

**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'imua 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: 9 February 2022

TRANSCRIPT OF PROCEEDINGS

OPENING SUBMISSIONS BY SNAP

1
2 **MS OOSTERHOOF:** Tēnā koutou katoa. As you know, Ms Oosterhoof for SNAP. Now as a
3 survivor focused support group, Dr Christopher Longhurst would like to address the
4 Commission on behalf of SNAP's members himself. Dr Longhurst will ask the
5 Commissioners to look at the lessons that can be learned from the examples that will be put
6 before it in the coming days and make lasting recommendations for change.

7 SNAP ask that the Commission make recommendations that will ensure safeguards,
8 both from the church and from the State, are put in place to protect against the systemic
9 failings that allowed the abuse that is the subject of this Inquiry to occur for so long. SNAP
10 also asks that the Commission look into why no one was held to account for the abuse for
11 such a long time or even at all.

12 SNAP asks that the Commission makes recommendations to ensure faith-based care
13 facilities that continue to operate, or operate in the future, have internal and external
14 mechanisms to ensure abusers are held to account for their actions as soon as possible. So,
15 to open, Dr Longhurst would like to now address you on behalf of all SNAP's members.
16 Thank you, Dr Longhurst.

17 **CHAIR:** Dr Longhurst is just coming, I believe he's waiting outside. Morning Dr Longhurst,
18 welcome back to the Commission.

19 **DR LONGHURST:** Thank you. Tēnā koutou katoa. Tēnei te mihi manahau ki ngā Kōmihana
20 me o koutou mahi whakahirahira. Tēnei te mihi uruhau ki ngā mōrehu kua puta mai. Heoi,
21 ko ngā whakamānawatanga katoa ki a SNAP me koutou mahi whakahirahira. Ma whero,
22 ma pango, ka oti ai te mahi.

23 Thank you, Lydia. By way of introduction again, I am Christopher Longhurst, I am
24 the Director of the Survivors Network of Those Abused by Priests, SNAP Aotearoa. I hold
25 a doctorate in Catholic theology and have studied and worked at the highest academic
26 levels in the Catholic Church at the Vatican in Rome, in the USA and here in Aotearoa
27 New Zealand.

28 SNAP Aotearoa comprises people abused by priests and others associated with
29 religion in New Zealand, Australia and the Pacific Islands. This includes
30 members this- includes those abused by the Hospitaller Order of St John of God at
31 Marylands- School, St Joseph's Orphanage and the Hebron Trust, The Order.

32 SNAP prides itself in supporting its members, the majority of whom experienced
33 faith based institutional abuse, mainly within the Catholic Church. SNAP provides
34 confidential peer support to those harmed by this abuse and we welcome survivors of abuse

1 from all Faith based organisations and institutional backgrounds.

2 Commissioners, there are two main points we would like you to hold at the centre of
3 your minds as we hear the evidence and submissions over the next seven days. A, the
4 systemic nature of the abuse within The Order and wider Catholic faith-based care and the
5 culture that allowed this abuse to continue; and B, given the systemic nature of the abuse
6 and the failure to hold those responsible to account, what we can learn from this for the
7 future.

8 Regarding A, written evidence provided by witnesses acknowledged from our
9 members confirms that the abuse was systemic within The Order, as it was and continues to
10 be in many other religious orders and faith-based institutions across New Zealand today. In
11 SNAP's submission, we need to look to the history, culture and systems within the Catholic
12 Church to fully understand this systemic abuse.

13 Historically, Catholic religious orders were established on "charisms", a term used
14 to describe gifts from the spirit of God and communicated through religious persons who
15 sought to gather others around them. At Marylands, for example, celibate, non-married
16 Brothers gathered around them vulnerable children with learning and intellectual
17 disabilities for the claimed purpose of caring for them as God's children.

18 At Marylands, based on this charism, the Brothers created a sense of awe and
19 respect within the Catholic community. Indeed, within the broader community. Written
20 evidence and other evidence to be presented during the following days will show that the
21 Brothers at Marylands were held in high esteem. This esteem in major part was ingrained
22 through the charisms of The Order and the claims that the Brothers committed themselves
23 to God, to their church, through religious vows known also as evangelical councils.

24 There were three of them, chastity, poverty and obedience. Chastity understood as
25 no sex within the moral framework of Catholicism. Obedience understood as doing what
26 they were told. However, the evidence also shows that this was not the reality. Instead, the
27 esteem and respect the Brothers held within the community allowed them to carte blanche
28 and systemically abuse children over a prolonged period of time.

29 SNAP would like to ask you, Commissioners, to ponder deeply this reality when
30 listening to the evidence during the upcoming days. Last week the Catholic Church in
31 New Zealand reported one in seven clergy and religious had complaints of sexual abuse
32 against them. While this number is shocking, SNAP understands the real number to be a
33 lot higher and could be as much as 12 times higher.

34 The full extent of the abuse suffered by our members at the hands of The Order is

1 unknown. Due to the emotional toll and other factors, some of our members still cannot
2 share what happened to them. Other victims are no longer with us, and their whanau now
3 represent them. What we do know is that the abuse got worse over time. So, we would
4 also like to ask you to ponder another question: What might have been the actual purpose
5 of this order?

6 Further, our members inform us that the abuse at Marylands continued due to a lack
7 of oversight. This is confirmed by evidence before the Commission. For example, the
8 Ministry of Education confirmed that Marylands was registered by the Department of
9 Education. Therefore, Marylands should have been inspected regularly as required by the
10 Education Act.

11 Oranga Tamariki in response to written questions reported that children placed
12 within The Order by the Department of Social Welfare had to be visited only once every six
13 months. Evidence shows that even those very infrequent visits did not always occur. This
14 leads to our next point, B.

15 SNAP submits that abuse at Marylands was able to continue for so long due to a
16 lack of monitoring and oversight, both from The Order itself and from the State. Evidence
17 before the Commission shows that even when the Order's leaders and the Diocesan Bishops
18 were made aware of the abuse, the abusers and their associates were moved overseas
19 instead of being brought to justice.

20 In the case of Brother Bernard McGrath, he was eventually able to return to
21 New Zealand and work as a director of the Hebron Trust, again with extremely vulnerable
22 children and he continued to abuse. Essentially, the monitoring requirement has two
23 components we believe needed to be present. A, an effective monitoring framework, and
24 B, an effective and genuine process to ensure accountability for abuse.

25 SNAP submits that in order to fully understand the complexities of our second
26 point, which is the prevention of the abuse in the future, we need to examine the
27 accountability for Catholic religious orders within the international framework. This is
28 because the highest power within the Catholic Church comes from the Pope's dual nature as
29 head of a country under international law, Vatican City State, and head of a geopolitical
30 corporation operating here in New Zealand and worldwide known as the Holy See.

31 In the case currently before the Commission, The Order was operating as one
32 known as pontifical right. Therefore, it was answerable to the Pope. Its structure on the
33 ground covers legal entities in New Zealand commonly called religious orders and diocese
34 governed respectively by the congregational leader and the Bishop. This centralised and

1 decentralised autonomous and self-governing system produced the culture of power,
2 secrecy and avoidance of responsibility that enabled the abuse and its coverup.

3 Commissioners, that structure has not changed. As such, The Order operated with
4 the approval of the local Bishop who was responsible for overseeing the Catholic institutes
5 operating in his diocese. Under Canon Law, the Bishop had the ability to demand that The
6 Order leave his diocese.

7 SNAP submits that when the criminal investigations commenced, the Bishop should
8 have suppressed The Order immediately. This did not happen. Further, the Bishop had a
9 responsibility and a duty of care to know what was occurring at Marylands.

10 Given the evidence before this Commission that survivors did report the abuse at
11 the time, and the findings that the Australian Royal Commission that over 40% of The
12 Order's members were alleged abusers, SNAP's members cannot envision how the Bishop
13 could not have known about the abuse.

14 The Bishop should have been on notice that, at a minimum, The Order posed a
15 serious risk to children. The Bishop failed in his duty of care to children, to the church and
16 to the community. SNAP submits that this means he must share in the culpability.

17 We believe the State also shares in the culpability. Children were sent to Marylands
18 and other faith-based institutions by Social Welfare and Marylands received significant
19 funding and support from the Department of Education, health and social development.
20 There are reports of children trying to alert social workers and others about the abuse, but
21 they were either disbelieved or ignored.

22 Marylands was licensed under the Mental Health Act and registered under the
23 Education Act as a special residential school. This gives rise to a pertinent question for us
24 in New Zealand regarding the separation of church and State. The Order portrayed itself as
25 a private Catholic organisation running a private school, yet it received endorsement and
26 funding from the State. In arranging and funding these placements, the State owed the
27 children a duty of care as well to ensure that they were looked after and free from abuse. In
28 failing this duty of care, it is our submission that the State was also complicit in the abuse
29 and therefore, like the church, must share in the culpability.

30 Our conclusion: As a survivor support network, we want to ensure that all survivors
31 feel safe and supported. We also want to do all we can to ensure that we learn from the
32 past and from the ongoing suffering. We want to put in place the structures to stop more
33 people experiencing abuse as we did because that abuse, Commissioners, continues today
34 in other religious orders.

1 In sum, SNAP submits that the reason the abuse could occur and become systemic
2 within The Order was because abusers were not held to account by either the church as
3 competent authority, or by the State. In fact, they were enabled through coverups, secrecy
4 and the silencing of victims and whistle-blowers on the part of the church. This must
5 change.

6 Finally, therefore, it is not just historic abuse. Recent survivor statements, reports to
7 SNAP currently in the Diocese of Christchurch, current reports to SNAP of abuse currently
8 in the Diocese of Christchurch, and media reports confirm that the Catholic system remains
9 shrouded in mystery, secrecy and church leaders continue to deflect, delay, deny, deceive
10 and discredit some of us.

11 Commissioners, during this hearing, we ask you to please keep at the forefront of
12 your minds two main questions; how was the Order able to get away with what it did, and
13 how do we implement church and State accountability to ensure this cannot happen again.

14 These are the opening submissions made on behalf of SNAP's members. Thank
15 you, Commissioners. No reira, tēnā koutou, tēnā koutou, tēnā tatou katoa.

16 **CHAIR:** Kia ora, thank you Dr Longhurst. Can I just say, you raised an important point at the end
17 about allegations of present abuse, current abuse, and an invitation was extended by
18 Ms Anderson before - our doors are not closed. And if people do have those allegations,
19 that they wish to share those with the Royal Commission, they are most welcome, and we
20 encourage people to come forward. Because, as you say, we cannot do this without
21 survivors, or the Crown have made that submission, we cannot do without it and we need
22 contemporary accounts as well, if they exist. So, thank you for raising that important point
23 and thank you for your submission.

24 **DR LONGHURST:** Kia ora, thank you, sure.

25 **MS OOSTERHOOF:** Thank you Commissioners.

26 **CHAIR:** I think that now brings us to the end of our submissions.

27 **MS ANDERSON:** Mr. Clearwater.

28 **CHAIR:** Mr. Clearwater, what a terrible oversight.

29 **MS ANDERSON:** Madam Chair, I just wonder, we'll just see if Mr. Clearwater would prefer to
30 proceed now.

31 **CHAIR:** Yes.

32 **MS ANDERSON:** I'm conscious of the stenographer and the signers having a break as to
33 whether he proceeds. My understanding is he's carefully timed and understands how long
34 he'll be speaking to. And I think if he was wishing to continue, it might be practical to hear

1 him and then have the break.

2 **CHAIR:** I'm just going to ask one question, that is how long have you carefully timed this for,
3 Mr. Clearwater, just so that our people know?

4 **MR CLEARWATER:** 12 and a half minutes.

5 **CHAIR:** 12 and a half minutes. I'm going to ask the stenographer and our signer; can you endure
6 another 12 and a half minutes? **[Affirmative]**

7 **MR CLEARWATER:** I have been known to lie.

8 **CHAIR:** You're not under oath at the moment, Mr. Clearwater.

9 **MR CLEARWATER:** It's just a privilege to be here and not have to worry about pleading guilty
10 or not guilty.

11 **CHAIR:** We'd have none of that around here. Thank you very much and welcome back as I have
12 said already. Thank you Mr Clearwater.