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

Under The Inquiries Act 2013

In the matter of The Royal Commission of Inquiry into Historical Abuse in
State Care and in the Care of Faith-based Institutions

Royal Commission: Judge Coral Shaw (Chair)
Ali'imuamua Sandra Alofivae

Counsel: Ms Katherine Anderson, Mr Simon Mount QC, Ms Kerry
Beaton QC, Ms Jane Glover, Ms Anne Toohey, Ms Kima
Tuiali'i, Ms Julia Spelman, Mr Winston McCarthy, Ms Echo
Haronga, Mr Michael Thomas and Ms Kathy Basire for the
Royal Commission

Ms Rachael Schmidt-McCleave, Ms Julia White and Mr Max
Clarke-Parker for the Crown

Ms Sonja Cooper, Ms Amanda Hill, Mr Sam Benton,
Ms Alana Thomas and Mr Sam Wimsett as other counsel
attending

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

Date: 14 February 2022

TRANSCRIPT OF PROCEEDINGS

1 **Lunch adjournment from 12.50 pm to 1.50 pm**

2 **CHAIR:** First can I just apologise for making you wait so long, it's the way of the world in this
3 environment and I am sorry because it must have been awful. But secondly can I say what
4 an impressive line-up we have in front of us here, and I look forward to hearing about that.
5 Ms Glover shall I just give the affirmation.

6 **MS GLOVER:** Yes, please ma'am.

7 **KEN CLEARWATER (Affirmed)**

8 **QUESTIONING BY MS GLOVER:** Thanks Ken. Just to confirm that you're happy being
9 addressed as Ken today?

10 A. I did like it when one of the lads called me Sir Kenneth, but I think I will stick with Ken.

11 Q. I understand that you'd like to start with a karakia today?

12 A. If I may. Tuia i runga, tuia i raro, tuia i roto, tuia ki waho, tui he tangata, ka runga te po, ka
13 runga te ao, taiki e. Which meanings to me once again is bringing us together in the spirit of
14 why this Royal Commission was set up, to acknowledge this whare that's been built
15 especially for this, the knowledge that's come into it and of course we've gone into a lot of
16 darkness over the last few days and to go – we've had to go into that darkness to get back
17 out into the light in the hope that then we can all come together and make New Zealand a
18 safer place, and final word really is if we could just stop raping our boys and girls, kia ora.

19 **CHAIR:** Kia ora ki a koe.

20 **QUESTIONING BY MS GLOVER CONTINUED:** Just to bring us back down to the mundane
21 just remembering the speed. So Ken, you've been working to support survivors of male
22 sexual abuse for many decades, and we see on the screen some of the awards and
23 recognitions that you've received for this work, including being appointed as an officer of
24 the New Zealand Order of Merit in 2019 and the colourful one there was for being one of
25 the founding members of an international organisation concerned with sexual violence
26 against males and the work of that organisation is something that we may touch on in the
27 course of your evidence.

28 You've also been calling for this inquiry or an inquiry of this nature for nearly two
29 decades. So, we're really honoured to have you here and really pleased that you've come to
30 share your knowledge with us. You've had a long association with an organisation MSSAT
31 [Male Survivors of Sexual Abuse Trust New Zealand], and you're its manager in the early
32 2000s, is that right?

33 A. Yes.

34 Q. And you say that in your role at MSSAT you've worked with many survivors of abuse by

1 members of the Catholic Church, including survivors from Marylands and from the Hebron
2 Trust and other Catholic organisations?

3 A. Yes, yeah.

4 Q. One thing I know you want to talk about is the power of the Catholic Church. What impact
5 did that have on the survivors you've worked with?

6 A. I think it's had huge, huge power. I mean those – most of those men that we've worked the
7 course and that were boys and they were put into an institution where they were controlled
8 by fear and they had nowhere to go, there was huge power involved in the dynamics of that,
9 which, you know, for some of them now can't – even walk past a church if they see a priest
10 or a nun they go into – they get triggered by what happened.

11 So also, over the last 25 years of course working with these men we've had the
12 where – the reports are coming out from around the world in relation to other orders. – And
13 so you've got for those who haven't seen it, the movie Spotlight and the opening scene of
14 Spotlight is the young Police Officer says to the other Police Officer "What are they doing
15 with father?" And he said, "Don't you worry about that" and the next minute you see the
16 Cadillac pull up the back of the police station and father goes out the back door and gets
17 into the car and that man was Geoghan who had raped hundreds of boys. So therefore, the
18 Police throughout the world have been controlled by the Catholic Church as well. So, these
19 men knew that several times as boys they'd been to the police station and were too
20 frightened to say anything because of that power that the church held over them.

21 Q. Tied to that, you've mentioned that many survivors struggled to be believed when they
22 eventually did disclose their abuse. Can you tell us about that?

23 A. So, a lot of them had spoken out about what had happened to them, including to the ones
24 who had parents, had spoken to their parents about what happened. Unfortunately, their
25 parents didn't believe them and in some cases the boys got a hiding for saying horrible
26 things about those 'wonderful' men that were looking after them.

27 Q. Are you talking specifically about Marylands here?

28 A. Mostly at Marylands, yes.

29 Q. Thinking about your work with the Christchurch survivors both at Marylands and the
30 Hebron Trust, as part of that work did you ever have any meetings with the Bishop of
31 Christchurch?

32 A. I actually had a meeting with Bishop Cunneen before I started working with any of the
33 survivors from St John of God Marylands and I can't even remember how that came about.
34 I think a friend of mine said that I should make an appointment to go and see the Bishop

1 and then if anything came up in relation to Catholic churches then I'd have an
2 understanding of how to deal with it. Because the work we were doing back then was
3 nobody else was doing what we were doing. So, it was literally trial and error.

4 So I organised a meeting with Bishop Cunneen and we had a cup of tea and a
5 chockie biscuit and I explained to him who I was and what I was doing, and that I was
6 working with men and boys who had been sexually abused, and I'd had a couple of
7 complaints in relation to boys who had been in Catholic schools and just wondered –
8 I basically wanted advice for him how I would deal with – if it came up. And that's when
9 he gave me the Path to Healing and also gave me the phone number of an organisation, and
10 I'll be honest I can't remember who it – what their name was at that time, but it was some
11 people within the church who had set up a form of, I suppose, like a support for any victim
12 survivors who had come through, and so I met with them and it was just a couple of lovely
13 men and a couple of lovely women within the church who wanted to do something right,
14 and I thought that was nice, that was that I've got the Path to Healing and now I've got these
15 people.

16 And then after the St John of God stuff hit the paper, I contacted these people and
17 the lady come and saw me and she said that they couldn't deal with that sort of stuff and
18 they closed it down and they gave me the \$200 that they'd had in their bank account for that
19 sort of thing. So I think it freaked them out once people started coming forward.

20 Q. What was the Bishop's overall reaction to you and to the work you were doing?

21 A. Well, I look back now and it was like – he was lovely, you know, and he was pleasant
22 enough, but it was sort of like, I remember him saying something, and I feel a bit difficult
23 about this because he's not alive to defend himself, so that makes it difficult, and he just – it
24 was sort of like, that it's not a major issue, yes, we've had a couple of complaints but we've
25 got this Path to Healing and everything was under control. And when I look back now, you
26 know, he blatantly lied to me, things weren't under control at all.

27 Q. I'd like to ask about the time that you mentioned in I think around 2002 when the media
28 reports started to emerge about abuse by members of the St John of God Order, because
29 one of the MSSAT survivors was closely involved in those initial media reports, wasn't he?

30 A. Yeah, what happened was I first met him in the peer support group in 1996 before I started
31 doing this work and he would talk about the stuff that was happening to him and he didn't
32 mention the name of where it was, he just said, I remember a couple of times he said things
33 about priests and things like that, but I was at the early stage of my journey so I was really
34 struggling to listen to that within the group.

1 And then about a year, maybe a year and a half, two years later, he came to the
2 group and he said, and he just sat in the group, he says "I'm getting paid out some money
3 from the church" and of course everyone's "Oh what for?" You know, "Oh stuff that
4 happened to me at Marylands School". And then I didn't see him for a long time and it
5 wasn't – we didn't, like if someone didn't turn up they didn't turn up, if they turned up they
6 turned up, but there was just, there was just something about it. So I did ring him and
7 I wanted to check up that he was alright and he said "I'm not allowed to talk to you" and
8 I said "Why not?" He says "Because I've been paid out by the church" and he said "If I talk
9 to you they will take my house and the money off me." And remembering this guy was of
10 low intellect, he had no education, and I said "I couldn't imagine that being true" and he
11 said "It is true, I've got a document." And I said "Would I be able to have a look at that
12 document?" And he said "Yeah", but he said "You'll have to come in the back way, I don't
13 want anybody seeing you coming into my house." So I went there and him and his wife
14 were there and we sat down and he had a document, I would imagine it was probably three
15 quarters of an inch thick, so I went through it and what I saw is a legal document that was
16 protecting the church.

17 And then I got to – there was one paragraph at the top on one of the pages and it
18 was along the line of if you needed any help or support or therapy, you were able to get
19 that. So I said to him, that I read that out to him, and I said "So that means that you can get
20 some help if you want, and you can come back to the group." But he said "No, no, I can't",
21 he said "They will still take my house off me." So he was embedded in that place where he
22 was too frightened to do that.

23 And about six months after that I was in Australia and just watching the tele and I
24 think it was 60 Minutes or 20/20 and they were interviewing George Pell about confidential
25 clauses within the victims, and George Pell, I don't remember the exact words, but it was
26 along the lines of we would never have confidentiality clauses in there for the victims.

27
28 And then it switched over and they interviewed three men who were standing
29 there with their documents saying, which read that they – of the confidentiality clause they
30 weren't allowed to speak and they weren't allowed to talk about how much money they'd
31 got. So I came back to New Zealand and I got in touch with this particular person and
32 I went around and saw him and I said "Look", I said, "I think that we can do something
33 about this" and I said "Would you be – would it matter to you if I spoke to a" – I said
34 I knew a guy who was a reporter for 20/20 and he said "No, no, that would be alright." So I

1 rang Matt Conway and he said to me that he was no longer working for television but he
2 was working for the press and I explained the story to him and he said "Leave it with me."

3 And he got back to me and he says "We would like to interview the person." So
4 they interviewed him and Matt got back to me and said "This is quite a big story" and he
5 said "We're going to go with it." And then the night before they were going to go with it, I
6 think it was the Wednesday it came out, on the Tuesday night the fella rang me and he said
7 "Ken, I've changed my mind, I can't do it", he says "I don't want to lose my house." And
8 I said "Okay", I said "This is your journey", I said "I'm here to support you whether you
9 want to go ahead with it or not", I said "If you don't want to go ahead with it I'm still here to
10 support you, if you go ahead with it I'm happy to go ahead with it with you." And he said
11 "If I go ahead with it", he says "Do you think it will help other boys that have experienced
12 what we've experienced?" And I said "I would certainly hope that would be a journey that
13 we could go on." And he says "Alright", he says "Go with it."

14 So the next day it was the front page of the paper, it had a photo of him, it was
15 darkened, it was on all the big posters in Christchurch around the press and the next minute
16 it just went ballistic and I didn't expect that to happen, I don't think anybody did. And
17 within a few weeks we got – we just got calls from all over the place, people ringing up
18 saying they were either at Marylands or they were at other Catholic schools in
19 New Zealand. I got a call from a guy in Sydney, I got a guy from a call in Russia, I got a
20 call from a guy in London who had been at Marylands School. And then I freaked out a
21 wee bit because I hadn't been doing this job for very long and wasn't 100 per cent sure what
22 to do.

23 And so I had a talk to a friend of mine who used to work in the child helpline and
24 she said "You need to talk to the – you need to talk to people, you need to maybe get them
25 legal advice." And so we were running a peer support group at that time and so I set up a
26 separate night for anybody who was at Marylands to come along. And to be honest I can't
27 remember how we – whether we'd advertised it or how, but I think about 10 people turned
28 up. Some with their parents, some with a support person, and I'd also contacted Grant
29 Cameron, someone said that you probably have to get legal advice. I look back now and
30 think maybe that wasn't the best idea, but I didn't know and I thought they probably would
31 need legal advice.

32 So Grant Cameron came along and spoke about the legal advice side of it, I talked
33 about the peer support model that we had and we would use that for the, I call them the
34 boys from Marylands, and we would have a regular get-together for the guys, and they

1 were all from different, like there were some from – one fella from the 50s, one from the
2 60s, so they were all from different – but they all had – the stories were just so similar.
3 They didn't know each other at that time, and so that's basically how we got started.

4 And then I started to get phone calls from some mums, and these mums were in
5 their probably 70s, maybe 80s and they were on the phone crying saying "Look I put my
6 boy, I was advised by the experts at that time to put my boy into that place, that he would
7 get the special care that he needed." So a colleague on our trust board and myself, we set
8 up a special group for the mums and that was, yeah, that was pretty harrowing in itself
9 listening to the stories from those mothers –

10 Q. And that support group for the parents eventually petered out for want of funding, is that
11 right?

12 A. We had – we never knew from one week to the next whether we would have funding for
13 Male Survivors Sexual Abuse Trust. It was literally living by the seat of our pants. I was
14 working nightshift in the freezing works at the time and had – so I was doing that part-time
15 and then I applied for some funding, I think I was earning 30-odd thousand at the freezing
16 works and I applied to a place called Canterbury Community Trust for funding, applied for
17 \$30,000, got \$15,000, so I took the role on in 2001 as the manager with that \$15,000 and
18 just – but from then on it was literally not knowing from one day to the next whether we'd
19 have funding. So unfortunately the mums thing – and to be honest too, I think it was a
20 real – it was hard on those mums, they were really struggling. But they would ring me, we
21 still had access phone-wise and if they wanted to pop in they always would pop in and see
22 us and things like that, but yeah.

23 Q. So when you set up, when you took on the role as manager, you'd been working at the
24 freezing works with that steady income and then I think you call it the leap of faith?

25 A. Yeah. Is that the appropriate thing to say, a leap of faith?

26 Q. And then I'd like to ask you about a particular day in the early 2000s when a survivor came
27 into your office in some distress and you made some phone calls on his behalf while he was
28 there with you. What happened that day?

29 A. I used to park my car and walk, we were at Community House in Cashel Street, we had an
30 office there and I used to walk through Latimer Square and that's where the homeless were
31 at that time and I was sitting in the office one day and so I'm at my desk here, there's a desk
32 behind me, and there was another desk probably just about where that other television is
33 over there, and it had a chair and there was – the door was over there and the door was open
34 and this fella was standing, he was only a little guy, and he was standing there very – he

1 was one I'd seen in Latimer Square and he had a Pak'n'Save shopping bag with a half a
2 bottle of methylated spirits, a half bottle of Coke, and a full bottle of Coke. I could see that
3 he was off his face and I said come on in mate and sit down and he sat down and he said
4 "Someone told me you're the man to see" and I said "What's the issue?" And he said – he
5 told me his name and he said "I was at a school out at Halswell called Marylands" and he
6 went into the details of some of the abuse that had happened to him and so I said already,
7 I said "Would you be happy if I rang St John of God and had a talk to them?" And he said
8 "That would be good."

9 So I got a phone book and I went through, I got St John of God number and I rang
10 up and a woman answered the phone and I said "Hi, I'm Ken Clearwater, I'm working with
11 men and boys." I don't think I was the manager at that time and I said "I'm working with
12 men and boys who were sexually abused in childhood and I've got a man in my office who
13 said he was raped while he was at St John of God." And she went "That's got nothing to do
14 with us" and I said "Sorry?" She said "Nothing to do with us", she said, and she got quite
15 aggressive. And I said "It may not", but I said "I'm going back a few years", I said "he
16 went there" and she said "No", she said "It's the St John of God Order, they're in Sydney"
17 and I said "Well, would you have the phone number?" She said "I'd have to find it." I said
18 "Well I'd really appreciate it if you did." So she found the phone number for me and I said
19 "Is there anybody that I should talk to?" She said "Brother Timothy". And I said "Okay,
20 thank you" and I hung up. And I said to the guy, I says "Would you like me to ring Brother
21 Timothy?" And he said "Yes please."

22 So I rang the number, now I don't remember whether I'd asked for Brother
23 Timothy or whether I'd got straight through to Brother Timothy, I just remember him
24 saying "Yeah, hi, Brother Timothy here." And I said "Oh, hi Brother Timothy, Ken
25 Clearwater, I work with male survivors in Christchurch and I've got a man in here that said
26 he was sexually abused while he was at Marylands School." "After the money is he?" That
27 was the response I got straight away.

28 The person heard it, and he looked over at me and he said "They never fuckin'
29 believe me" and at that moment in my office he attempted to kill himself. It was in slow
30 motion, I got out of my chair and I went over and he crashed on the ground and I got down
31 and I picked him up and I cradled him in my arms, he was like a wee boy in my arms and
32 he was just sobbing. Meantime the phone was hanging off the hook and I remember saying
33 some pretty harsh words to Brother Timothy on the other end, I certainly wouldn't repeat
34 them here. And I just held him in my arms and I says to him "You'll be alright mate", he

1 says "No", he said "They never believe you, they never believe you when you tell them
2 these stories."

3 And I got him up and I got him back on the chair and I says to him, I said "Look, I
4 will do everything I humanly can to help." I went back to the phone and Brother Timothy
5 was still there and I've got to be completely honest from here, I've got no recollection of
6 that conversation I had with Brother Timothy, but I do know something about, he said
7 "What if we get someone to talk to this guy" and I said "Yeah, okay." And he said
8 something about there was going to be someone in New Zealand in the next two weeks and
9 he gave me a date, and it was a Brother Peter Burke and a Michelle Mulvihill. And so
10 I said "Alright", so I got the dates here and I got off the phone. My concern, of course, was
11 young fellas living on the streets. And I may never see him again, - he's off his face on
12 methylated spirits, and so I says to him "Look", I said "I've organised a meeting and this
13 person's going to be here on a certain date and would you come back here", and he said
14 "Yeah", I said "Will you remember to come back?" And he said "Yeah." And he did come
15 back, and he spoke to Michelle and Brother Peter Burke. And he was on Beyond the
16 Darklands with Nigel Latta when they did the documentary on McGrath, and when he got
17 interviewed on that, the guy says to him, "What was it like there?" And he talked about the
18 rape and the violence and he said "I remember at night getting into bed and you would hear
19 the little boys crying and you would hear the screaming", and he said, and "It wasn't me so
20 I pulled the blanket over my head and pretend that I couldn't hear it", and he said, "But I've
21 had to live with that for the rest of my life, because he said every night when I go to bed
22 I hear the screaming of the little boys and the crying" and he said "I've just got to live with
23 that."

24 Q. Perhaps this is obvious, but what were your thoughts about this Brother Timothy's reaction?

25 A. I was, you know, I was horrified. I would – if I had have been a survivor from Marylands
26 and rung St John of God or spoke to Brother Timothy, I would have just, you know, it was
27 just – it was just offensive the way that I was spoken to, so if it was a survivor from
28 Marylands it's more than offensive, it's just absolutely criminal.

29 Q. And you mentioned your dealings and the survivor's dealings with Peter Burke and
30 Michelle Mulvihill. How did you find their approach to dealing with survivors?

31 A. Amazing. When Peter Burke came to one of the meetings that Michelle spoke about, that
32 we had organised, I knew that the men were angry, I feared for Peter Burke, I took my hat
33 off to him that he was prepared to come and sit with these men and know that he was going
34 to get crucified. But it didn't take very long for him to convince the guys that he was there

1 to support and help them in the best way that he possibly could. And I felt that. When
2 I knew that Michelle was a clinical psychologist I had my concerns because psychologists
3 and psychiatrists had not been good to some of the men that we'd worked with, so that was
4 a really big concern for me. But she didn't take long for her either to talk to the guys and
5 let them know that she was there to help them.

6 So for me, the way they dealt with it was amazing and I think the hardest part
7 when it just suddenly stopped, and nobody knew why it had just suddenly stopped.

8 Q. So can you talk about how it was in the period leading up to the change as you said, the
9 stop, what was happening during that period, what were Peter Burke and Michelle
10 Mulvihill doing to win trust and help people?

11 A. Well, they were saying what they wanted to do and how they wanted to help them and what
12 they wanted to put in place which was the pastoral way of doing things and I thought it was
13 a great idea. My concern was if these guys get a big bunch of money, what would happen
14 to it, because I know that there was another survivor that I was working with, not from St
15 John of God, but he'd had a payout from ACC [Accident Compensation Corporation] of
16 \$10,000 and he was addicted to stereos and he spent \$10,000 on stereo equipment, so I was
17 concerned if these guys were going to get a lump sum of money they were drug addicts,
18 they were alcoholics, they were living, you know, what would happen. So when I saw what
19 Peter Burke was talking about and especially the \$1,500, I thought that was good. The
20 guys that I was working with liked that, and the one who got the care down south,
21 I remember him, because he'd spent his entire life institutionalised, so I know he was
22 grateful for what he was getting and then was totally traumatised once that was cut off.

23 Q. So can you talk about that time of change when the survivors were getting the enduring
24 ongoing care that was meeting their needs as and when those needs arose and then things
25 changed. What happened when it changed?

26 A. They got angry. They got really angry and it got to that – blamed Peter, of course, and
27 Michelle and then the church, it was the St John of God, they were just – they were really,
28 really angry at St John of God for stopping it. I think had Peter Burke been able to meet
29 with them and explain what had happened, I believe it would have made a huge difference
30 to the guys. There's still a couple now who are angry and I say to them that I believe that
31 Peter Burke had – I believe his intentions were good.

32 Q. At a practical level, what happened when – you call it a stop, how did that play out?

33 A. Just in the way I spoke and the fact that it just – I think the guys just felt completely let
34 down, and lost, and back, right back to where they had started and some of them had some

1 ideas they wanted to do, whether they would have gone, you know, been able to do that I
2 don't know. But yeah, it just basically put them back right before they'd got any promises.

3 Q. And did Michelle or Peter give you any reasons for the change in approach?

4 A. No, no. There was – I didn't have – the St John of God cut me off completely, so I had no –
5 I had no relationship with St John of God at all. So in reality, Michelle and Peter Burke
6 were dealing with the guys, not dealing with me. I was only, like the broker I suppose, that
7 was in the middle. So there was no connection with me and apart from that personal
8 relationship I had with him when they came over. But there was certainly nothing from St
9 John of God. I did ask, because I was going out to the prison, and I asked if I could get
10 some money for petrol because we had no funding and I got, I think I got a cheque once for
11 \$100 for petrol but that was all I ever got from St John of God.

12 **CHAIR:** Can I just interrupt because you asked a question, I don't think we quite got the answer
13 and I think it's important. So you've said the pastoral care was being given and then it
14 stopped. You weren't being communicated with, so nobody sent you a letter and said "Dear
15 Mr Clearwater we're stopping this and changing."

16 A. Yeah.

17 Q. So how was it communicated, was it communicated to the survivors to the best of your
18 knowledge and/or did it just peter out? What happened?

19 A. I think it just petered out from what I could understand, yeah. There was, you know, none
20 of the guys had said to me where they'd got a letter or anything. Because normally they
21 would, if they got a letter they would let me know they had a letter, but I don't remember
22 anyway. So they may have, but to my knowledge, I wasn't told.

23 Q. Okay, thank you.

24 **QUESTIONING BY MS GLOVER CONTINUED:** And around that time you were also
25 involved in the Police investigations in Marylands in around 2002. Can you talk about your
26 involvement with the Police processes and your impression of the work that they did?

27 A. I got a ring from an officer who had been in the Child Abuse Unit and he said there had
28 been a call from a colleague of his from Invercargill about a guy with an intellectual
29 disability had gone into the police station and just went up to the counter and said "I was at
30 that school that was on the tele last night." And this guy was well-known apparently and he
31 was basically told to go on his way in not a very nice manner. And another police officer
32 heard it and contacted this particular officer that I knew, and he said "I think that we need
33 to set something up", and he said "Would you be prepared to go to the police station?" I've
34 got a checkered past, as the St John of God would have already checked up on, which I'm

1 not ashamed of anymore, I'm not proud of it but I'm certainly – and so to go to the police
2 station was a pretty big thing. And so I went and got a suit from the second-hand shop and
3 a briefcase with nothing in it and went and saw a man by the name of Detective Peter Read.
4 Just going to – the last time I was at that police station I was in the cells, so to go there was
5 a pretty daunting task.

6 So I went in there and I've got to admit I shit myself all the way up in the lift, and
7 got into the office and Peter come over very, very pleasantly, shook my hand, thanked me
8 for coming, I had to put my briefcase down looking very important and he said to me "I've
9 got – basically I think this is going to be bigger than we ever imagined", he said "Would
10 you be able to support any of the men that come forward?"

11 Q. What happened from there?

12 A. I said I'd be more than happy to do that. And then not long after that he called me back in
13 and he showed me the – they had a – the set-up they had, they had a big room with this
14 massive table in the middle and they had photos of the school, they had photos of the
15 Brothers, they had the big book with the names all handwritten in it. I thought wow, these
16 guys are taking it seriously and they were four senior detectives, and I knew at that time
17 that Police resources were thin at the top, so I thought they've taken this seriously. So for
18 me I was impressed. The way I was treated by the police officers was amazing and
19 knowing that they were going to be talking to men whose lives had been on the other side
20 of the Police force, I thought yeah, these – I felt comfortable that these were going to be the
21 men that would handle the case.

22 Q. What was it like for those men who had been on the other side when they eventually came
23 to give their evidence in court, some of them?

24 A. It was traumatising, it was absolutely traumatising. I sat through the – don't quote me
25 because I know the lawyers will come back and "You said three weeks and it was actually
26 three weeks and one day." I think it was a three-week trial with McGrath and I sat with – I
27 was there for the whole three weeks. Some of those men had to come in from prison, and
28 I remember one of them who spoke here the other day was – it took a lot to get him into
29 that court, and – because he'd spent his whole life in court as an offender and here he was
30 as a victim and deserved what – and he got in there and he really struggled, and then he just
31 sort of looked up like this and he saw McGrath in the court and he just shut down. And so
32 the judge told him that if he wanted to take time off he could take time off and as much
33 time as he wanted, and so he left the dock and he did a runner. And Earl Borrell, Detective
34 Earl Borrell at that time, tracked him down and encouraged him to come back to court,

1 which he did.

2 So what people don't understand is here's a man that's spent his entire life in
3 prison, which is not an easy place to survive in, and he saw this 70 or whatever old
4 McGrath was in the back of the court, and all he saw was the man that had raped and beaten
5 him over that period of time as a child and he went back to being that very hurt child. So it
6 was devastating. And then to have to answer the questions that the lawyers, just so
7 offensive the way it's set up for these men who were –, of a, you know, many of them with
8 their intellectual disabilities with their no education and things like that, it was just – the
9 whole three weeks was appalling.

10 Q. So from what you're saying it doesn't sound as if you think that that – that the criminal
11 justice system met the needs of disabled survivors or survivors of sexual trauma?

12 A. It did not meet their needs at all. The only good thing to come out of the trial was that
13 McGrath was found guilty, what did he get, two and a half years, he's out in 18 months. He
14 was not found guilty on any sodomy charges. These boys had been sodomised. The jury of
15 our peers, ordinary everyday people off the street, could possibly not imagine a Brother or a
16 priest raping little boys. So none of the sodomy charges. So therefore those guys left that
17 court once again "I have not been believed."

18 Q. You've got some thoughts, I think, about how the criminal justice system or how the court
19 could have been set up better to meet the needs of those survivors?

20 A. I think you need specialist courts, I think you need lawyers regardless of whether they are
21 working for the offender or the victim, you need lawyers that have been trained in the
22 dynamics of sexual violence and especially sexual violence being committed against boys.
23 Because if you don't understand that, then you are just destroying those victims all other
24 again. You need a judge that's had training in that sort of thing, and I don't believe you
25 should have 12 people off the streets, because unless you put 12 mums on the stand, I think
26 that, you know, that has to – that whole system has to change. I sat through both with
27 Moloney and McGrath and just appalling, absolutely appalling.

28 Q. What about for the disabled survivors, how could have things been better for them?

29 A. Some of them didn't get an opportunity and, you know, why didn't the Police put some of
30 those disabled, intellectually disabled boys before the court because they would have got
31 chewed up and spat out by the church's lawyers. And we had a – as I said in my opening
32 statement, we had a function afterwards to thank the Police and the parents and the guys
33 who had given their things, and my colleague who had run the women's group said did
34 anyone want to have anything to say, and one of the mums was there with her boy and he

1 just stood up and he stood up and he says – and his mum said "No, no, you don't have to
2 talk" and my colleague says "Let him talk." And he just said "Those men did some horrible
3 things to us." And one of the police officers said "Imagine if we had have put him through
4 the legal system." And so therefore the disabled boys that went through that school
5 certainly will not and have not had justice.

6 Q. And in fact not all of the criminal cases proceeded to trial, did they, we heard Michelle
7 Mulvihill talking about the extradition proceedings. What were your thoughts about that?

8 A. Anybody that's experienced or been through the criminal justice system will know, and
9 when McGrath went to court I said to someone, "We'll have a break in proceedings
10 probably in the first or second week" and they says "What do you mean?" I said "He will
11 be sick, he will be unwell" and that's exactly what happened. I think it was about four days
12 into it Brother McGrath was unwell. But once again, don't quote me because – but he
13 certainly – we had to hold the proceedings because Brother McGrath was unwell. So what
14 we got news back from Australia was that the Brothers were too old or unwell to come over
15 here. Not long after that I got a ring from a newspaper in Sydney, it was after the case had
16 been stopped and I got a phone call from a reporter in Sydney and he said, he said "Brother
17 so and so, we've just – the photographers have been following him for the last week where
18 he's hopping in and out of taxis and going to coffee bars in Sydney, so he didn't look very
19 sick from where we were." So it's a common thread in the legal system for paedophiles to
20 be unwell to come to court.

21 Q. In your introduction we were talking about the international institute that you helped to
22 found, the South-South Institute and that institute has had regular conferences in various
23 countries around the world. And in 2017 there was a conference held here in New Zealand
24 in Christchurch and that focused particularly on the impact of colonisation on sexual
25 violence. Is there anything that you think the inquiry should know about that area or what
26 was discussed at that conference?

27 A. So yes, the South-South Institute was set up, it's the South-South Institute on sexual
28 violence against men and boys in conflict and displacement, it was originally set up in
29 Uganda with Dr Chris Dolan and my colleague Alistair from Cambodia. So I got to go to
30 Uganda and work with the men from the Congo and Rwanda and the abuse they had
31 suffered.

32 So when we got to Cambodia it was about from the Pol Pot, because the World
33 Health Organisation had asked Alistair to have a look into sexual abuse of boys in
34 Cambodia, and he did that. And so when it came to New Zealand, I wanted it to be

1 indigenously based and I caught up with Ta Mark Solomon who was the kaiwhakahaere of
2 Ngai Tahu at the time and he put me on to the people involved, so I got – we had an
3 Aboriginal panel – sorry, we had a panel with an Aboriginal man who was working with
4 male survivors in Australia, we had a Native American who was working with – and he
5 said the biggest problem they've got with Native Americans is they don't talk about it at all
6 and they just go into the drugs and alcohol, and we had a Native First Nations Canadian and
7 of course Daniel Matakī from Te Puna Oranga in Christchurch who was working with
8 Māori men.

9 So we had a look at – I wanted to have a look at that whole basis and we also got
10 Bill Kilgallon as a keynote speaker who was in charge of the professional standards for the
11 Catholic Church here in New Zealand. So I felt all those were really important, and several
12 of the survivors came to that conference where they were able to share their voices on the
13 work we were doing.

14 That also – I went to the first conference in Ireland, I think it was 2004 on clergy
15 abuse in Ireland where I got to meet the boys, the men who had been raped by the Catholic
16 priests in the industrial schools, and then in 2003 I was in Minneapolis where I met up with
17 the survivors of Geoghan, the priest who the Boston Globe was – so I was able to look at
18 their journeys and then that was basically what helped and supported me doing this work
19 here.

20 Q. And it's obviously important work because a lot of the survivors we've heard from even in
21 the past week have mentioned the importance of the work that MSSAT has done with them
22 that you've done with them. Do you think that the sort of work is now funded and
23 resourced appropriately in New Zealand?

24 A. Look, it's fundamental and it's simple. When you're sitting with someone who's
25 experienced similar to you and you're not getting judged and you can say exactly how
26 you've been affected as a male, as a man who's supposed to be tough and staunch, you've
27 had your dignity ripped away, your soul ripped away, your manhood ripped away, so you
28 have to prove to the world that you're tough, because of what happened to you. That's why
29 our prisons are full of angry, angry men who have been raped and tortured by this vicious
30 Catholic Church.

31 Q. And I think that's one of the things you mentioned about that 2017 conference that when
32 you bring that Te Ao Māori lens to this work, you're often setting aside the power and
33 control model, have I understood that right?

34 A. Yeah, definitely. We've had – we have had a struggle in this country with especially

1 getting men support through ACC. You know, and the church have used that in relation to
2 counselling. You can get ACC. To get ACC counselling is a traumatic experience in itself,
3 regardless. And so therefore the church should be – the men should not have to go through
4 ACC to get counselling, the church should be covering their counselling. So those are the
5 things that have to be looked at in relation to how we look after those men.

6 For our indigenous men, that has to be looked at as well. They need – we've
7 started a Māori kaupapa male survivor service, they need that as well where they can sit
8 and from their roots and work out where they're from, who they are and how they can heal.
9 And the psychology and psychiatry, we're lucky to have a few that are good at this work,
10 but not many are trained in working with male victims of sexual trauma, especially those
11 who have been through institutional care.

12 Q. Thank you, Ken. My final question before we pass over to the Commissioners, is just
13 listening to the amount of work that you've put into these – with these survivors, it just
14 struck me to ask, you've mentioned the \$100 petrol voucher. Has The Order of St John of
15 God or the Catholic Church ever acknowledged or supported the work that you're doing?

16 A. No. I think Michelle asked the church if they would support. The interesting thing for me
17 was why was I seen as the bad guy here? I set up with my friends and our Trust Board, set
18 up something to help those who had been traumatised at Marylands. I thought that they
19 might have sat down with us and said Mr Clearwater "Thank you very much for cleaning
20 up the mess we've made in Christchurch. How can we support you to help these men better
21 their lives?" But there's been nothing of that, there's an article in the paper where they
22 admitted that they would have nothing to do with me. If anybody uses me as a support
23 person they had to go through their lawyers, they were not to be connected with me. One
24 of the survivors got a letter saying that and it was published in the paper.

25 So no, they haven't been very good to me at all. They've known for, well, we
26 know since before 1977 when Bernard McGrath was sent away. And if you look at that
27 whole system, Bernard McGrath and the others were also sent to Papua New Guinea. I
28 don't know if anybody here would understand that Papua New Guinea will be full of very
29 vulnerable children who definitely won't be able to speak out about what happened to them,
30 because they look up to the church and so. You know the damage that's been done is just
31 horrendous.

32 Q. Thanks Ken, that's a really important point. Is there anything else you'd like to share before
33 we ask the Commissioners if they've got questions for you?

34 A. Last night I had a heap of stuff to say, but it seems to have disappeared into the wilderness

1 somewhere. I just wanted to get across the fact of the huge damage that's been done. You
2 know, in this morning's paper, 216,000 victims in France, 3,000 priests sexually violated
3 216,000 victims mostly boys. The deaf school in Belgium, mostly boys. John Jay College
4 for criminal justice in New York City did research on behalf of the Catholic Bishops of
5 America, 80 per cent of clergy abuse are boys. I've been fighting for 25 years so that boys
6 can get the services they deserve and I'm hoping that that will come out of this Royal
7 Commission. And what I ask for is that the church has to pay its price for the damage that
8 it's done. Kia ora.

9 Q. Kia ora Ken. Commissioners.

10 **CHAIR:** I don't want to break the moment in a way, Ken, but I do have a couple of questions if
11 you don't mind. You spoke eloquently about how the court system really failed the
12 survivors who in two ways, one, that it wasn't able to hear the most disabled who weren't
13 able to express themselves in a conventional way, so they were effectively discarded, is that
14 right?

15 A. Yes.

16 Q. And then those who were able to summon the courage and strength to go had a very
17 difficult time of it, didn't they?

18 A. Yeah.

19 Q. And I just wondered if you had any thoughts, because remember we have to make
20 recommendations, about how could that be made better? Have you got some ideas about
21 that?

22 A. Well, basically it would be really nice if those within the legal system had some training.

23 Q. Yes.

24 A. You know, and I think that's the fundamental for me, is that understanding the, you know,
25 like I say psychiatrists and psychologists don't get trained in sexual trauma, they get trained
26 in trauma but the effects on particularly boys, and you know we talk about women and girls
27 but we don't talk about women and children, sorry, we don't talk about boys and girls. So
28 we're still missing the point in relation to the dynamics of boys who have suffered sexual
29 trauma. I think if those within the court system had some form of training and
30 understanding it would be a lot easier.

31 I've got to acknowledge, I think it was Greg King was the lawyer for the church
32 and he came up to me, and I didn't want to talk to him, just like I had a struggle to
33 acknowledge Sally because of the simple fact that to me they're working for the enemy, and
34 I didn't want to talk to Greg because to me – but I will say he tried his best not to – but it

1 didn't matter, because to the guys he was seeing, he was still this huge man in power and
2 control. And so they – and he said to me afterwards, Ken, he says "I know that you're not –
3 you don't like what I do", but he said "If any of those boys ever need legal advice", he said
4 "You come and see me and it won't cost them a penny."

5 So I couldn't get my head around that and I still can't get my head around that, that
6 somebody can represent these dirty, filthy people, you know, and then people say how do
7 we make changes? There's only one way you can make a change, and that is you cut the
8 head off the snake and that is you close down the Vatican.

9 Q. Right, message received. Just coming back to the core one, though, it seems to me that – so
10 you had a fine man, a fine lawyer who sadly has passed –

11 A. Yes.

12 Q. - representing the church, who obviously saw the deficit in the thing. So it's more than
13 training, isn't it?

14 A. Yeah.

15 Q. It's process, it's different ways of doing this that is survivor-focused, victims-focused with
16 people who understand the dynamic. So it might mean a courtroom that looks different, for
17 example?

18 A. Yes. And remembering too, the same as the guys who went through Confidential Listening
19 Service, they're sitting before – you are, and I've got to be honest, Coral, I find you a very
20 lovely, pleasant lady and I don't have an issue with that, but you're a judge in a legal system
21 that these men had nothing but struggles with through that system. So there's that
22 dynamics, getting those guys into that place where they can – because when you've been on
23 the other side and your life has been on the other side of the law, the moment you walk into
24 a courtroom, you are guilty straight away.

25 Q. Yeah, I see that. So it needs a whole systems change, doesn't it –

26 A. Yes.

27 Q. - to make an environment for those people?

28 A. And I'm more than happy to help.

29 Q. Yeah, well your ideas will be more than gratefully received. And just on – one last point on
30 that, that's the Police procedures. Now you've spoken very warmly of the way you were
31 treated by the Police back in the early 20s. Do you think that they had an appreciation of
32 what it was like to deal with men with disabilities, or did they learn it as they went, or did
33 they know it?

34 A. What I think you had is four senior detectives with a heart, and I know that before this the

1 number of men that I have had through who said the way they've been treated by the Police
2 was absolutely appalling. One fulla had complained as a young boy and got treated – so he
3 went back, and when he got back the senior sergeant that was interviewing says "You went
4 back to McGrath's room four or five times so obviously you enjoyed it." And so he just
5 threw the table up and left that police station. He's currently sitting in Rolleston Prison, he
6 may be there for the rest of his life and that's because of the results of what happened to
7 him at Marylands School, and the way that the Police had treated them. So where these
8 four police officers got sent from, Coral, I don't know, but they did an absolutely amazing
9 job.

10 Q. I was nearly going to say from a heavenly place but I won't say that.

11 A. That's a tricky one as well, but that's a possibility.

12 Q. My last question before I hand you over to my colleague. I'm very interested in the
13 conference that you held in 2017 in Christchurch.

14 A. Christchurch, yeah.

15 Q. With colonisation as a theme, with a remarkable line-up of indigenous people from around
16 the world including Māori from New Zealand. If you are able, are you able to say what it
17 was that you or your organisation learned from that conference?

18 A. I – in doing this work, I've had the honour and privilege to spend time on a lot of maraes
19 and work with Māori and Pacific Island, and what I found is the – for me the peer support
20 model that Ian Bennett set up in 1991, and which I've continued to use, is working with the
21 person, not what that person's done, but where he's from and who he is and what he wants
22 to do. And I found and I believe that that's what indigenous healing is. And so I'm a great
23 believer in it and I think that that's the – psychiatry, psychology, counselling in a lot of
24 ways is a very power and controlling model, and a lot of the men would not go to
25 counselling until they'd been through the peer support model and then we would encourage
26 them. Because there's stuff that we can't do and there are some counsellors out there that
27 are able to do that.

28 So I think it's a combination of things that have to be put in place. One does not fit
29 all, and so it's about looking at the different – but I've had the privilege to work with
30 Aboriginal men in Australia, I've had the honour to work with Native American men in
31 Phoenix and also First Nations Canadian men and Muslim men. What I found is that once
32 they can get back to where they've come from they can heal. Our poor old Pakeha guys we
33 don't know where we've come from, so we're struggling a wee bit there. But I definitely
34 think that we have to have special healing for our indigenous men and women.

1 Q. Thank you very much for that. I'll just hand you over to Sandra.

2 **COMMISSIONER ALOFIVAE:** Tēnā koe Ken, talofa lava. Thank you, the valuable insights
3 that you absolutely bring actually through the lived experience of these men and you
4 walking alongside our survivors from Marylands.

5 I just want to come back to something that we've already touched on and this is our
6 criminal justice model and where you're working really closely with the Police and they're
7 clearly believing our survivors that you're walking alongside with. And you knew that
8 there were ways that the system could be improved as I'm sure they were observing as well.
9 I'm really interested in your reflection on, or your comments on systems change, because
10 systems is really created by people.

11 A. Yeah.

12 Q. And we're talking about attitudes here.

13 A. Yeah, and especially our criminal system. And I think for me, and that's why I said we've
14 got to talk about men and women and we've got to talk about boys and girls. So what
15 happens for boys, we get punished a lot. And, as you know, those boys that were put into
16 Marylands were seen as trouble, disruptive, and so they got punished a lot. The more you
17 punish a male or a wee boy, the more he is going to rebel against the system. So you spend
18 your life in that system and it becomes a comfortable system, you become institutionalised.
19 So that whole thing has to be changed. We have to have a look at how do we stop those
20 boys the moment they're starting to show disruptive behaviours. What can we put in place,
21 and as I said in my opening, how many people did those boys see from the church, to the
22 teachers, to the social workers, to the counsellors. How many boys did they see, how do
23 we treat our boys. We are perpetrators from the day we're born, and that's the way we get
24 treated through our justice system.

25 I spoke to a psychiatrist in the prison one day and talked about the – he talked
26 about the gap for boys with behavioural problems and things like that, and I said "But 80
27 per cent of the men in this prison would fall in that gap" and he said "Yes, you're right",
28 I said "That's not a gap, that's a chasm." So how do we stop getting them into the criminal
29 justice. Like the bloke who spoke the other day who said the last time he went to court and
30 the female judge looked at his story and says "I'm not sending you to prison", that's what
31 needs to be looked at.

32 Q. So the reflection then of, I mean of the numbers that were coming through from Marylands
33 of a particular nature, and then there will be other patterns of sexual abuse that are coming
34 through as well to the Police, I guess it's about your thoughts about if there was, you know,

1 like a critical friend or an observer that was actually watching and was able to actually offer
2 critical comments in a timely way to actually bring about change faster in our systems?

3 A. Yeah, and we've got to – how do you say this without – the colonisation system has – our
4 justice system is colonisation and that hasn't changed. And so, you know, I mean when
5 Louise Nicholas asked Geoffrey Palmer to change some of the – he said "You're asking me
6 to change 300 years of a legal system" and she said "Yes, because everything can be
7 changed if it's not working." You know, we know our prison system isn't working, but we
8 continue to put these men, and especially the ones who have had pre-trauma, we've done
9 research on women in prison because of their pre-trauma but we haven't done research on
10 men in prison who had the same pre-trauma. So all that stuff has to change. It's not a – it's
11 not one, there's a whole bundle of things that have to go in there, Sandra, and that's how
12 we're going to do it.

13 Q. Just one more question if I can around advocacy, because you had to work very, very hard
14 actually in your own right to almost justify why you required funding for the work that you
15 were doing when it's such a significant issue within society. How would you – if you had
16 advice or what would your thoughts be about actually how do we make that easier for
17 groups when you're seeing these very, very entrenched patterns coming through?

18 A. Well, I think once again, if you have a look at funding applications it's got women and
19 children, disabled, Māori and Pacific and then there's a box and that's for "other". And so
20 men and boys are seen as "other". So that has to change for a start, so there has to be – we
21 don't have a Ministry of Men's Affairs to look at what issues are facing our men. We're 50
22 per cent of the population, and we're I think the biggest population in the prison system in
23 the mental health system and things like that. So as a society we have to start looking at
24 men and boys as part of the human race and not just something that can be thrown in the
25 prison system. So there has to be a whole culture change on how we look at men and boys
26 rather than seeing them permanently as trouble and perpetrators.

27 Q. Thanks, Ken. Look it's actually the honour has fallen to me to thank you this afternoon for
28 just the enormous evidence that you've placed before us for us to be able to use and to be
29 able to guide us in our recommendations. So can I just thank you on behalf of the
30 Commission, Ken, on behalf of our Chair just for the exceptional human being actually that
31 you are, that you've been able to hold the fragility of our Marylands survivors in particular
32 over such a long period of time. You've said 25 years. And no doubt it's come at a
33 personal cost to you both emotionally, psychologically, perhaps and no doubt financially.
34 But your commitment and just your unwavering quest for justice in their rights is absolutely

1 unsurpassable. So thank you very, very much. And I hope you're looking after your own
2 well-being as well.

3 A. I have to otherwise my daughter tells me off.

4 **CHAIR:** Nothing worse than an angry daughter.

5 **COMMISSIONER ALOFIVAE:** Thank you, malie.

6 **CHAIR:** Thank you so much, Ken. You're free to go. We'll have to revise our time scheduling a
7 little bit. Do you have a view Ms Glover?

8 **MS GLOVER:** I think Ms Andersons saying a 10-minute break.

9 **CHAIR:** Yeah, just a small break then we'll move on to Ms Cooper's evidence, and then we'll be
10 back, thank you.