also spent time with the teachers and/or masters in the various outside of the classroom, like have morning tea with them or even have lunch with them on occasions. At one stage we were returning back into the school area, the area where the (inaudible) walking through the foyer with John Drake who I think was the Assistant Principal then, or one of the management of the school, and as we walked through

there was a notice board which was behind the glass in the foyer up on the wall of the foyer.

That was a list, I asked him, and it was a list of all the students, all of the inmates of Holdsworth. Beside each name there was a number, I don't recall what the range was, but I asked him about was this the list of the inmates, yes, it was, and in the conversation what did the numbers refer to. And he said "Well, that's how the kids know when they're going to be discharged or otherwise." I said, "So what do you mean?" He said, "Well, if they get a certain number of points, when they get a certain number of points they will be sent home or released or move out of Holdsworth."

I looked at him and said, "How do you control that? How does that happen, how do they get the points?" He said, "Oh we give them the points as masters and myself as the -- he may have been the principal then – we award the points or deduct the points as we see fit", and he said, "mysteriously they get the right number of points when they are ready to go." And we both smiled and understood what that meant.

I said, "So what about losing points?" And he said, "Yes, well we control that, we allocate minus points if they misbehave." I said, "So if they get the right number of points they can go home and they can see their progress on the board, if they get a negative number of points, a certain number, they don't go home?" He said, "That's right." I said, "So what happens to the kid who goes out the back door, who gets a minus point?" He says, "Then they go to Lake Alice." I looked at him and he said, "Rest assured they come back with a totally different attitude." And that comment stuck in my head. I wanted to talk about that further. And he more or less cut the conversation short and we went off our separate ways. We never developed that second part of the conversation.

- Q. As a result of that conversation, you talk about, I guess, the concerns that left in your mind about what was happening and you go on –
- 26 A. Yes.

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- **Q.** to talk about what you did in response to those concerns. I think you –
- 28 A. I-yes.
- **Q.** Sorry, you take it from there.
- A. I went back to my office and I thought about it for a couple of days and it worried me in that the Police Department had a procedure if you wanted if a person if a citizen had to go to a mental hospital there was a procedure you had to follow. But that didn't appear to be consistent with these children out at Holdsworth going to Lake Alice. It worried me.

  I arranged the matter with at the next weekly meeting that I had with the Welfare. Ray

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Wallace was then – he was the second in charge of the Child Welfare in Whanganui, he was the one who presided – he chaired the weekly meeting.

I raised it at the end of our meeting, I raised it with him what I'd seen at Holdsworth, and he pretty well closed me down, again, "I don't want to talk about that here, this is a weekly meeting about juveniles going prosecuted by the Police, it's not about Holdsworth, that's a Welfare matter, I don't want to get involved." This is Ray Wallace talking. Ray and I knew each other pretty well, we'd spent some social time together, but he still wouldn't give me the opportunity to discuss the matter further.

Subsequently for some other reason I ended up in Eric Medcalf's office, Eric Medcalf was the District Officer in charge of the Welfare, Child Welfare. I raised it with him that I had observed this at Holdsworth and I was a little concerned about was it a policy, was that what they did, and he also shut me down and said, "Look I don't really get involved with Holdsworth, it's not an area of my concern, can we move on to other things." So we talked of other things.

Subsequently I had the opportunity to discuss with my – I had two senior officers in the Whanganui Police Station, Superintendent Brian Dean who was my District Commander, the man I reported to and his second in charge was Inspector John Turner. John Turner and I had had an opportunity to have a discussion and I raised it with him as to what I -- my reservations of what I saw, being what was happening at Holdsworth. And he'd also closed me down again saying that, "We're the Police department, we're interested in offenders, we're not – this is a Child Welfare Department, they'll handle what happens up there."

Subsequently I had an opportunity to have a discussion with Superintendent Brian Dean, I raised it with him and expressed my concerns and he also said, "Look, you know, we've got enough to do as a Police Department, let's not get involved with what the Welfare are doing, I'm sure the Welfare and Eric Medcalf are capable of looking after what they do."

I came away from all of that pretty frustrated, but with the level of what I'd seen I was disturbed but not - I wasn't motivated enough to escalate it, after having been closed down by those four in authority people.

- So Mr Sutherland, at that stage we've talked generally about it being "concerns", what was your concern that the children were being taken from Holdsworth to a psychiatric unit, did you know anything more than that at that stage?
- A. No, I had no indication of anything else, other than the fact that they were in an institution

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and I was aware, I was totally aware that the Welfare Department controlled these kids in that environment. The kids didn't have any avenue to appeal, to talk about their problems, they only had the environment they were in.

Because I was aware of how (inaudible) went to Lake Alice, went to any mental institution, and as a policeman I'd been involved with that with various people, I mean it was a fairly good system. The system that existed outside of Holdsworth seemed to me to be quite a fair system, and an individual who was involved in that system stood a fairly good chance of having a reasonable hearing before he got to Lake Alice.

But it appeared to me that at Holdsworth if you upset a teacher – and there's another little aspect of that – but if you upset a teacher he could give you a negative points system and that teacher could actually get a child to go to Lake Alice. And that didn't appear to me – and we're talking of 8-, 10-, 11-year-old kids, we're not talking of adults, we're not talking of people who have got a voice. And that wasn't the system that I wanted to be part of.

- Q. Perhaps just going back a little. This conversation, or these series of conversations you had, can you help orientate us with what year that might have been?
- 17 A. I think I was made the Youth Aid Officer about '73 and it would have been subsequent to that, may have been '73, '74, '75, I don't have any paperwork or any record of that.
- Q. Certainly. The attitude that you got when you raised it on these four separate occasions, did that surprise you?
  - Yes, from the Welfare Department it surprised me, but perhaps I can explain why I was so concerned, was that I had identified a master who was at Holdsworth who I had some reservations about, his behaviour. And I had raised that previously with Ray Wallace and with Superintendent Brian Dean, and as a result the Welfare instigated from Wellington Head Office an investigator who came to Holdsworth, investigated what I suspected and the master was, I understand, transferred out of Holdsworth.

That was almost an immediate response within a couple of days of me raising my reservations through Brian Dean, and then he raised it back at the Head Office and then at the Welfare Head Office, that was an immediate reaction. Now if that same master had been able to control these kids with his negative points, heaven alone knows where that could have gone. That master was a paedophile.

- **Q.** So in terms of that, you're contrasting the immediate response with that other issue, which we –
- 34 A. Yes.

- 1 **Q.** perhaps will leave there with the response you got when you raised the transfer of children?
- 3 A. This issue, yes.
- 4 Q. You say in your statement, Mr Sutherland, that you didn't know about the electric shocks
- being given at Lake Alice or that that was part of the treatment there. If you had known at
- the time, and I appreciate this is a hypothetical question, if you'd known that that was
- occurring, would your response have changed in any way to hearing of that?
- A. Yes, I would have pursued it and I wouldn't have been shut down. I had another avenue, if you like, being a Youth Aid Officer, the Youth Aid Section had its own national division
- within the Police and we had our own officer in charge who was at Police headquarters. If
- I'd known of the shock treatment I would have escalated it first to John Turner, then with
- Brian Dean, and if I hadn't got a response I would have involved the CIB, and if I got no
- response I would have escalated it myself until I found out the how it could be justified,
- 14 how it could be rationalised.
- To me I use in my statement I use the word "shocking", which is an
  unfortunate term in the context of what it's all about, but to me that's horrendous that we
  take a 10-year-old kid and give him electric shocks. But I didn't know that, I didn't know of
  that shock treatment until subsequently.
- Q. Was that, if you like, once you were shut down following your attempts to raise concerns, was that the end, as far as you knew it, of the matter, for your personal involvement at least?
- 22 A. Yes, subsequently I've been reminded of a hearing that happened that GRO-C

  23 subsequently, for some reason I thought, I understand took action, civil action against one
- 23 subsequently, for some reason I thought, I understand took action, civil action against one 24 of the GRO-C and –
- 25 Q. Right, I might just –
- 26 A. and that was the time that I was involved.
- Q. Certainly. In terms of raising any further concerns, though, that was the end of your involvement?
- 29 A. Within the Police Department, yes, yeah.
- Thank you Mr Sutherland, I'll ask you just to remain there in case the Commissioners have any questions for you.
- 32 A. Yeah.
- CHAIR: Tony, can I just you've raised a very interesting area for me. And that is, and I know we're talking back in the '70s, but I'm interested in the relationship or the culture of the

- relationship between the Police and what we all called the Welfare back then in those days.
- 2 It seems to me that from what you've told us here that the, at least the senior police officers
- who you spoke to, had the feeling that Police was Police and Welfare was Welfare and you
- didn't get involved across the board. Is that a fair summary of the situation?
- 5 A. I think it was very divisional: Police Department on their side of the fence, Welfare on the
- other and the Police Department was having enough problem coping with the Youth Aid
- Section as being a whole new approach to juveniles and doing something other than just
- taking them before the courts. And we -I was a bit of the meat in the sandwich, I think,
- and we had to forge our own way ahead and I'm only a constable and the other the
- hierarchy is there around you.
- I was a bit of a go-between and I had very good rapport with initially Eric
- Medcalf, because he chaired the weekly meetings, and secondly with Ray Wallace, and as
- I say, the relationship with Ray Wallace was a personal one as well. But the Police
- Department as a whole operated out of the Police Station and the Welfare operated out of
- their office. And there wasn't a lot of in terms of community involved there much
- discussion about that at that level, I saw, I didn't see.
- 17 **Q.** I think you are right, you were forging ahead, it was a new and important social initiative,
- wasn't it, for the Police to have the Youth Aid officers engaging with the community and
- facilitating, trying to keep children away from the justice system?
- 20 A. Exactly, that was what we were about. And that's where the talking with schools was, so
- 21 we had a better rapport with the kids.
- 22 **Q.** And that's where the rub was between you and the Welfare Department, wasn't it, because
- 23 you inevitably came up against each other or had to work side by side sometimes with the
- same children?
- 25 A. Yes, that's why we had the weekly conferences was to try and not have the confrontation
- and I think that we reduced the prosecution rate very substantially.
- 27 **Q.** Yes.
- A. And those kids got dealt with differently and I think positively.
- 29 **Q.** Thank you for that. My colleague, I've stirred up something for my colleague Sandra
- Alofivae, she'd like to ask you a question.
- 31 **COMMISSIONER ALOFIVAE:** Good afternoon, Mr Sutherland. Thank you for letting us
- know that the prosecution rates have gone down. My question is really around, we've heard
- a lot of evidence both in our private sessions and also hearing our public hearings that
- young people were getting picked up for things like stealing chocolate bars.

- 1 A. I'm sorry?
- 2 **Q.** Young people were being brought before the Youth Court –
- 3 A. Yes.
- 4 **Q.** for things -
- 5 A. Juvenile.
- Q. for things like stealing chocolate bars, so things that today we would consider completely
   minor misdemeanors, if that.
- A. I don't know what's going on in New Zealand now, but certainly back then a decision made 8 by a juvenile – not a juvenile, a young constable only recently made a constable at 19 could 9 end up with a child being in court. Whereas by bringing in the Youth Aid Section and the 10 system, that kid would end up with a warning and go a different way and not end up in 11 court. It really was a very positive move and – but we had to argue against policemen who 12 had been policemen for 40 years and "Put the buggers before the court", that's all you did. 13 And that was your part done then, if you put the matter before the court that was the 14 judicial system. And that was the environment that I found the Youth Aid Officer was 15 working within. 16
- Thank you, I think the philosophy behind the Youth Aid division is something that should certainly be supported and we understand that, but even back then in the '70s in your day, this is the some of the material that we're hearing, and –
- 20 A. Yes.

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- Q. it's quite concerning, I suppose, around attitudes of the times that children could be put into care for things so minor. I guess I'm just wanting to understand really from your perspective now that you're able to reflect quite frankly where that was heading back in the '70s and into the '80s?
- A. From my point of view I saw initially when I was made the Juvenile Crime Prevention
  Officer that was a shared role with court orderly. So not only did I have the kids coming up
  on one half of my desk as a juvenile crime offender, but then the next if he was
  prosecuted, as initially he automatically was, I would see him in the court, and then you
  saw that kid up the street, that child up the street walking the street when I was on patrol or
  whatever and he was aggressive.

Go back to six months later, eight months, 12 months later when we had the conferences organised and I was doing Youth Aid, we would deal with the child, I would visit his parents before I had the conference at Welfare, I would assemble all of the facts of the file, I would take the file then to Welfare, I would get the input from the Welfare people

if they knew him and knew the family, or – and if the child was a Māori boy – if the child was a Māori person the input from the Māori Affairs officer who was at the conference, very worthwhile and totally positive outcome. We would then formulate what we thought the best way to handle this kid going forward as opposed to punishing him for what he did. We weren't so interested in punishing him, we were interested in making sure that he went on a better path going forward.

And that system worked. I would then meet that child perhaps in a classroom or walking up the street and he was a positive kid. He – most of them, I mean there were some ratbags, of course there was – but most of them benefitted by the opportunity and you would give them one or two opportunities and then after a while would decide he's not benefitting, he needs to get a lesson somehow. But the whole role of Youth Aid broke down in the Police Department this "prosecute them" attitude, I believe.

**Q.** Thank you very much Mr Sutherland.

**CHAIR:** You've painted a very fine – or given a fine model of how to deal with young people and it's a great pity that many of the people who were children when they were taken into care didn't come into your benign presence and they might have come out rather differently.

Tony, can I thank you most sincerely for making yourself available through the Zoom, the magic of Zoom, and to thank you very much for a very important insight into what was happening back there in 1973. I also want to thank you for raising it, you know, you had the courage to raise it at the time, the fact that you didn't get any traction I think is no fault of yours, but is something that we're looking into in terms of accountability for allowing things to happen. So many thanks to you and for engaging with the Royal Commission.

- A. Thank you, thank you for the opportunity.
- **Q.** You are most welcome. Goodbye.
- 26 A. Bye.

MS FINLAYSON-DAVIS: Thank you. The next segment of evidence relates to the efforts of Craig Jackson. As we are all hearing, there were a number of people that raised concerns or made complaints during the 1970s about the operation of the Lake Alice Child and Adolescent Unit. We've heard today from Oliver Sutherland, Ross Galbreath and of course just most recently Tony Sutherland of their efforts.

We also heard from Oliver Sutherland about some of Craig Jackson's efforts. Craig Jackson was an acting district educational psychologist for the Department of Education. He visited the Lake Alice school approximately once a month between 1972 and 1974 in a

consultative role. He worked with the principal and the staff to advise on programmes and on the educational needs of the students.

You will hear that during the 1970s Mr Jackson tried on a number of occasions and through a number of different government departments to raise concerns and to advocate for an inquiry or an investigation into what was going on in the unit.

You will also hear that Mr Jackson's boss, Don Brown, who was Acting Chief Educational Psychologist at the time, also intervened. Both Mr Jackson and Mr Brown have passed away and are not able to give this evidence themselves. Their efforts have been collated into a timeline which will be played now and I will narrate for accessibility purposes.

I should note that the source documents for each event on the timeline have been obtained by the Commission pursuant to section 20 notices. Their contents have been summarised in the interests of time, however the full documents are available of course for a review. Thank you Lucas.

## **CRAIG JACKSON** - (video played)

MS FINLAYSON-DAVIS: So in September or October 1974 educational psychologist Craig Jackson informs Acting Chief Psychologist, Don Brown, that he has no direct knowledge that improper use was being made of ECT. However, he was aware, through discussions with the principal of Lake Alice school, that ECT was being used in what appeared to be a punitive fashion at the Lake Alice Child and Adolescent Unit.

As a result of that conversation, on 6 November 1974 Don Brown acting on instructions from Head Office Department of Education met with Lake Alice Medical Superintendent Dr Sidney Pugmire.

Following that meeting on 11 November 1974, Dr Pugmire writes to Don Brown. He says he has investigated the unit's therapeutic techniques and found that the anxieties of the educational psychologists were completely unfounded. However, to avoid confusion, the nursing staff had been completely changed, including the charge nurse. Further, he advised that Dr Selwyn Leeks agreed to discontinue the use of – it is noted as "electrotonus", but we believe this should be a reference to "ectonus" – to discontinue the use of ectonus and to always give an anaesthetic before ECT treatment.

Don Brown responds to that letter on 14 November 1974 thanking Dr Pugmire for his assurances and advising that he would pass on the information to the psychologists concerned.

15 December 1976, we have a letter from Craig Jackson to Rod Sinclair, the Chief

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