

**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

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TRANSCRIPT OF PROCEEDINGS

1 **MS SCHMIDT-McCLEAVE:** Equally Mr Galvin and Ms Hrstich-Meyer this afternoon will give
2 evidence together by AVL from Wellington. They too are in the room together and on their
3 own, but my co-counsel Mr Clarke-Parker is in an adjoining room again for the reason of, if
4 there's any reason to come in and give them documents. So, if you see him come in, that's
5 the reason.

6 **CHAIR:** Thank you for explaining that. I think it's a very good back-up because in spite of all the
7 karakia to help us with our electronics there's inevitably – although today's been very good.
8 Let's not break the spell.

9 **MS SCHMIDT-McCLEAVE:** It has, technology's great, I always say, until it stops. And I'm also
10 mindful of timing, Madam Chair, so I will be leading all three witnesses through the main
11 points of their evidence and then opening them up obviously for questioning.

12 I would just also like to re-emphasise what I said in my opening that there are some
13 constraints around the evidence they can give, in particular the timing of course. This is
14 historic and a lot of their evidence and the responses have been constructed from the
15 documents, also their roles, but as we've always – the Crown has always done, if there is
16 anything that arises that they're not able to give their answer, we will endeavour to provide
17 that to the Commission, so I just wanted to emphasise that.

18 **CHAIR:** Thank you.

19 **QUESTIONING BY MS SCHMIDT-McCLEAVE:** Right, turning then to Mr Read, good
20 morning. I just remind you, as I've been reminded just now myself by the Chair, that we do
21 have great sign language interpreters and a stenographer here recording the evidence live,
22 so I just ask you to speak slowly and clearly and if I do or the Chair does step in, it's just to
23 make sure that that pace is right for those people.

24 It can be easy to forget that, as I just did. So, could you provide your full name and
25 role, please, to the Commission.

26 **A.** Yes, my name is Peter Dunbar Read, I'm a Detective Superintendent and I look after the
27 geographical areas of Wellington and the South Island in terms of serious crime.

28 **Q.** And how long have you worked for the Police, Mr Read?

29 **A.** I'm into my 43rd year, as a police officer, so 35 of those have been as an investigator and
30 25 years as a supervisor within investigations and 20 years as a commissioned officer both
31 as a Detective Inspector and a Detective Superintendent.

32 **Q.** And you've prepared a brief of evidence, as I mentioned, for the purposes of this hearing.
33 You've also previously provided two statements in response to questions from the
34 Commission. Is that correct?

1 A. Yes.

2 **Q.** And your brief of evidence that I referred to summarises that information that you've
3 previously given, doesn't it?

4 A. Yes, it does.

5 **CHAIR:** And can I just assure you, Detective Superintendent, that we have all of those and we
6 have read them and are familiar with them. So even if things are not able to be canvassed
7 today for reasons of time, they are here and part of what we're taking into account, just to
8 reassure you on that point.

9 A. Thank you.

10 **MS SCHMIDT-McCLEAVE:** Thank you, Madam Chair.

11 **QUESTIONING BY MS SCHMIDT-McCLEAVE CONTINUED:** Mr Read, we're here today,
12 obviously, to talk about Marylands School and the criminal proceedings that followed from
13 the abuse there. There were two Police investigations into Marylands, one around 1993 and
14 the other beginning in the early 2000s. What was your personal role in both of those
15 investigations?

16 A. In terms of the 1993, I had no role in that investigation at all. But the 2002 investigation,
17 I oversaw the child and sexual violence areas of investigation for the Canterbury CIB
18 [Criminal Investigation Branch] and I took oversight of the 2002 investigation and
19 prosecution.

20 **Q.** And I will move on to that, but just to take you back a second to the 1993 one, you've said
21 you weren't involved. Were you aware of that taking place?

22 A. I became aware of it in relation to what happened in 2002, that was obviously part of the
23 2002 investigation (inaudible) is getting the background information, so I was aware that it
24 related to two components from Marylands and others from Hebron Trust and that the sole
25 offender that was prosecuted in respect of that was Bernard McGrath.

26 **Q.** And just to be totally clear, when you say you became aware, when did you become aware
27 of that 1993 –

28 A. It would have been in 2002. I didn't start in Christchurch until 1993.

29 **Q.** So, turning then to the 2002 investigation and I understand it was known as Operation
30 Authority?

31 A. Yes.

32 **Q.** Can you please describe what brought about the beginning of Operation Authority?

33 A. I think it was about June or July 2002 there was a television documentary in relation to
34 what had gone on at Marylands and the sexual abuse allegations that were made and aired

1 on that programme. As a result of that, we started getting complaints and receiving
2 complaints across the country, not just in Christchurch. So, I arranged for one of the area
3 investigation officers, which was in Hornby, to receive and collate the complaints from
4 around the country, because the offending had happened in Christchurch. It became
5 apparent once we'd started getting complaints that this was going to be a very large
6 investigation that had a degree of complexity to it; there were going to be issues. And
7 because of that, in late 2002/early 2003 I started considering setting up a group of people
8 that would be assigned to this investigation right from dealing with complainants, right
9 through to the completion of any prosecution that would occur from that.

10 So, with that in mind, I appointed or got four staff, made sure that that was going to
11 be their sole focus and they weren't going to be taken away for any other work, and that
12 that's what they would do. I specifically looked at trying to find officers who were senior
13 and experienced investigators who were empathetic, very much victim-focused, were good
14 with people and could sit down and speak to anyone.

15 **Q.** So just two points arising out of that. First you mentioned – so you've spoken about how
16 you set your team up and you said, I think, that there were issues identified immediately.
17 Could you expand on the issues that were identified at the outset?

18 **A.** It was significant and very serious offending, it involved a number of complainants who
19 were not only children when the offending took place but also vulnerable children in terms
20 of some of the disabilities that they had. It was historic, so some of it went back, the
21 offending went back to 1955, which adds a degree of complexity to any investigation if it's
22 historic. The numbers involved, so there were a large number of children had attended the
23 school, 537. There were a large number of people that potentially could be named as
24 offenders and were named as offenders later on. The geographic location of the victims and
25 complainants was not just in New Zealand but also overseas. Witnesses fell into that same
26 category, they weren't just in New Zealand or Canterbury, they were in Australia as well; as
27 were offenders, so there was issues around, potentially right at the start, extradition, how do
28 we go about getting information and material documentation without the use of the
29 coercive powers that we would have had in New Zealand. So, there were a degree of
30 complications.

31 **Q.** And still saying at the outset then of Operation Authority, what contact, if any, had you at
32 that time with the Catholic Church?

33 **A.** I remember at an early stage meeting with Brother Burke and Michelle Mulvihill when
34 they'd come to New Zealand, and that was at the very, very early stage. Other than that,

1 there was ongoing contact through the investigation with the St John of God people in
2 Australia and the Catholic Church. So, we did have regular contact. We needed that contact
3 to obtain the documentation, photographs, attendance records, staff movements; we needed
4 contact to be able to facilitate all that.

5 **Q.** And you talk in the brief about how at that time Police received a list from Brother Burke
6 of the people St John of God had been in touch with about their experiences at Marylands.
7 I understand that Police didn't seek out –

8 **A.** Yes.

9 **Q.** – the people on that list and instead worked with those people who did approach Police.
10 And indeed, that proactively seeking out of possible complainants in a case like this, or
11 scoping as it's now called, wasn't done at the time. Can you explain the reason for that?

12 **A.** The scoping is widely used now, but it still is, in some instances, problematic. As I said
13 earlier on, we were dealing with offending that happened when the victims were children
14 and they were adults. Some of them didn't want to be involved in an investigation, some of
15 them were actually terrified by the fact that they could be involved in an investigation or
16 prosecution. Others were still terrified of confronting the offenders. There were people that
17 had moved on in their lives and didn't want to revisit it, there were also people, as I
18 understand, that had never told anyone else what had happened and didn't want their
19 friends, family or workmates to find out.

20 So, there were issues in actually re-traumatising people if we went too far. So we
21 made the decision that because there'd been significant publicity, there was quite a bit of
22 media coverage in respect of what was happening with the investigation, and that we would
23 pick up the people that came to us, we were certainly aware that Peter Burke and Michelle
24 Mulvihill, with each person that they had made contact with, they had encouraged them to
25 come and seek out the Police.

26 So, we had a number of people make contact with us, but we didn't certainly want to
27 go and force ourselves on to unwilling or reluctant complainants.

28 **Q.** Just to step away slightly then from Marylands for a moment, what would be the factors
29 today, Mr Read, that would go into deciding that scoping exercise?

30 **A.** We've got a number of investigations currently that we do for scoping, so it's things like
31 how historic it is, how current the material is. It's obviously a lot easier to enter into a
32 scoping exercise if you've got complaints that are relatively recent. The age of the people
33 involved. So, if they're younger we definitely would scope because we use Oranga
34 Tamariki to assist us in that process.

1 So those sorts of considerations, it would still be something that would not be
2 automatic. You'd have to make sure and have to have some surety in your own mind that
3 what you were doing was not going to re-traumatise people. So yeah, there are a number of
4 considerations that you take into account.

5 There obviously would be a number of people that you'd consult with now because
6 we have a lot of partners within the area of sexual abuse investigations, be they child
7 investigations or historic or adult investigations, that we would consult with.

8 **Q.** I'd like to move back now to the actual Operation Authority investigation. Did the Police
9 travel to Australia and, if so, when?

10 **A.** Yes, we travelled to Australia in mid-2003, and we went over there primarily to interview
11 and speak to complainants and witnesses that had been in contact with us. We also wanted
12 to make contact with the Brothers that had been identified as offenders and we wanted to
13 interview them, some of whom we did and others we made contact with but didn't avail
14 themselves of an interview. We also had a look at some of the archived documents
15 contained within the offices of St John of God in Sydney, and we later attended some of the
16 extradition hearings that went on as well.

17 **Q.** And in terms of the actual investigation, and I'm looking now at paragraph 3.1 of your
18 written statement, how many complainants reported abuse?

19 **A.** So, we had 56 complainants and that includes two from the 1993 investigation. So, of those
20 56, seven of them declined to have any further involvement with Police. Four of them
21 either didn't identify a suspect or the person they did identify was deceased. Three cases we
22 decided not to take any further, and that was on the basis of evidential sufficiency. Two
23 were prosecuted for making false complaints, and charges were laid in relation to
24 40 remaining complainants.

25 **Q.** And what were the outcomes for those against which charges were laid?

26 **A.** So, Bernard McGrath was prosecuted and convicted of 22 charges, Moloney was extradited
27 and prosecuted and convicted in relation to seven. Brother Lebler, we didn't manage to
28 extradite. The person I can't name returned voluntarily to New Zealand, was prosecuted,
29 but one of the complainants passed away unfortunately and the other three complainants'
30 evidence that was – the prosecution was stayed because of delay in relation to
31 psychological reports. And the last remaining person was Brother Garchow, who faced 16
32 charges and his prosecution was stayed in relation to one complainant being ill and not
33 wanting to continue with the prosecution because of the stress that it involved for him, and
34 the other one had given evidence in the Moloney matter and his evidence was put aside

1 because he was suggested – or the judge formed the view that he was subject to
2 suggestibility and it was decided it was unsafe to prosecute and put that complainant back
3 through the same process again and have the same result.

4 **Q.** And I will move on in a moment to the role that the Police played once those prosecutions
5 commenced, but first, could you explain why charges weren't laid against the others who
6 had allegations made against them?

7 **A.** When charges in relation to any prosecution are laid we always have to meet a very high
8 threshold of evidential sufficiency which is set out in the Solicitor-General's guidelines. So,
9 we came to the conclusion on some of those that we had sufficient legal opinions that we
10 got and other advice that we got internally which suggests that we didn't have evidential
11 sufficiency in respect of those, and no charges were laid. Some of these people fell into the
12 category of witness/offender, so they – if they weren't going to be an offender they could
13 possibly be a witness, but it was due to evidential sufficiency that we never commenced
14 extradition proceedings against, I think it was three in total. We considered it and the
15 recommendation was made that two of those should have been extradited but we never got
16 that over the line.

17 **Q.** And I'd just like to zero in on one for a moment if I may. Have you been listening to the
18 survivor evidence through this hearing?

19 **A.** Some of it, yes.

20 **Q.** I understand you heard some but possibly not all of Mr Tasker's evidence last Friday?

21 **A.** Yes.

22 **Q.** But I understand you have read his statement?

23 **A.** Yes, I have.

24 **Q.** If I could please have paragraph 38 brought up of Mr Tasker's brief. Just moving to
25 paragraph 40 please, if you could highlight that. Sorry, no, I think moving on to next page,
26 apologies.

27 **CHAIR:** Now you can take your pick.

28 **QUESTIONING BY MS SCHMIDT-McCLEAVE CONTINUED:** Starting on that page,
29 Mr Read, and you'll see there that there's reference to a – redacted – name of a Brother. We
30 the can't name that Brother but I understand you're aware who that person is?

31 **CHAIR:** Which paragraph are you looking at there?

32 **A.** Yes, I am.

33 **MS SCHMIDT-McCLEAVE:** It's most of that page Madam Chair, 44 through to 47.

34 **CHAIR:** So, the name there is the same all the way through?

1 **MS SCHMIDT-McCLEAVE:** It is.

2 **CHAIR:** I've got it, yes.

3 **QUESTIONING BY MS SCHMIDT-McCLEAVE CONTINUED:** Did the New Zealand Police
4 seek to interview that person?

5 A. Yes, we did. We arranged for – because – I suppose there's a wee bit of explanation here.
6 Because Mr Tasker was initially approached by Police as a witness, because he was
7 mentioned in other people's statements as potentially being present when offending had
8 been committed, during that interview he identified that he had been abused and that
9 evidence was, or those statements were taken a little bit later in the piece and extradition
10 proceedings had been commenced at that point.

11 So, we did arrange, because it was also after one of the visits that we'd had to
12 Australia to interview the other involved Brothers. So, we arranged for Australian Police
13 who were involved in the St John of God investigation that they were completing in
14 Melbourne, we sent them across an interview package with a series of documents for that
15 Brother to be interviewed.

16 **Q.** And was that person ever indicted or charged?

17 A. No, they weren't.

18 **Q.** Thank you. That page can come down now, thank you.

19 So, turning then to the prosecutions, what role did the Police play then once those
20 prosecutions commenced? And you have talked about some of the decisions that were
21 made in the context of those prosecutions by the judge or by Crown prosecutions, but what
22 role did the Police play?

23 A. Police still have a very central role in terms of prosecution, so once a prosecution is
24 commenced obviously the prosecution is passed on to the local Crown Solicitor. So, in
25 conjunction with the Crown we would conduct further inquiries they wanted, we'd speak to
26 other witnesses that they requested, we would stay in contact with victims and do the role
27 of victim liaison and organising, you know, witness attendance and documents being signed
28 and briefing the witnesses.

29 So that's the role that Police would take during those prosecutions. So, you know,
30 hence one of the reasons that I made sure that our investigators were, one, very familiar
31 with the court process, so they were all very competent investigators, and very experienced
32 in the courtroom, and they were also very, very good with people and complainants, and
33 not only that, they also had to be able to interview offenders which they did as well.

1 **Q.** And you state in your brief and we've heard from Ken Clearwater of the Male Survivors of
2 Sexual Abuse Trust, he's talked to the Commission about how the Trust worked with
3 Police. What can you tell us about how Police provided support to complainants, including
4 around engagement with the Trust?

5 **A.** So, right at the start of the investigation we identified that that was going to be a key
6 component of what we had to do, we had to make sure that all of these men were well
7 supported when we went through this process, because it's never easy for anyone to give
8 evidence, let alone someone that – and many of these people had – had had a bad
9 experience in the legal system either being offenders or not being believed in the past, and
10 being ignored.

11 So, we actually needed to build trust with them and Ken Clearwater and the Male
12 Survivors Trust were very experienced in building that trust and knowing how these men
13 were likely to feel.

14 Not only that, we also used whānau and other people that they were already seeing
15 or caregivers that knew these men and how they would react in different circumstances. So,
16 there was a range of people that were used. And we also engaged with other professionals
17 at certain times to do certain, or complete certain reports. So that was evident from what
18 was needed as we were approaching court and the giving of evidence for these men.

19 **CHAIR:** Detective Superintendent, it's Coral Shaw here. Just – I can't get the dates right, was this
20 before the days of, what are they called, the victim support? Was that in existence?

21 **A.** Yes, it was, we still had victim support back then. What we didn't have – I don't think we
22 had the court advisors at that stage. But we still had specialist groups, so Christchurch had a
23 number of them that – so the Sexual Abuse Survivors Trust dealt with female complainants
24 and supported them, Ken Clearwater's group dealt with male and supported them through a
25 process.

26 That was not only just court but also when Police were sitting down and
27 interviewing, taking statements and going through what evidence we might adduce in the
28 very, very early stages of first complaints.

29 And the other thing that happened with as well is that to bear in mind that they had
30 already made complaints at an early stage in whichever either country or city or town they
31 were in, in New Zealand and those complaints were taken by local officers and then being
32 forwarded to Christchurch. The team that we put together went back and visited all of those
33 complainants again to make sure that we had all the identifications right because by that

1 stage we had photographs of Brothers, photographs of the schools, things that they could
2 point out to corroborate what they were telling us.

3 So, they went back and re-interviewed all of those complainants a second time,
4 which once again is traumatising for them, but we had to do it because we had more detail
5 that would corroborate and help.

6 So, often in historic matters you may not be able to get eye-witnesses or people's
7 memories to a point where they can remember something happening, but because of their
8 surroundings, the buildings, the different things that they remember, we can get them, and it
9 validates the memory that they have, and even though it's not corroborative in the sense that
10 it's saying this happened at this time, it's saying that this person's memory of what they saw
11 and what they did is corroborated by the surroundings of the photographs that we had, the
12 plans of the buildings that were there. So, there's corroboration being had in other ways.

13 **Q.** Thank you.

14 **QUESTIONING BY MS SCHMIDT-McCLEAVE CONTINUED:** I'm very mindful of time

15 and want to make sure I leave time for counsel assisting and the Commission, but just to
16 round out that topic very quickly, Mr Read, you've spoken about the team you assembled
17 and the need for empathy in the people you brought on to the team, but have you been able
18 to locate any specific training at the time for Police relating to dealing with vulnerable
19 complainants or complainants who may have disabilities?

20 **A.** No, nothing. But in saying that, a lot of the processes that we put in place then are now
21 policy.

22 **Q.** And I will move for my final question in a moment about the current position, but just one
23 more question relating to that investigation at the time. One issue that has come up over the
24 course of this hearing is whether the Police asked St John of God to pause their settlement
25 processes while the prosecutions were proceeding. Are you aware of that happening?

26 **A.** Not to my knowledge. I know we discussed the pastoral process that they were going
27 through, and our main concern with anything along those lines is that it may taint what
28 witnesses say and could provide an opportunity for argument at any trial and take away
29 from or attack the veracity of our complainants. So, we were very mindful of that, but we
30 didn't have any situation where there were large gatherings geographically, they were all
31 separated, they had all been spoken to independently, they were talking about pastoral care
32 in the main, not about the circumstances of any offending.

33 **CHAIR:** Detective Superintendent, sorry to interrupt you –

34 **A.** I can't recall.

1 **Q.** Sorry to interrupt. I think the main point here is whether or not – the allegation, well, the
2 statement has been made that the New Zealand Police asked St John of God to pause the
3 settlement processes. The question was, did you know of that or have anything to do with
4 that?

5 **A.** Not to my recollection.

6 **Q.** Thank you.

7 **QUESTIONING BY MS SCHMIDT-McCLEAVE CONTINUED:** One final question for you,
8 Mr Read, from me, and that's moving to Police processes today. Are there elements that
9 you can comment on from the Marylands investigation that would be carried out differently
10 today?

11 **A.** Yes, there's a number of different things that are different now, for instance, with mass
12 allegation policy that's quite specific. We have different aspects of the specialist training,
13 communication assistance, we've got far more contact with other organisations that work in
14 this space and deal and help victims. There's the Solicitor-General's guidelines that came in
15 in 2017 for dealing with sexual abuse victims and the court process that they go through.

16 So yeah, we have a number of – moved forward in a number of areas. But it's still
17 not a process that I think – that victims get a good run at. I still don't think we've got it
18 right; there's work to be done in the whole area.

19 **Q.** Thank you. Finally, are there any matters you'd like to say to this Commission in
20 conclusion?

21 **A.** Just that it's been a very long road for the victims and I – in this, it's a very, very difficult
22 process for them. So, my thoughts have always been with the victims in this situation. It
23 was nice to get convictions, it was a shame that we didn't get more convictions for more
24 serious offending. I think we've moved on. I'd like to think that we've done some good
25 work in respect of some of the victims' lives, but yeah, I know that they're still suffering.

26 **Q.** Thank you, Mr Read. I'll pass over to counsel assisting now to question you.

27 **A.** Thank you.

28 **CHAIR:** Yes, Ms Glover.

29 **QUESTIONING BY MS GLOVER:** Thank you. Mr Read, my name's Jane Glover, I'm one of
30 the counsel assisting this Inquiry. Just to make some preliminary comments before we start,
31 thinking about how your evidence might be able to assist the Inquiry and inform its
32 recommendations. We're in quite a fortunate position to have your views on two Police
33 investigations, so the 1993 one which you weren't personally involved in, and then the

1 2002/2003 one which you were, and then we also have the benefit of another 20 years or so
2 of time passing.

3 So, we're hopeful that you can bring to bear some additional perspective and with
4 the benefit of hindsight share your thoughts.

5 So, although I will spend some time asking you about the very specifics of those
6 two Police investigations, I will also take the opportunity of asking you some broader
7 policy questions around how things could be better. So, it was really encouraging to hear
8 you already starting that dialogue, acknowledging that still not a process that victims
9 necessarily get a good run at and that there's room for improvement.

10 And one thing that the inquiry is really interested in is Ken Clearwater's comments
11 that he was really impressed with the way that the 2002 Police investigation was run and he
12 thought that a lot of care was taken, care and effort was taken with the survivors. But
13 despite that care and effort, he still felt that the criminal justice system failed to meet the
14 needs of a lot of those survivors, especially the disabled survivors. So those are some big
15 thoughts that we'll come back to, but to start I'd like to ask you some specific questions
16 around the children who ran away from Marylands and were returned by Police and the
17 lack of record-keeping around that. Did you see the evidence from Donald Ku last week?

18 A. No, I didn't, sorry.

19 Q. Okay, well just to recap, he said that in the 1970s he ran away from Marylands, he managed
20 to find a police station, so he proactively sought out a police station and he reported
21 physical and sexual abuse, he told them that Brother McGrath had sex with the boys but he
22 was disbelieved. The sergeant told him, "No, they don't do that, Donald", they simply
23 disbelieved him and took him back to Marylands. So far as you're aware, I take it no record
24 was ever kept of Donald's report of abuse at that time?

25 A. We – in preparing for this hearing we went back and looked through and did searches
26 through all historic records going back as far as we could, and we found no trace of any of
27 those. One of the things that I think has happened since then is we've had training for front
28 counter and telephone staff in how to deal with reports that came through, and I would – I'd
29 like to think that anyone that came into the front counter now and reported anything like
30 that would be referred straight to an investigator, which is the policy that they should be
31 following.

32 Q. So, the position is that we haven't got any reports pre-2002 of boys absconding from
33 Marylands or disclosing reports of abuse – sorry, prior to the 1993 investigation. So, we
34 haven't got any documents kept from that period but you're saying that –

1 A. No, not that I'm aware of.

2 Q. – these days there would be?

3 A. Yes, we have better assistance in place now, I think people are more aware as well.

4 Q. Did you see the evidence of –

5 A. As I said, they're trained.

6 Q. Did you see the evidence of Alan Nixon?

7 A. Yes.

8 Q. So, you remember that he also said that in the '70s, in July 1976, he ran away from
9 Marylands to Kaikoura and when the Police caught him he said that he'd been abused and
10 that he didn't want to go back, but that the sergeant called him a liar.

11 If we could call up, please, WITN0716008. I take it this is a Police document?

12 A. I'm sorry, it's really small on the screen there.

13 **CHAIR:** We can make it bigger.

14 A. It's a child and young persons report, yeah.

15 **QUESTIONING BY MS GLOVER CONTINUED:** Apparently it looks like a report from the
16 Police to the Department of Social Welfare and it's talking about earlier occasions when
17 Alan had run away from Marylands and was apprehended by Police. If we can call out the
18 first highlighted section there, which says:

19 "Alan is a liar of extraordinary capabilities. It does not matter how much pressure
20 brought to bear on him, he won't change story."

21 So, reading that, it sounds as though Police were putting pressure on Alan to change
22 his story. I appreciate you weren't involved at the time, by a long way, but what's your
23 reaction to reading that now?

24 A. If it is a Police document – I'm sorry, I'm not certain that it is – I'm really the disappointed
25 that people that are in authority are thinking that, and that they've reacted that way.

26 Q. And then if we look, please, at the next highlighted section, if there is one, it begins "Alan
27 is not a very bright person", it's at the very end of the document I think. I can just read it
28 out. It says:

29 "Alan is not a very bright person and I believe he just can't help himself from telling
30 lies."

31 So here it seems that there is an explicit link being drawn between Alan's perceived
32 cognitive capacity and his truthfulness. So again, viewed through today's eyes, would you
33 accept that it's an example of ableism?

34 A. What do you mean by ableism, sorry?

1 **Q.** So, because of his perceived disability, being a student at Marylands, Alan's point of view
2 is considered unreliable and so his perspective and his experiences were either dismissed or
3 diminished?

4 **A.** Yes, to me that seems very much what it is and, once again, in today's lens, and even to a
5 certain extent I would suggest for a lens in 1976, that that wouldn't have been acceptable
6 either, in my view.

7 **Q.** And you say that Police did not take a formal statement from Alan at that time. Should a
8 statement have been taken or any other steps carried out?

9 **A.** Yes, yes. Bearing in mind this is a very serious allegation and when you get serious
10 allegations for vulnerable people and vulnerable children – you've got to remember Alan's
11 age at that time – that really should have been investigated thoroughly and taken seriously.
12 You're never going to know that it's – whether the statements that are made there about
13 can't help himself telling lies is actually true until you investigated it. So fundamentally
14 they should have actually started or commenced an investigation to see whether that was
15 the case or not. And very quickly they would have found out that it wasn't the case, if they'd
16 have bothered to commence an investigation.

17 **Q.** So, in your view, it sounds from what you're saying that an opportunity was really missed
18 in the 1970s to identify Marylands as a possible location of child abuse. Sorry, Peter –

19 **A.** Absolutely, yes.

20 **Q.** Sorry, Peter, could you repeat that, please? We're just having –

21 **A.** I just said absolutely, yes. It's a wee bit scratchy at this end too. Absolutely there was an
22 opportunity missed. If we were receiving reports in the 1970s or at any other time, there
23 should have been an investigation commenced and obviously there wasn't.

24 **Q.** Police have advised the inquiry that school community officers, formerly Police education
25 officers, have been around since the 1970s and that was in information provided by Eric
26 Tibbott. Did school community officers ever work with private faith-based schools like
27 Marylands?

28 **A.** I'm sorry, I don't know. I'd like to think that they would have, but I don't have any
29 knowledge of that, sorry.

30 **Q.** The final topic that I'd like to explore before we break is just a period of time between 1992
31 and – sorry, the latter half of 1992, and what the role of the Police was in that period.
32 Because the Inquiry's been told that an allegation of sexual abuse against McGrath was
33 made to The Order in May 1992, and that person was eventually a complainant in the 1993
34 criminal proceedings, we know that he was interviewed by Police in November 1992.

1 So, we've got May 1992 an allegation to The Order and then we've got firm
2 evidence of Police involvement in November 1992.

3 Could we please put up on the screen CTH0014213. So, just while that's coming up,
4 this is a chronology prepared by Sister Mary-Ellen McGuinness who was involved with the
5 Hebron Trust. She says that on 22 June 1992 – so, if we look at the end of the second page,
6 over to the beginning of the third page. So again, thinking about the timing, this is June
7 1992, so well before this survivor was interviewed by Police in November. There's a
8 curious reference there to:

9 "Sue Halls, Probation, requested a visit re the allegations. She felt the steps I had
10 taken were correct. However, she was concerned that Bernard did not appear to realise how
11 serious any allegation of this nature was. She too did not know how to get this message
12 across to him. Bernard still denied everything."

13 Do you have any idea why there's a reference to probation in – involvement of
14 probation in June 1992?

15 A. No, sorry, none at all. Could it be that the probation were placing people in Hebron Trust?

16 Q. If we can have a look at another document, perhaps, it's ORT0006888. You'll see that this is
17 a briefing paper, when it comes up, from the General Manager of the New Zealand
18 Community Funding Agency to various people, including the Minister of Social Welfare.

19 If we look at paragraph 4.2 on the third page, if we call that out. The final two
20 sentences there:

21 "Police made approaches to the organisation in August 1992. They did not take
22 formal action."

23 Do you have any idea what those approaches were in August 1992?

24 A. No, sorry, I don't.

25 Q. If Police had approached Hebron at that time, regardless of whether or not formal action
26 was taken, would you expect there to be records of that?

27 A. Yes, I would, either as part of the investigation that ended up in the prosecution in 1993 or
28 the fact that they've done that – the records may have been in someone's notebook. Now
29 they would be recorded electronically, but back in those days people kept notebooks or
30 physical notebooks of interactions with people. But there should have been, I would have
31 thought, a file of some sort that was generated.

32 Q. So, so far as the Inquiry's aware at the moment, we don't have a great deal of knowledge
33 about that period and we're interested in it. So, if you and your counsel could undertake a

1 further search in those six months or so in what was happening during that time, that would
2 be greatly appreciated.

3 A. Certainly. Let me try to get to the bottom of it. We've done a search already in that area, but
4 we can go back and have another look to see if we've missed anything, and if there's any
5 other documents that perhaps haven't got a reference to either McGrath or any of our
6 victims, that perhaps just relates to the trust, but we'll have a look.

7 Q. All right, thank you very much, and that might be an appropriate time to break for lunch.

8 CHAIR: Yes, I think it is. We'll just take one hour and we'll come back at 2.15. Thank you.

9 **Lunch adjournment from 1.13 pm to 2.15 pm**

10 CHAIR: So, good afternoon again, good afternoon, Detective Sergeant. I hope that our reception
11 is just a little bit better than it was before lunch, maybe it was getting a bit tired as well,
12 we'll see.

13 Q. Thank you, Madam Chair.

14 A. Certainly.

15 **QUESTIONING BY MS GLOVER CONTINUED:** So, Mr Read, we've already talked about
16 Donald Ku in the context of him running away from Marylands in the 1970s and Donald
17 kept trying to engage with Police over the coming decades. We saw that on 18 October
18 1993, Donald went to the Wainuiomata Police Station to report sexual and physical abuse
19 by McGrath and Moloney. I won't take you to the relevant document, but it's NZP0014935.
20 And we saw that he was really motivated to do that because he'd heard that McGrath was
21 running a halfway house for boys in Christchurch, and he was really worried about that.
22 And a Detective Constable Warnes took Donald's details and said he would get in touch to
23 make a formal complaint.

24 In the meantime, Detective Warnes contacted Sergeant Corbett in Christchurch who
25 was collating all the files relating to McGrath and apparently Sergeant Corbett already had
26 16 complaints at that time. Was it unusual for an investigation of that nature and scale to
27 be assigned to a sergeant?

28 A. Yes, in today's setting it would be, and I suspect even back then it would have been as well.
29 I would have assumed that it should have been assigned to an experienced investigator of
30 NCO level.

31 Q. Do you know whether Sergeant Corbett would have had any specialised training or
32 expertise to do that work?

33 A. I don't think he did, I know he was – because I met him after this had happened – I know
34 that he was a uniform investigator at a provincial, one of the city suburban stations. But

1 nowadays we wouldn't give a sexual investigation to anyone that's not qualified or hasn't
2 done a specialist course.

3 **Q.** Donald spent nearly four hours at the Wainuiomata Police Station giving a detailed 10-page
4 statement that was then typed up, but finally got upset and made an excuse and left and
5 didn't return. And Detective Warnes tried to track him down over the next little while, but
6 it eventually became clear that Donald didn't want to continue.

7 And then we saw in Donald's written statement how 10 years later a similar
8 situation occurred in the 2002/2003 investigation when Donald became distressed and
9 declined to make another statement. Do you know whether the Police and Operation
10 Authority would have had a copy of the long statement that had already been prepared in
11 the earlier investigation?

12 **A.** I don't know first-hand, but I'm presuming they would have, they should have had all of the
13 material that Sergeant Corbett had put together for the 1993 file. I'd be surprised if they
14 didn't have it.

15 **Q.** Okay, and would you agree from that sequence of events that at some level Donald really
16 wanted to engage with Police and get convictions for McGrath and for Moloney?

17 **A.** Yes. But I'm also aware that he had real misgivings because he thought he was going to
18 have to pay back some of the pastoral money that he got if he made a complaint. And
19 I know that Detective Sergeant Borrell made several efforts to try and convince him
20 otherwise, even to the point of getting independent legal advice which still would not
21 convince him to engage fully with the 2002 prosecution.

22 **Q.** And thinking about Donald, but also more generally, what's your view of having separate
23 non-Police advocates for survivors who come forward to engage with Police and might find
24 that difficult?

25 **A.** Well, that's what happens now, so a lot of organisations and experts are available from a
26 raft of different areas, whether iwi based, or community based, to support victims of sexual
27 abuse and victims of crime generally that are independent of Police to provide that support.

28 **Q.** I'm thinking more of somebody sitting within the – someone who's not a Police Officer
29 necessarily but sitting within the Police system who knows how that system works and can
30 help a survivor navigate their way through it, prepare them for what's coming next, all the
31 way from that initial engagement to ultimately a conviction.

32 **A.** Yes, and that does happen now, and it was happening back in 2002, even earlier than that
33 when, as I said, different organisations would engage with a victim, not at the first contact
34 with Police, but usually just after the first contact, so that they could advise them on what

1 the process was and what was to come and, yeah, give them some support, and then refer
2 them on to appropriate counsellors as well.

3 **Q.** McGrath was imprisoned following the 1993 investigation. To your knowledge did he
4 disclose, while he was in prison, did he disclose any further offending to Police?

5 **A.** Not that I can recall specifically, I'm sorry, I don't have any knowledge of that.

6 **Q.** I'd like to ask you some questions around disabled survivors. You say that 21 or 22 of the
7 58 people who reported abuse at Marylands indicated in their formal statements to Police
8 that they had a disability. So, I take it from that statement that no systematic data was kept
9 on Police files about disability, is that right? So, you had to go back to the statements to
10 find that out?

11 **A.** Yes, that's correct. Yes.

12 **Q.** And I understand that the collection of disability data is a matter that's currently under
13 review. Is that right?

14 **A.** Yes, there's a paper came out, I think it was either late 2019 or 2020 in regard to that. So,
15 it's something that our current Commissioner has instigated, and that disability data goes
16 further than just victims. So, I think it's looking at offenders and witnesses, so, everyone
17 that we deal with, not just victims necessarily.

18 **Q.** And thinking back to Marylands, given that it was a special school, when each of those
19 complainants engaged with Police, was there any initial process of asking whether they had
20 support needs?

21 **A.** Yes. So, as I mentioned earlier on, we interviewed them with support people, we referred
22 them to support agencies to various counsellors. We spoke to their whānau and family, to
23 their current caregivers to assess needs and the best ways of interviewing and providing
24 support to them. So that was, that was something that the investigators were very
25 conscious of in 2002/2003.

26 **Q.** And bearing in mind that some of those support needs might not always be apparent just
27 from a conversation with the person, was it, was there, as a matter of course, a question
28 asked whether there were any support needs that the Police needed to be aware of?

29 **A.** That would have been standard for every conversation that they were having with a new
30 complainant. As I said, we made sure that we tried to contact current caregivers or family
31 and whānau to assess those needs.

32 **Q.** I understand that the current specialist child witness guide includes information in the form
33 of a video about best practice when interviewing disabled adults. And, just as a general
34 proposition, would you agree that perhaps having information or training about disabled

1 adults in the same documents or packages as child witnesses, would, could be, is sending a
2 difficult or problematic message, that perhaps it would be better to separate those?

3 A. Well, the investigations are separated, but yes, I hadn't thought of it like that if it's together
4 in the one package. But disabilities, far, from my recollection, the disability material
5 relates to disabilities across child and adult, but each of our areas are separate, so we have
6 specialist child and adult sexual assault groups that cover off different areas. So, they
7 should have a knowledge of what's relevant for their area.

8 Q. You've described in your written statements how disability could impact on whether
9 charges would be laid under the guidelines. And you say in your first witness statement
10 that assessments of veracity and credibility are relevant factors, which is of course correct.
11 How do you think that disability itself impacts on assessments of veracity and credibility?

12 A. I don't actually know that it does have a role in respect of veracity, but certainly credibility,
13 especially in the context of a jury of, you know, 12 lay people. So, you know, I agreed with
14 the comment that Ken Clearwater made yesterday about juries perhaps not understanding
15 how vulnerable people are affected by giving evidence.

16 But I'm, in this particular investigation, the 2002/2003 one, of course we, we did
17 have two instances of people making complaints because of the, the money that was being
18 given out by the church, which I'm a firm believer that if you undertake an investigation to
19 establish and corroborate someone's account of what happened you'll establish whether it's
20 untruthful or incorrect at the same time. So, you don't necessarily, we should be always
21 starting in a position that what they've told us is accurate and truthful, because during the
22 investigation we should uncover whether it's not.

23 Q. So, are you saying that by the time it gets to court, there, the Police should have a fair idea
24 of whether it's a credible allegation or not, is that?

25 A. Yes, and I know from speaking to the investigators themselves and all of the people that
26 were involved in that – they believe that – every person they spoke to that made a
27 complaint, they actually believed that they had been abused, even people that we couldn't
28 charge we believe that they had been abused. So, it was a matter of evidential sufficiency
29 whether charges were laid, not necessarily veracity.

30 Q. We'll come back to those thoughts, because those are some really interesting comments
31 there, that Police were convinced that these people had been abused and yet there was no
32 response in the criminal justice system. And, just thinking about the process for a moment
33 of disabled people in the criminal justice system, in the courts, the Inquiry's received
34 evidence that in order to gain redress, or even a fair hearing for people with learning

1 disability is problematic, we've heard that succeeding in court depends on good clear
2 communication, an ability to manage cross-examination, and an understanding of a
3 complex process that can move very quickly. I take it you would agree that all of those
4 factors make it more difficult for people with learning disability in particular, or can do?

5 A. Absolutely, I'd agree with that wholeheartedly.

6 Q. And also, you've mentioned Ken Clearwater's evidence about the problems with juries
7 potentially, and that he was really upset that, because he thought that if the survivors had
8 not been disabled and had been as articulate as the other people in the process, in his view
9 there would have been guilty verdicts on every charge. And I take it from what you're
10 saying that you can see and appreciate why he would hold that view.

11 A. Yes, and as he pointed out, prosecutors, defence counsel, judiciary, Police staff, all have
12 training and experience in the matters that are before the court. So, juries necessarily don't.
13 They've got life experience, but they don't necessarily have experience in the matters that
14 are being called upon. And I suppose that's a safeguard for the system, but it's also one of
15 its frailties, especially when it comes to matters of sexual abuse.

16 Q. You might be being too generous to the people who are trained in the system there, because
17 we also heard criticism that some of the other people involved in the process, such as
18 lawyers, would benefit from more training in this area as well. Would you agree with that?

19 A. Yes. But it's an adversarial system, so lawyers in some respect they're only doing the job
20 that they've been given to do, so – which is defend their client. And I can understand why
21 they've done that. It's how they've, that it's happened, I suppose, is one of the things that
22 can be addressed – as opposed to the why.

23 Q. So, if they're doing the job that they are supposed to do, and that's not working, is the job
24 itself wrong, is there something structural that needs to change about the process do you
25 think? Do we need an adversarial system?

26 A. I think sometimes – that's a question a lot of people have asked over the years and I don't
27 know that I would have the answer for it. But I think it's the way in which some of the
28 questions are asked that is quite confronting for people when they're challenged about the
29 evidence that they've given, which, as I said, in some respects is, and it is the fundamental
30 job of, of counsel for people that are accused of these crimes.

31 So I don't know what the answer is, but for me it's perhaps – you know the only
32 thing I can think of is the way that some of the questions are asked, and whether that is, that
33 you get someone that's especially trained when it comes to victims that actually does the
34 evidence-in-chief and also puts the questions to the victim in the witness box, and it's the

1 same person that does it for both sides from written questions that are reviewed by the
2 presiding judge to make sure that they're not offensive or, yeah, step outside the lines of
3 decency before they're put, so – but the system we've got at the moment doesn't serve
4 victims of sexual abuse, whether they are disabled or not I don't think.

5 **Q.** So, we've had suggestions made that perhaps we need a separate sexual violence court and
6 also suggestions made that maybe we need a separate disabilities court. What are your
7 views on those?

8 **A.** Certainly worthy of discussion and perhaps teasing out further. But I sort of haven't turned
9 my mind to it completely. I've thought about it leading up to this hearing, but I, yeah, I
10 don't really have a firm view either way, but I think it's worthy, certainly a subject that's
11 worthy of further discussion.

12 **Q.** That's really helpful, Mr Read. Do you think that the Police executive level managers and
13 other experienced people such as yourself would be willing to have some further discussion
14 with the Inquiry separate from this forum perhaps about those sort of system-wide policy
15 questions?

16 **A.** Certainly, we're always looking to make the journey for victims through the judicial
17 process and the Police investigation a better one that doesn't cause them trauma.

18 **Q.** Thank you for that indication. Just to go back to the specifics of Marylands and Operation
19 Authority for a moment, you've said in your statement that one complainant had difficulties
20 separating his real-life experiences from things he saw on television and therefore Police
21 decided that his case did not meet the evidential sufficiency threshold. And you also say
22 that he had poor speech and would not be able to give evidence verbally in a way that
23 meant that people could understand what he was saying. What resources are currently
24 available for dealing with complainants with high communication support needs?

25 **A.** Well, currently we've got the communications assistants which are provided through the,
26 through the court system. So, which was something that we didn't have back in the early
27 2000s, they've only been a more recent addition. So, anyone that was identified with
28 having those sorts of difficulties, but that particular case or that particular complainant, that
29 advice was given by the person that conducted the interview and also by their caregiver
30 who provided that information that that was common for them to believe what they'd seen
31 on TV was something that was happening with them, so (inaudible).

32 **Q.** How widely used are communication assistants today?

33 **A.** I'm sorry, I don't have those facts and figures.

34 **Q.** You said that that that's through the court –

1 A. I can certainly try and find out.

2 Q. Thank you, and you've said that that's through the court system; does that mean that the
3 communication assistants are paid for by the Ministry of Justice and not from Police? Who
4 funds them?

5 A. I don't know, I doubt whether they'd be funded by Police, I presume that they're funded by
6 Justice.

7 Q. And are they something that kicks in further down the track, so not from the initial
8 interviewing stage, more at the court processes stage; is that right?

9 A. I'm not 100% certain, but that would be my impression of the documents that I'd read, yes.

10 Q. So, and currently, separately from that, how are people with learning disability or
11 neurodiversity or cognitive impairment supported in the decision whether or not to provide
12 a statement, an initial statement to Police?

13 A. Now there's a whole raft of groups and individuals that once we've identified there's an
14 issue, we would contact and talk to before and during the process of taking statements of
15 complainants and witnesses – as well as offenders.

16 Q. Just to go to another specific example, Police records describe another survivor being
17 omitted from criminal proceedings, largely because the survivor's parents believed he
18 would not be able to handle the stress and anxiety and pressure of a courtroom situation.
19 Now, the Police decision not to involve him in those proceedings against the clear wishes
20 of his parents was understandable. But would you accept that there is a bigger systemic
21 problem here, and if a person can't seek justice or accountability because of their disability,
22 that at some level that means that the system itself is discriminatory?

23 A. I can see where you're coming from in that respect. I think the decision that was made in
24 respect of this person was from a place where they didn't want to traumatise that particular
25 victim, but there is a – as you put it, there is a bigger question around, because of the
26 person's disability or personality it means that justice isn't available to them, which is a
27 wider question, I think.

28 Q. And just –

29 A. And a very difficult one.

30 Q. Yeah, I can see that there are difficult policy considerations that this Inquiry will need to
31 grapple with in terms of making its recommendations, and we're really grateful for your
32 indication that Police are willing to be involved in those debates. I just have one final
33 question around scoping, which, because you've already dealt with that in your evidence-in-
34 chief.

1 The final question I had on that, though, was – you've described the mass
2 investigation process nowadays and the differences and the factors that might play, go into
3 the Police decision as to whether or not to carry out a scoping exercise. If we had exactly
4 the same investigation today, Operation Authority arose today, and you were running it,
5 what would your decision be around scoping and whether or not to carry it out?

6 A. Yeah, that's probably going to be – if it was exactly the same, yeah, it's a really difficult one
7 to ask, because you don't want to put people in the position where we're putting them into a
8 – into a corner that they don't want to be in, or into a place where they don't want to be and
9 actually bringing it all back for them.

10 So that's a really, really difficult one, and I think we'd have to sit down and weigh
11 everything up. Whether we would have – if anyone that had come forward and spoken to
12 Peter Burke and Michelle Mulvihill, whether we would have gone as far as speaking to all
13 of those people, because we knew that they were at least prepared to talk about it to
14 someone.

15 But the remainder, the other 437 that attended the school, we didn't make contact
16 with, those are the sorts of decisions I suggest that we would probably be looking at.
17 I certainly wouldn't want to victimise anyone because of decisions that we were going to
18 make in respect of who we were going to contact.

19 Q. I know I said that was my last question, but in relation to scoping, is there some middle
20 ground, could you perhaps have put out a media release or something of that nature to say
21 that the Police were actively looking for people to come forward? Is that something you
22 would consider now?

23 A. Yes, I think that was done in 2002. People were aware that we had, that we were running a
24 complaint – sorry, running an investigation and were wanting to hear from anyone that had
25 information. So, it's a matter of how widely that got through, because bearing in mind
26 some of these people perhaps didn't follow media releases or newspapers or – and relied on
27 different ways of gathering information.

28 So yeah, there is some middle ground there that we would potentially look at today.
29 But it's still a really, really tough question, with some quite big consequence outcomes for
30 people that you need to take into account.

31 Q. All right, thank you Mr Read, that's all of my questions. Counsel for the, for Te Rōpū
32 Tautoko have leave to ask you a few questions. I expect, they've got 10 minutes, but
33 I expect that much of the material may well have already been covered in our discussions

1 and in your discussions with counsel for the Crown earlier and following Ms McKechnie's
2 questions there are likely to be questions from the Commissioners.

3 **CHAIR:** Thank you, Ms Glover. Ms McKechnie.

4 **QUESTIONING BY MS McKECHNIE:** Thank you Detective Superintendent. I just have three
5 areas that I'd like to ask questions about. The first one, Detective Superintendent, is about
6 information sharing during an investigation process. I'm here as counsel for the Catholic
7 Church entities, including the Brothers, and there have been some questions that we've
8 heard from witnesses about how much information church authorities know about what's
9 happening during a Police investigation of a member of the church. And I wanted you to
10 explain to the Commissioners please, what information in terms of who's being
11 investigated, the names of the complainants and the like, might be shared with the church
12 authorities and what might not be shared.

13 A. Well, what would be shared would be information that was necessary for us to get
14 information about – attendance records and things along those lines, so that we could
15 actually further the investigation and gather more evidence. So, they wouldn't have
16 information of the detail of the allegations. They would obviously know in a general sense
17 what the allegations are, that they're sexual abuse investigations but they wouldn't be given
18 any detail, they wouldn't be given copies of any statements made, they wouldn't be given
19 home addresses or contact details that had been provided to Police, family members, they
20 wouldn't necessarily be given any witness statements or witness details. So, I suppose
21 within a lot of investigations it's the same – the information that we are seeking from
22 people is very much like a sieve, it comes one way but doesn't go the other way.

23 **Q.** So, would they be told the identities of the complainants, for example?

24 A. No, they might be told that we are looking for particular details on particular documents
25 and where would we find that, or if we couldn't find it, “can you give us the details of this
26 person in relation to attendance or classes?”. But we would generally have been asking for
27 access to documents that related to all the students and pupils that have attended at
28 Marylands so that we could actually get the details we wanted, rather than individual details
29 that would highlight who complainants were.

30 **Q.** So, in terms of this one way sieve you talk about, why does the sieve only go one way?
31 Why is that information not shared with, in this case, the church authorities?

32 A. Well, it would – at a later date – it would have been shared with those that are accused, so
33 through normal disclosure. But while the investigation is still active, it wouldn't be
34 something that is given to anyone, I suppose, outside the realm of it being an investigator.

1 **Q.** Ok. Then ask the same questions then and you refer to the formal disclosure process. Now
2 that's the process where information is given to the accused in relation to the allegations
3 against them – am I describing that correctly?

4 **A.** Yes.

5 **Q.** We've heard evidence that the Brothers who were accused here, and indeed it's common if
6 other church individuals who are accused, have separate lawyers. So, is that disclosure
7 information, is that being given to the Brother or the priest and their lawyer – is that the
8 disclosure process you're describing?

9 **A.** Yes. It wouldn't necessarily be given to the church, unless the Brother decided that's what
10 they wanted to do.

11 **Q.** For cases like this, Detective Superintendent, where they're victims of sexual crimes, there's
12 very commonly name suppression issues. Would, in that disclosure process, Brothers and
13 their lawyers be prohibited from sharing the names of the victims with the church
14 authorities?

15 **A.** Well, they would be subject to the suppression and they're blanket suppression orders for
16 sexual abuse victims. So yes, they would have been subject to those.

17 **Q.** So that places limits on what the church authorities can know about who has come forward
18 and the details of the harm that they've outlined – is that correct?

19 **A.** Yes, the details, yes, but I'm, I suppose, putting on a different hat, but I'm assuming that
20 Mr Walsh, who was a lawyer for some of the Brothers, would have been requesting
21 information from the church that related to whatever defence they were going to run, I'm
22 assuming.

23 **Q.** Just a couple more questions on this information sharing, Detective Superintendent. You
24 talked before about a list that Brother Peter gave you of the men who had come forward to
25 the congregation. In your knowledge, are you ever aware whether a list went back to
26 Brother Peter or to The Order of which of those men Police had spoken to or who might be
27 related to charges being brought?

28 **A.** I don't know for certain, but I'd be very surprised if one did go back. That would be
29 information in breach of the victim's privacy.

30 **Q.** The final question on the information sharing, Detective Superintendent, you referred
31 before to witness statements and survivor statements, victim statements, accused statements
32 not being provided to the authorities. We have a lot of those in the bundle of documents
33 now. Are you aware of when those documents might have first been provided to The
34 Order?

1 A. No, sorry, I'm not.

2 Q. They wouldn't be provided to The Order as a matter of course as part of a Police process,
3 would they?

4 A. No, they shouldn't be.

5 Q. And why not, Detective Superintendent, why are those documents not shared?

6 A. Well, they're really private and personal documents, and we would be breaching someone's
7 privacy if we had provided them.

8 Q. So, it wouldn't be appropriate to share them with The Order?

9 A. No, as I said, they would be provided as part of criminal disclosure, but that's to defence
10 counsel that are representing the Brothers and the Brothers would have, as a matter of
11 course, been able to read those and get copies of them. But providing them to an agency
12 outside or another organisation would be, I would have thought, a breach of privacy,
13 especially, and potentially suppression orders as well.

14 Q. Thank you, Detective Superintendent. The next area I wanted to ask you some questions
15 about was in relation to the mid-2000s, this is 2004 in relation to Operation Authority, and
16 there were some statements made by Brother Peter Burke to survivors and their lawyers at
17 the time that he wasn't able to engage with them. Now I'd like to show you a couple of
18 documents just to orientate you to what I'm talking about.

19 So, the first one is CTH00142560001. As this comes up, Detective Superintendent,
20 this is a letter sent to Grant Cameron. You won't have seen these documents before,
21 I wouldn't anticipate, Detective Superintendent. This is a letter sent, or it will be when it
22 comes up – our pre-lunch confidence, ma'am, may have dissipated. I think you do
23 have physical –

24 **CHAIR:** Oh ye of little faith.

25 **MS McKECHNIE:** That is perhaps not something that my client lacks, ma'am. I think the
26 Detective Superintendent does have the physical bundles I believe Ms Schmidt-McCleave
27 mentioned.

28 **CHAIR:** Is it numbered the same way, is it consistent numbering?

29 **MS McKECHNIE:** It is ma'am.

30 **CHAIR:** Did you get that number Detective Superintendent?

31 **MS GLOVER:** Excuse me, just keeping an eye on the time, Madam Chair, it might be more
32 effective to go to, to ask this question without the documents, if possible, we've only got
33 two minutes left.

34 **CHAIR:** All right, do you have the document?

1 A. I've got the bundle, but it's got tabs in it, I don't know under what tab it would be.

2 **MS SCHMIDT-McCLEAVE:** Madam Chair, he may not have this one, he got, because the
3 documents provided to Detective Superintendent Read obviously were those disclosed to
4 the Crown.

5 **CHAIR:** Of course. Let's, again, interests of time, refer to it if you can, Ms McKechnie, and if it
6 possibly can be found, it will be.

7 **MS McKECHNIE:** I'll read you the relevant parts –

8 **CHAIR:** Yes.

9 **MS McKECHNIE:** – that I was going to take you to, Detective Superintendent, once I have found
10 them. Please bear with me a moment. I'm told by your counsel that it's tab 15 of your
11 bundle if that assists. It's a letter from 11 February 2004 that Lee Robinson, who was the
12 lawyer for the Brothers, wrote to Grant Cameron who was acting for a significant number
13 of the men who had come forward at this time. And the point of taking you to this letter is
14 that –

15 **CHAIR:** There it is.

16 **QUESTIONING BY MS McKECHNIE CONTINUED:** Excellent. So, if we could highlight
17 the last three paragraphs of the first page of that letter, please. It's a reference to Peter
18 Burke's intention to meet with clients, Mr Cameron's clients, in Octo-, in February.

19 "As you are aware, Police have issued extradition proceedings and warrants for
20 three brothers in Australia and one former brother. There are pending depositions of
21 Bernard McGrath. Peter Burke is to be a witness in those proceedings and has already
22 given video evidence..." etc.

23 Next paragraph:

24 "For these reasons Peter Burke has been advised not to make any statements or
25 speak with the complainants during the course of the proceedings. We have been advised
26 that certain evidence has been adduced at these hearings which relates to negotiations
27 between Peter Burke and various complainants."

28 Now the other document I was going to take you to, which I'll read into the record,
29 but for the interests of time we won't go to, is CTH00 – don't need to bring it up, if you
30 could put the other one back up, please – CTH00151490053. Now that is the letter,
31 Commissioners, where those same sentiments are expressed to each of the survivors
32 directly and make very similar comments.

33 I'm aware, Detective Superintendent, that when my friend Ms Schmidt-McCleave
34 asked you about this you didn't have any particular memory of this in this process. So, I'm

1 going to ask you a more general question. Why, if somebody was going to be a witness in
2 a proceeding, as Peter Burke was going to be in these prosecutions, why would they be
3 discouraged to speak to other witnesses or potential victims in these processes?

4 A. Well, generally it would be if there was a danger that they were going to cross-contaminate,
5 so provide people with what other victims are saying. So, that would be the only reason
6 that I could think of.

7 Q. So, in this instance, because Peter Burke spoke to more than 70 people, in fact he spoke to
8 more survivors perhaps than your inspect-, your investigators, would a concern be that he
9 may inadvertently contaminate some of that testimony for the subsequent criminal
10 proceedings?

11 A. Potentially, but in the context of what he was talking about, he was talking about pastoral
12 care and not necessarily the detail of the abuse that they were suffering. At least that's my
13 understanding of it.

14 Q. I think the documents show, Detective Superintendent, that quite a lot of the detail of what
15 happened and who harmed these men is recorded in the notes of the interviews. So that
16 detail is there. Is that the kind of issue that a defence lawyer could use in defending the
17 Brothers to discredit witnesses?

18 A. Potentially, but to my knowledge it didn't come up to any great degree during any of the
19 trials. In fact, there's a part where Peter Burke, under cross-examination, said that he
20 "was informed by legal advisors that it would not be in the interests of The Order or indeed
21 the Police that I continue this process." This is from page 210 of his cross-examination at
22 the McGrath trial I presume, so.

23 So, yeah, but I don't – I can't recall it coming up to any great extent that there was
24 cross-contamination between witnesses, or that we provided, because of what had happened
25 or transpired, that it provided a platform that got any real traction.

26 Q. I think you slightly misunderstood my question, Detective Superintendent. He stopped
27 discussing it to avoid the risk of that cross-contamination, not that there was in fact cross-
28 contamination. I think the Detective Superintendent is talking –

29 A. As you've said he's spoken to 70-odd people.

30 Q. I'm not sure we heard your full answer then, Detective Superintendent, there's a – your
31 mouth was moving.

32 **CHAIR:** There's a lag.

33 A. Yeah.

1 **CHAIR:** Can I just check here, sorry to interrupt you, Detective Superintendent, is the issue here
2 whether the Police instructed Peter Burke not to speak, is that, is that what the issue is from
3 your point of view?

4 **MS McKECHNIE:** No, ma'am, I think the documents are clear that Peter Burke thought he'd
5 been instructed.

6 **CHAIR:** He thought he'd been instructed. Is the question who had instructed him?

7 **MS McKECHNIE:** No, the question is why such an instruction would have been a good idea.

8 **CHAIR:** Okay, all right.

9 So can we just cut to the chase here, Detective Superintendent. Was it a good idea
10 to advise him and was it necessary for the purposes of the court proceedings?

11 A. The way that the proceedings transpired, I don't think it would have made any difference.
12 That horse had already bolted. We'd spoken to 100 people at least along with Michelle
13 Mulvihill and they had details, so that was fertile ground already if it was ever going to be.
14 So, I don't think it would have made any difference.

15 **CHAIR:** Thank you.

16 **QUESTIONING BY MS McKECHNIE CONTINUED:** I have one final area that I'd like to ask
17 probably a single question about. Ken Clearwater gave evidence on Monday which you've
18 been referred to a couple of times. And as part of his evidence, he made some comments
19 and shared his opinion that the Catholic Church has a degree of control over the New
20 Zealand Police, and I wanted to ask you whether in your 43 years of experience you
21 considered whether the Catholic Church in New Zealand had any such control?

22 A. Not at all.

23 **Q.** Thank you, detective.

24 A. No control whatsoever over any investigation.

25 **Q.** Thank you, Detective Superintendent, I have no other questions.

26 **CHAIR:** Yes, Ms Schmidt-McCleave.

27 **QUESTIONING BY MS SCHMIDT-McCLEAVE CONTINUED:** There was just one
28 question, excuse me I'll take my mask off, one question Detective Superintendent Read,
29 arising from the document Ms McKechnie took you to. Now just to be clear, that wasn't a
30 Police document, was it?

31 **CHAIR:** You mean the last document?

32 **QUESTIONING BY MS SCHMIDT-McCLEAVE CONTINUED:** Yes.

33 A. No, not at all.

34 **Q.** Thank you, nothing further.

1 **CHAIR:** Does that conclude questioning?

2 **MS SCHMIDT-McCLEAVE:** Unless the Commissioners have any questions for Detective
3 Superintendent.

4 **CHAIR:** Well, I think we do, so, but there's no other counsel? Okay. So, Detective
5 Superintendent, a few questions from me. Can I start please with the issue, I don't know if
6 you can see me, but – someone will no doubt get the camera.

7 A: No, I can't.

8 **CHAIR:** Here am I. First question relates to absconding children. Throughout the Commission's
9 hearings, we have, and in other ways, we have heard so many accounts of children in
10 abusive situations running away. And you've already been referred to the fact that some of
11 them ran away and tried to report to the Police. More often we have heard that children ran
12 away and were picked up by the Police and delivered back to the place of abuse.

13 Now I'm just wondering, in terms of contemporary policing, what do Police know
14 today about the dynamics of a child who is running away and how to deal with children
15 running away, and particularly whether they are alert to the fact that they may be running
16 away because they are in fact being abused, whether that's sexually or otherwise?

17 A. I suppose the dynamics of it are that yes, Police are more aware of why some people, or
18 some children, run away. The other thing to bear in mind too is that there are far more
19 organisations now that become involved than just Police. So, if there's a continual runaway
20 there's a panel of different organisations that these sorts of concerns get raised with and
21 there's follow-up and support for the person or the child and the families as well, so...

22 **CHAIR:** We have a bad lag in the reception here. We're not hearing the witness. It might be to
23 do with a bandwidth issue do you think? Not to worry. No, he's frozen.

24 **MS SCHMIDT-McCLEAVE:** I wonder whether, ma'am, we can take a short break and I'll ask
25 him to sign back in.

26 **CHAIR:** Let's do that. What time's our afternoon adjournment due? I wonder if we should take a
27 very short afternoon adjournment and try and fix this problem.

28 **MS GLOVER:** We could do that, ma'am, yes, take 10 minutes –

29 **CHAIR:** And then go through after that.

30 **MS GLOVER:** That's right.

31 **CHAIR:** All right, let's take a break and try and unfreeze the Detective Superintendent and just let
32 us know as soon as you're ready to come back.

33 **Adjournment from 3.10 pm to 3.21 pm**

1 **CHAIR:** You got life sorted? I appreciate this is difficult doing a lot of juggling. So where has
2 the juggling got to Ms Glover?

3 **MS GLOVER:** I think we've very nearly got things sorted. So, just finishing off with the
4 questions from the Commissioners for Mr Read and then the next witnesses are by AVL,
5 and they'll be led by the Crown. They do require a few minutes just to get settled, but in
6 the interests of time and not having the Commissioners traipsing back and forth, if you're
7 okay to just stay there while that happens –

8 **CHAIR:** Happy to do that.

9 **MS GLOVER:** – and Ms Haronga and I will switch places during that period as well.

10 **CHAIR:** That's fine. The only other thing is we must – we've got Mr DL with his pre-recording,
11 haven't we, which is due at 4.45.

12 **MS GLOVER:** That's right, 4.45 so we'll need to keep an eye on time for that.

13 **CHAIR:** See what we can do, all right.

14 I'm glad to see you've come back to life, Detective Superintendent, that's good, let's
15 remain like that please – just for a little bit longer.

16 So, I think we'd got to, we were just, we'll quickly finish this off. It's a question
17 really of, I mean we've heard, as I say, we've heard the rather awful stories of Police
18 picking up kids, taking them back, sometimes saying to the Brothers at Marylands, you
19 know, "if I hear any more about this I'll come in and do you over", but, you know, "watch
20 your step", that sort of thing, which suggests they might have had an inkling, but weren't
21 going to do anything.

22 But today, for a child who absconds from foster care, from a Child Youth and
23 Family or OT home or even from home themselves, are Police aware that there could be a
24 reason which requires some investigation before they're just peremptorily taken back?

25 **A.** Yes.

26 **Q.** Yeah, okay. Well, that's reassuring. My next question relates to something that you said
27 about talking to caregivers when you're questioning or interviewing or even investigating
28 people with disabilities. One of the dynamics that we're becoming increasingly aware of is
29 that, of course, often – well, not often – it can be the case that the abuser is the caregiver,
30 and that caregivers can be the gatekeepers of abuse when they have a person with
31 disabilities which prevents them from communicating on their own. Are the Police aware
32 of that particular problem that could get in the way?

1 A. Yes, the caregivers in this instance were people that were unconnected with St John of God
2 or Marylands. They were caregivers 20 years later, so – but we're certainly aware of the
3 fact that anyone can be an abuser.

4 Q. That's right.

5 A. It's a matter of making sure that we've got the right people in contact with them and
6 sometimes that's why we go to organisations – or the start point for us is an organisation
7 that is not connected to that victim at all and then can push them in the direction of a
8 counsellor or support people. But they will be the support person for the initial interview
9 that's done and perhaps the formal statement before they go to someone else and be more
10 long-term for them.

11 Q. Yes. So, it's a matter of Police being, as we all must be, aware of the potential for that to be
12 an issue and not just taking for granted that a caregiver is going to always be a person
13 who – an unstained person, yeah.

14 A. Yes.

15 Q. The question of scoping, I can see that you are torn on that – with very good reason – that
16 you don't want to, I think above all, you don't want to retraumatise people, and you don't
17 want to force people into a situation where they're, where you're doing harm – unwittingly
18 – but actually doing harm. I get that, but on the other hand is it not a good argument for the
19 Police taking a, what is coming to be known as a “trauma-informed approach” with
20 adequate and full support for that person so that it would mitigate the harm that the person
21 might have.

22 So, I'm saying I understand the dilemma, but is there, do you think the Police can do
23 more to be more trauma-informed, more victim-orientated so that people who potentially
24 could be retraumatized are saved from that by good process and good wellbeing support?

25 A. Yes, I think this, every facet of our work there's something that can always be done better.
26 There's no doubt about that, we should always be learning. It's a matter of finding the
27 middle ground and getting the balance that the last thing you'd want to do is to harm
28 someone, because it's already a harmful process that they're going through, it's a matter of,
29 yeah, that balance. And I don't think we're ever going to get it right all of the time,
30 unfortunately.

31 Q. Yeah.

32 A. Yeah.

33 Q. But if every part of the process, and I'm asking you because you're a Police Officer, but I
34 would ask the same questions of judiciary hearing cases, of the criminal bar association and

1 of every other – Corrections, anybody else involved in the justice system I would ask the
2 same question: what can you do from your perspective in the process to make this a process
3 that is more comfortable and more victim-, more trauma-informed so that the people with
4 genuine complaints can have them fairly and properly heard. So that's an issue for the
5 whole of the justice system, but you've got the question because you're sitting here today.

6 My –

7 A. Yes –

8 **Q.** Carry on.

9 A. I was just going to say for me it's training, making sure that everything's done with
10 empathy, and you give everything really good consideration.

11 **Q.** I think that certainly would go a long way.

12 My last question relates to the Police's role, or the role of the Police in safeguarding.
13 And this was raised by questions that you were asked about what institutions, what church
14 institutions knew about the investigations that you were undertaking.

15 How do you see the Police role where information has come, or allegations have
16 been made, and the Police have a strong sense that something is wrong in an institution, for
17 example – of any sort – how can you, or what are your obligations to, alert that institution
18 that the people inside that institution should be – they should be taken special care of them
19 or somehow safeguard those people while the investigation's underway and before any
20 convictions are entered, how do you manage that?

21 A. Yeah, that's something that we routinely do now with these sorts of investigations. So, we
22 look at victim welfare and try and mitigate the opportunities that the alleged person has,
23 and normally that means that the alleged person is actually stood down or put to one side
24 until the investigation has reached the point where we can say yes, we're going to go for a
25 full investigation or no, we're not.

26 And then, even then, I know of recent matters where we have had a complaint and
27 investigated the person who's stood aside, and we haven't found anything, but then there's
28 another complaint six months later and then we've found that yes, it has been true, and
29 we've gone back and started again with the first complaint.

30 So – but we need to make sure that, one, that the institution knows what the
31 allegation is, not necessarily who it is, but what the allegation is, that they take some steps
32 to make sure that that person no longer has opportunity to re-victimise either that person or
33 other people in a similar victim state.

34 **Q.** Yes.

1 A. And until we've actually done the investigation – that's standard practice now within our
2 child abuse arena.

3 Q. Because questions were asked by Ms McKechnie which raised important questions about
4 privacy. I mean, can this be done without interrupting or affecting the privacy of the
5 complainant, and indeed the privacy of the alleged perpetrator? Do you have problems
6 with that, or have you got ways that you can manage that?

7 A. No, it's a balancing act and we manage to deal with that. We do have to be – for instance,
8 if there was a school, we have to take the managers or the principal or the people that are
9 running it and say this is what the allegation is, and the welfare issues talking to – through
10 parents and things like that, we actually keep them fully informed about what's happening
11 and letters to parents and all that sort of stuff.

12 So, the mass allegation investigation process that we have, especially for larger
13 institutions, is one that I think is working well for us.

14 Q. You're certainly getting plenty of practice in it at the moment, aren't you?

15 A. Yes, but that might be because – and I suppose it's a bad analogy to make, but because
16 we're getting better at dealing with it, people have got more trust, and are coming forward
17 and feeling that they can actually make those complaints.

18 Q. Yes.

19 A. So, as we get better, we might get more, I don't know. I hope not.

20 Q. I hope not too, but I hope that people still feel comfortable in coming forward, that is good
21 news. And so, just a last question on that point. Do you know at the time that you were
22 doing the investigations in 19 – I don't know if you know about 93, but certainly in 2000s,
23 whether anybody from the Police went to St John of God and said “this is what's
24 happening”, as an institution rather than just the Brothers, alerted them and alerted them to
25 any potential issues of harm that could have been carrying on at that stage?

26 A. Not specifically, but generally it was all over the media right from the start, so I think they
27 would have been blind to have not thought that it was possible, yeah.

28 Q. Those are all my questions. Thank you, Detective Superintendent, I'll hand you over to
29 Commissioner Alofivae.

30 **COMMISSIONER ALOFIVAE:** Detective Superintendent, good afternoon. Just picking up on
31 that last point from the Chair. Knowing what you know today, so when you were in the
32 throes of the investigation Operation Authority, focusing just on the criminality of the
33 Brothers, the allegations, would you now go back and look at the institution if there was

1 another situation that arose today, is that a consideration that Police have built into their
2 policies?

3 A. We're more inclined to do that now, to look at institutional knowledge and culpability. But
4 even looking back at St John of God now, I don't believe there was sufficient to launch an
5 investigation into their culpability. But as a matter of course now, we look at all of those
6 sorts of things with matters like this, and in other areas as well in terms of culpability of
7 organisations, groups, companies. So, we take a bigger view now or a wider view of all
8 those sorts of things.

9 Q. Thank you. And just one last question, and it's really around kind of the broader policy
10 parameters that you've alluded to throughout your evidence. You've indicated that there've
11 been a lot of insights that you've learned personally, and the team and the Police have really
12 benefitted. I think you've – you said that there was no training then for dealing with sexual
13 abuse victims but a lot of what we did then is policy now. So that's very encouraging to
14 hear that.

15 I guess my question is really around the leadership component and when, when you
16 see things like this that clearly move the Police and there was a lot of – there was just a lot
17 of effort and there was so much commitment to being able to bring justice as far as you
18 were able to in this particular context.

19 When we're dealing with people with disabilities, and I see that you've put out a
20 paper recently, a disability review paper I think it might have been in 2019/2020? Was that
21 actually developed in partnership with people with disabilities, so not just the advocates and
22 support groups, but actually with different groups of people with disabilities to actually
23 understand what their needs are and how they could – and how they see the world and how
24 they could be supported?

25 A. I know that's a view that most Government organisations, including Police, take on board
26 now, that it's not just the view of what we think, it's what people are saying that fit into the
27 category that we're looking at. But I don't know specifically in relation to the disability
28 review that that has been included.

29 Q. So, in terms of then just future policy work, having existing or current working partnerships
30 and relationships with the people directly involved, not just the advocates and the support
31 groups, but the people involved would obviously be top of Police priority presumably?

32 A. Yes, yes.

33 Q. Thank you. I think you've – it falls to me now, Detective Superintendent, to thank you.

34 Thank you for your time this afternoon, thank you for the evidence, thank you for sharing

1 both your thoughts, both professional and your personal thoughts as well, about how you
2 think the system could well be improved and also for being able to indicate that should
3 there be a need that arises in the near future that we need to come back to the Police on
4 certain issues that you're amenable to receiving more contact from the Commission. So,
5 thank you very much.

6 **CHAIR:** Thank you.

7 A. More than welcome.

8 **CHAIR:** Bye-bye.

9 A. Thank you.