

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

**Under** The Inquiries Act 2013

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

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

**Counsel:** Ms Katherine Anderson, Mr Simon Mount QC, Ms Kerry Beaton QC, Ms Jane Glover, Ms Anne Toohey, Ms Kima Tuiali'i, Ms Julia Spelman, Mr Winston McCarthy, Ms Echo Haronga, Mr Michael Thomas and Ms Kathy Basire for the Royal Commission  
Ms Rachael Schmidt-McCleave, Ms Julia White and Mr Max Clarke-Parker for the Crown  
Ms Sonja Cooper, Ms Amanda Hill, Mr Sam Benton, Ms Alana Thomas and Mr Sam Wimsett as other counsel attending

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

**Date:** 9 February 2022

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**TRANSCRIPT OF PROCEEDINGS**

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**OPENING SUBMISSIONS BY ST JOHN OF GOD**

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2 **MS McKECHNIE:** Commissioners, those watching on the livestream. Commissioners, you  
3 should have a copy of my written remarks in front of you, and for those who are following  
4 along on the livestream if they wish to follow along, this has also been published on the Te  
5 Ropu Tautoko website if people wish to read those comments as I speak to them.

6 **CHAIR:** Can I thank you for providing them in advance, it's very helpful.

7 **MS McKECHNIE:** Commissioners, we acknowledge this hearing is being undertaken during  
8 difficult times for our country and Covid-19 has impacted on the ability of the Catholic  
9 Church in Aotearoa, the Bishops and congregational leaders to be here today. And in  
10 particular, as I said during appearances, the St John of God Brothers have no physical  
11 presence in the room today to their deep regret.

12 Two of the Brothers remain living in New Zealand, they are New Zealanders and  
13 they are in retirement in GRO-C. They're both men in their mid-70s. They had intended to  
14 attend for the full hearing, but as we are unable to get them back to GRO-C should they be  
15 close contacts and need to go into isolation, we have encouraged them to stay in GRO-C.  
16 The leadership of the Oceania province of St John of God are in Australia and they are  
17 watching as we speak. As they are Australians, Commissioners, they would not be allowed  
18 into the country at the moment under any circumstances.

19 **CHAIR:** Yes.

20 **MS McKECHNIE:** Commissioners, I intend to speak at a relatively high level to the document in  
21 front of you. In particular, there are elements of the history and background of the Brothers  
22 that Ms Anderson has outlined, so I will not repeat those in my address.

23 But I must begin, of course, with an acknowledgment that the Bishops and  
24 congregational leaders make of those survivors who will give evidence before you this  
25 week, of those who are listening and watching online and those who will watch later.

26 There are many, sadly, who have suffered abuse while in the care of the St John of  
27 God Brothers at Marylands, and many more who were abused by Bernard McGrath at  
28 Hebron. There were also those harmed at St Joseph's Orphanage who will speak to you this  
29 week. The Bishops and congregational leaders acknowledge the bravery of those survivors.  
30 It has been acknowledged before in the evidence by Catholic leaders, and it will be  
31 acknowledged again in the evidence you will hear this week, that this is deeply shameful to  
32 the Catholic Church and it should never have happened.

33 Te Rōpū Tautoko, on behalf of the Bishops and congregational leaders,

1 acknowledge and recognise those survivors and you will hear Timothy Graham speak  
2 particularly to his apologies and regret of what happened in the care of his Order.  
3 Commissioners, as has been the approach of the Catholic Bishops and congregational  
4 leaders in other hearings, we are not here to question the evidence of the survivors, we are  
5 here to listen and bear witness to their experiences to reflect on the past wrongs and learn  
6 what the church can do to ensure this does not happen again. Bishop Gielan and Ms Fyfe  
7 are here in the public gallery and the other Bishops are watching the livestream.

8 Commissioners, in my opening remarks I intend to cover three main areas this  
9 morning. A brief overview, as I say at paragraph 11 of the Brothers, their work in  
10 New Zealand. That will be briefer now given the material that Ms Anderson has covered.

11 I'll then outline briefly the evidence that will be heard. There has been a volume of  
12 evidence provided to the Commission and the Commission have indicated that you wish to  
13 hear from two witnesses, there is other evidence filed with the Commission that I will  
14 outline for your wider context.

15 And then finally, Commissioners, in the spirit of this Inquiry's inquisitorial process  
16 there are a number of questions that we have conveyed to Counsel Assisting that we hope  
17 can be explored in the evidence of the survivors. We appreciate that it is not appropriate  
18 for us to ask those questions directly, but they are valuable themes that we hope can be  
19 explored. And I outline some of those for your information, Commissioners, and also for  
20 those listening so they are aware of what we are particularly interested to know this week.

21 Before I commence on those three areas, there are two preliminary clarifications I  
22 would like to make. Firstly, Commissioners, as you both know very well and  
23 Commissioners listening, but to remind those listening, when I use the word "church", or  
24 any Catholic witnesses use the word "church" we are referring to the collective views of 49  
25 constituent congregations and diocese that make up the Catholic Church in Aotearoa  
26 New Zealand. A number of those have already been mentioned by Ms Anderson, there are  
27 many other congregations in New Zealand who have no direct involvement in any of the  
28 matters happening this week. And of course, when I refer to Te Rōpū Tautoko, that is,  
29 Commissioners, as you know, the group created to provide a coordinated response to the  
30 Commission.

31 I will often refer to the St John of God Brothers simply as "The Brothers". There  
32 are many other congregations in New Zealand who can also be referred to as "The  
33 Brothers"; this is unfortunately very confusing, but this week "The Brothers" will refer to  
34 St John of God unless it is expressly about a different organisation.

1           And on that particular point, Commissioners, you will hear evidence from church  
2 witnesses this week where different religious names are used, Brother McGrath, for  
3 example. Now, if that name is not used, it is not an intention to distance The Order from  
4 any of the individuals and their offending while they were Brothers, but many of the men  
5 are no longer Brothers and as such are no longer referred to by that title, they are not  
6 members of the congregation, in particular Bernard McGrath is no longer and has not been  
7 a Brother for many, many years, so they are not referred to by that title. Nothing turns on  
8 that particularly, Commissioners, but to be clear to those listening, this is not an attempt to  
9 avoid responsibility, it is merely a matter of current naming.

10 **CHAIR:** Just to be clear, they are former Brothers?

11 **MS McKECHNIE:** They are former Brothers.

12 **CHAIR:** But not current Brothers?

13 **MS McKECHNIE:** Yes, Commissioner.

14 **CHAIR:** Thank you.

15 **MS McKECHNIE:** Commencing then with the history of the St John of God Brothers,  
16 Marylands and Hebron. Ms Anderson has conveyed a broad outline of the historical facts  
17 such that we know. One of the key features and challenges of this particular hearing, and  
18 particularly a challenge for the Brothers, Commissioners, is the lack of records and the lack  
19 of individuals who were adults in the situation who remain alive, and, if they are alive, are  
20 capable of giving evidence in relation to this. There are no witnesses, Commissioners,  
21 giving evidence from the church this week who have any personal knowledge of Marylands  
22 School because there is nobody capable of giving that evidence.

23           That creates some obvious difficulties Commissioners, the historic record, the  
24 Brothers have had extensive requests for documents from the Commission and have  
25 provided them, we have had some difficulties because the Australian archive has been  
26 under heavy Covid restrictions at times and we thank Counsel Assisting for their patience,  
27 but for many of those documents there is no direct personal knowledge within The Order as  
28 to what they mean. And some of those documents are very important and I'm sure will  
29 feature this week but unfortunately the Brothers, current Brothers are unable to cast any  
30 light on those documents.

31           Brother Timothy, who you will hear from next week, --he is an Australian,  
32 Commissioners, he did not come to New Zealand in any formal capacity until two decades  
33 after the school closed and he was only in New Zealand for a short period. And  
34 Archbishop Paul, who will give evidence next week, was a teenager when the school closed

1 and had not then entered the seminary, let alone become a priest.

2           Commissioners, as you have heard from Ms Anderson, Marylands was a school for  
3 intellectually disabled boys in Christchurch. It is not a form of intellectually disabled  
4 school that we have in New Zealand in 2022. Many of the children who attended the  
5 school would now be supported in mainstream education. The Brothers came to  
6 New Zealand at the request of the Bishops and undertook and overtook the operation of that  
7 school in 1955 as you have heard. Over that time, boys were placed in the school through  
8 engagement with the Ministry of Education, State wards were placed in the school, so many  
9 of the children who attended the school were not Catholic. You did not need to be Catholic  
10 to attend the school, it was not a Catholic school in the way that you have heard evidence  
11 about Catholic education in New Zealand and may well hear further evidence. It is quite a  
12 different school and institution from most of those that are run within the Catholic network.

13           The buildings, initially it was in the site of Middleton and the current site of the  
14 Ministry of Education Halswell residential college is where the school is, and the  
15 photograph that Counsel Assisting showed you, Commissioners, the chapel building  
16 remains, though it is earthquake prone and everyone is discouraged from going into it, but  
17 many of the buildings were earthquake affected and it now looks very different.

18           The other feature, Commissioners, I would emphasise is that the school was  
19 collocated from 1970 with a hospital. So, the St John of God Brothers created a hospital on  
20 that site, Marylands Hospital, and that still operates today. The Brothers have no financial  
21 or governance responsibilities for the hospital, they haven't for many years. But the  
22 particular reason for emphasising this, Commissioners, is that when Brothers came to  
23 community in Christchurch they lived on that site. Some of the Brothers worked in the  
24 school, and the others who were nurses worked in the hospital. And so, the Brothers'  
25 records of the community in Christchurch include both of those communities, but they  
26 worked in quite distinct environments. And the Brothers had one other for a short period  
27 they ran an aged care facility in the Hawke's Bay, but otherwise the Brothers have had no  
28 other works in New Zealand.

29           The St John of God Brothers, Commissioners, hold very few records about  
30 Marylands. And in particular, tragically there doesn't appear anybody holds the children's  
31 files. When the Brothers left in 1984 there was a seamless transition to the Ministry and  
32 those files remained at the school grounds, and the Brothers are unaware as to where those  
33 documents and files are now. They assume that the Ministry of Education has taken  
34 possession of them, but they are no longer within the Brothers' control.

1           Accordingly, Commissioners, much of the evidence that Timothy Graham will give  
2 next week is not his own knowledge, he is speaking to the historical record to assist the  
3 Commissioners. And it has been supplemented by material in Archives New Zealand that  
4 they hold in relation to the school.

5           It's timely to mention St Joseph's Orphanage at this point. This was the orphanage  
6 across the river. It's not particularly clear in that photograph, but there was a small river  
7 between the two schools. That was operated by the Sisters of Nazareth. St Joseph's  
8 Orphanage does not formally fall within the scope of this case study and accordingly the  
9 Sisters of Nazareth have not provided evidence on the operation of the orphanage. There is  
10 a lack of clarity about the religious men or priests who may have been in the orphanage,  
11 whether they were Brothers or whether they were the diocese and there is no specific  
12 evidence on that point.

13           The Sisters of Nazareth are also watching this hearing, Commissioners, there are  
14 witnesses and survivors who are giving evidence in relation to their experiences in the  
15 orphanage and the sisters bear witness to those experiences.

16           Turning to the Hebron Trust. The Hebron Trust is quite distinct in time and in  
17 structure from Marylands School. The only common thread, we now know tragically  
18 common thread, is Bernard McGrath. Bishop Hanrahan, who was then the Bishop of  
19 Christchurch in the mid 1980s, invited the Brothers to assist with street kids, as  
20 Ms Anderson said, and Bernard McGrath came to New Zealand.

21           Brother Timothy's evidence discusses the establishment and operation of Hebron  
22 Trust and we have provided a detailed briefing paper to you prepared from the historical  
23 record. It appears to have been quite an informal organisation initially which was very  
24 much being run by Bernard McGrath. He was paid a stipend from the diocese to undertake  
25 this works for diocese and for many years it had no formal structure and certainly wasn't  
26 called the Hebron Trust.

27           It later had a form of structure and at that point the Brothers had some governance  
28 responsibilities for the trust, but there are no allegations against any other Brothers at  
29 Hebron Trust beyond Bernard McGrath. Sadly, there is one lay employee of Hebron Trust  
30 against which the Brothers have a record of an allegation but he has no religious  
31 affiliations.

32           It's timely at this point to acknowledge and confront the offending of Bernard  
33 McGrath. His abuse at Marylands and at Hebron was horrific. Brother Timothy's evidence  
34 will outline the records that the Brothers hold about the nature and abuse at Marylands.

1 The Brothers do not hold many of the records and have not seen until recently records held  
2 by the Police from the Police investigations, particularly in the Hebron Trust.

3 But we must confront, Commissioners, and the church and the Brothers absolutely  
4 acknowledge that Bernard McGrath, a former member of the St John of God Brothers from  
5 1968 to 1996, is one of Australasia's worst child sex offenders. He was first sentenced in  
6 1993, he has now been sentenced to a truly horrific number of crimes and is currently  
7 serving a 33year sentence in Australia and is likely to die in prison.

8 He offended not only in New Zealand at Marylands and in Hebron, but also at  
9 institutions in Australia and all of his offending was against vulnerable young people. It is  
10 likely, given New Zealand's contemporary prosecutorial standards, that if he were  
11 sentenced now his sentences would be even longer than they were at the time, and,  
12 Commissioners, of all the allegations against the Catholic Church for which the church has  
13 records, Ms Anderson referred to those, of all of those records, Bernard McGrath is  
14 responsible for 5% of the total allegations against the church in New Zealand.

15 However, Commissioners, the Brothers and the church leaders in New Zealand  
16 acknowledge that Bernard McGrath is not the only man who offended against children at  
17 Marylands. The evidence will show that in total 26 men, Brothers and employees of The  
18 Order, have allegations of abuse made against them while at Marylands.

19 The nature and abuse of this offending is extreme, and it is likely only matched in  
20 terms of the scale of offending by some of the worst State institutions that you are hearing  
21 about. It is statistically vastly more serious than any of the other Catholic institutions and  
22 that is acknowledged, and it is a very dark chapter in the church's history in New Zealand.

23 The number of the allegations and the records are not disputed, as Ms Anderson  
24 noted. The Brothers and the church come to this Commission with open hands with all the  
25 files that we hold, limited as they are, to be as transparent as possible. Statistics,  
26 Commissioners, are still under discussion. The use of weighted averages, for example, is  
27 something I continue to discuss with my friend. But in terms of the numbers of allegations  
28 they are not in dispute.

29 The seriousness of this offending is also reflected in the redress process undertaken  
30 by the Brothers. It was different and quite unique. It was an earlier redress process than  
31 many others in the Catholic Church in New Zealand and there are some key features that  
32 will differ from the evidence you have already heard. Some of those features are more  
33 positive, some of them are not, but it does provide a useful counterpoint for you in terms of  
34 the different experiences in the church.

1           Commissioners, turning to the evidence that has been filed on behalf of the church.  
2           The evidence for this hearing was sought by Counsel Assisting with specific requests for  
3           information, and you will see that when you read the briefs of evidence, they have a  
4           structure that reflects that particular questions were asked.

5           In some instances, those questions cannot be answered, either because there are no  
6           individuals with that knowledge and unfortunately there are no records of that knowledge.  
7           For example, we cannot, sadly, answer questions about ethnicity of the children who  
8           attended. Unless the child happened to have an obviously Māori or Pacific name, there are  
9           no particular records of those matters.

10           Brother Timothy Graham, who is and has been for a number of years the provincial  
11           of the Brothers, will give evidence next week and Archbishop Paul Martin. Paul is now the  
12           Adjudicator Archbishop of Wellington but was, at the time his evidence was requested, the  
13           Bishop of Christchurch and remains the Apostolic Bishop of the Christchurch diocese.

14           Commissioners, there were also two written statements filed, the first one by  
15           Monsignor Brendan Daly. I outline the evidence that he provides from paragraph 47 of my  
16           brief of evidence. Monsignor Daly is a Canon lawyer, he provides Canon Law expertise  
17           and, as the Archbishop will say when he gives evidence next week on such matters Bishops  
18           are guided by such experts as lay leaders are. Monsignor Daly's evidence sets out the  
19           relevant Canon Law. It can be a dense subject Commissioners, so to assist you I have set  
20           out on page 10 the matters that Monsignor Daly covers with relation to those Canon Law  
21           issues.

22           **CHAIR:** Thank you. Just to assure you that we are aware of that statement and have read it.

23           **MS McKECHNIE:** Thank you Commissioners. Archbishop Paul can answer questions next  
24           week, Commissioners, about the more practical use of Canon Law as a Bishop in day-to-  
25           day matters. There's also a brief of evidence filed by Lee Robinson. Lee is a partner in a  
26           Christchurch law firm, Saunders Robinson Brown, and has for many years been the lawyer  
27           for the St John of God Brothers in New Zealand. He provides evidence about his  
28           recollections of the redress process from the 1990s and early 2000s. He assisted and  
29           provided legal support to Brother Burke in that process, and he was also involved in the  
30           formation, such as it was, formalizing of the Hebron Trust.

31           In addition, Commissioners, attached to Brother Timothy's evidence are a number  
32           of briefing papers. One of those is prepared by Dr Claire Stewart. She's an expert in  
33           disability education. Much of her evidence was prepared from archival research, about the  
34           quality of education being provided by the Brothers in the school.

1           It is challenging in the context of the harm that we know happened in that school to  
2 separate the quality of education from that harm, but that is what Dr Stewart has attempted  
3 to do from the records available measured against the standards of the time. Because,  
4 Commissioners, you will appreciate, this school closed over 40 years ago, and the records  
5 and knowledge that is held is limited, the standards that people are measured by and the  
6 expectations are different, and the language is different.

7           So many of the documents that will be shown to survivors use language that may be  
8 upsetting, and Ms Anderson has already acknowledged that appropriately in her opening.  
9 That is unfortunately the way our community referred to people with disabilities in  
10 previous decades and the church acknowledges that and notes that no harm or offence is  
11 intended by the use of some words that read now in 2022 are quite confronting.

12           Commissioners, from page 11 I briefly set out the limitations of the evidence that  
13 the Brothers are able to provide and the wider church is able to provide for your  
14 investigation. Firstly, Commissioners, I would like to note the timing of the evidence  
15 provision. The evidence was requested from the Brothers at the beginning of the evidence  
16 provision process. That is not unusual, but I emphasise it because the Brothers wish that  
17 survivors listening to understand that the survivor evidence was filed second.

18           So, if there are matters raised in that evidence, or their own evidence is not  
19 addressed in the written material, that is not intended to be an omission or a deliberate  
20 ignoring of the evidence, because the Brothers' evidence was filed first. It was not known  
21 in detail what evidence would be filed subsequently.

22           So, if there are survivors listening who are looking for their own experiences in the  
23 Brothers' evidence, that's one of the reasons why it is not there. The specifics of that are  
24 also not appropriate for the Brothers to bring into the public domain. So those specifics are  
25 not there. It does not mean that those specifics are not acknowledged, but that is why they  
26 are not on the face of the public documents.

27           As I have said, Commissioners, this evidence is also almost wholly reliant on  
28 historic documentation and the passing of time and imperfect record-keeping has made  
29 responding to many of the Commission's, quite understandable questions, difficult.

30           Commissioners, to close my opening remarks, from page 12 I outline some of the  
31 themes and questions that we have asked Counsel Assisting to explore with some of the  
32 witnesses and I will have a limited opportunity to ask questions next week of some of the  
33 institutional witnesses.

34           Commissioners, the first is around effective redress. And we come to these

1 questions, Commissioners, very alive to the context of your redress report issued at the end  
2 of last year, and some of those issues which are particularly complex were Faith based  
3 organisations who, unlike the State, often have ongoing relationships with survivors and  
4 pastoral elements to their redress process which are materially different perhaps to some of  
5 the State responses.

6 So, Commissioners, I have set out there, and over the next couple of pages, those  
7 questions. One around how monetary redress can be made as effective as possible. There  
8 is evidence that you will hear about the fleeting nature of monetary redress, and how the  
9 church is interested to know how that investment and those individuals can be assisted to  
10 make the most of the redress in reforming and remaking their lives.

11 Barriers of complaints to abuse are also an area that we hope the Commission  
12 explores this week. It's striking, Commissioners, that some of the witnesses refer in their  
13 evidence to fears that speaking to the Police would void their settlements, or that somehow  
14 the Brothers would ask for the money back. There is no record we have of those issues  
15 ever being threatened and certainly were never done. So why are survivors worried, why  
16 are they concerned and how do we remove that barrier going forward into the future.

17 The church is in a different position to the State in that regard in particular. Further,  
18 Commissioners, the church acknowledges that it still has much to learn of being culturally  
19 responsive and that is an area that we anticipate, and hope will be explored this week.

20 Finally, Commissioners, to conclude, the question that I think we all hope can be  
21 answered so it can be prevented in the future is why was there such a failure to recognise  
22 harm? There is no doubt, Commissioners, that Marylands was a very dark chapter in the St  
23 John of God's history and in the history of the Catholic Church and in the history of our  
24 society. No amount of good intention is ever going to overcome the extent of harm those  
25 young people and children suffered at Marylands.

26 Commissioners, the question we all must face, and the church itself turns to face, is  
27 why the extensive and serious harm was being caused at Marylands not identified, not  
28 prevented and not acted upon by the authorities, by the Brothers themselves, by their  
29 international leadership, by the church, by the Ministry of Education, Department of Social  
30 Welfare, the Police, by our society. Many children were failed by many adults,  
31 Commissioners, at Marylands and the church welcomes your examination of these issues.

32 **CHAIR:** Thank you very much, Ms McKechnie, I think those questions that you ask are indeed at  
33 the very heart of this Inquiry, the "why" question.

34 **MS McKECHNIE:** Yes.

1 **CHAIR:** Thank you for your submissions.

2 **MS McKECHNIE:** Would now be an appropriate time to take the adjournment?

3 **CHAIR:** I'll just check, we have got a couple more to go. Would you anticipate taking a break at  
4 this stage or would you like to move on?

5 **MS ANDERSON:** Madam Chair, I think we might be better to move through the further opening  
6 submissions and perhaps take the break slightly later than scheduled.

7 **CHAIR:** Yes, I don't anticipate the next two submissions will be -- I'm not sure how long they're  
8 going to take. From what I've been told I don't think they're going to take too much longer,  
9 is that right?

10 **MS ANDERSON:** Yeah, we'll definitely run over slightly 11.30 but I think maximum 10 or  
11 15 minutes.

12 **CHAIR:** Yes, that will give the chance for the witnesses to be prepared etc. All right, thank you.  
13 So that means our representatives from SNAP, yes.

14 **MS SCHMIDT McCLEAVE:** The Crown first Your Honour?

15 **CHAIR:** Sorry, the Crown next, beg your pardon.

16