

Witness Name: Michael Ferriss

Statement No.: WITN0502001

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Dated:

ROYAL COMMISSION OF INQUIRY INTO ABUSE IN CARE

FIRST WITNESS STATEMENT OF MICHAEL FERRISS

I, Michael Ferriss, will say as follows: -

1. I am the current director of the Citizens Commission on Human Rights New Zealand branch. I have held that role since the beginning of 2018.
2. I have been involved with CCHR since 1989 when I helped reestablish the group along with Dana Lee who was the director of CCHR at that time. Later in the mid-1990's Steve Green ran the group as its executive director until 2017.
3. I was working with the Church of Scientology for those years in public relations, and I was additionally involved in many of the activities of CCHR.
4. CCHR had been building up a considerable body of knowledge about Lake Alice over the years. These included numerous statements, medical notes and information related to various agency investigations.
5. My submission picks up on the work done by CCHR to get the Lake Alice psychiatric abuse situation before the United Nations Committee Against Torture, which, over a period of ten years, resulted in our formal complaint being upheld by the Committee Against Torture at the end of 2019.
6. This submission deals with why we took this route and documents each action CCHR took along the way.

Submissions to the United Nations Committee Against Torture 2010-2015

7. In the 2000s the Executive Director of CCHR NZ, Steve Green, was also a member of the Human Rights Network and was learning about how human rights issues in New Zealand were being worked on by several different groups. These groups were submitting to the United Nations periodic reviews and to different human rights bodies at the UN. CCHR researcher, Victor Boyd, and Steve Green, started looking into how they could submit material on Lake Alice to the United Nations Committee Against Torture and expose how the New Zealand authorities were not holding anyone accountable for what happened.
8. New Zealand was a signatory to the United Nations Convention Against Torture and had enacted the Crimes of Torture Act in 1989. This Act would have been applicable to the events that occurred at Lake Alice, but because the events occurred in the 1970s this avenue could not be used, but the UN Committee Against Torture could be approached with submissions from CCHR.
9. Victor Boyd and Steve Green researched the UN submission procedure and the first report was submitted in 2010 in response to the Concluding Observations in the Matter of New Zealand's 5th Periodic Report One Year On. The report was entitled: *Allegations of Torture and/or Cruel, Inhuman or Degrading Treatment or Punishment* and it contained information regarding ongoing issues of people being held in seclusion and restraints and the lack of effective recourse for the mentally ill whose rights were being abused in the mental health system.
10. The main focus of the submission was about Lake Alice Child and Adolescent Unit and the lack of an independent and impartial investigation of the events that occurred there. The report detailed the several Government and police investigations and their inadequacies and proposed that a UN special rapporteur document these matters ("Allegations of Torture and/or Cruel, Inhuman or Degrading Treatment or Punishment", CCHR, 13 May 2010 [WITN0502002]).

11. The New Zealand Government responded to the allegations made by CCHR stating that it is committed to the investigation and resolution of allegations of torture or ill-treatment by the State and that the Lake Alice settlement process is complete. In addition, they admitted the systemic failures in the Lake Alice case and that:
 - a. *...the Lake Alice claimants' allegations were factually clearly established* (Letter from the New Zealand Government to the Committee against Torture, 18 May 2010, p 13 [WITN0502003]).
12. CCHR responded by submitting a further report to the Secretariat of the Committee Against Torture in April 2012 highlighting the independent medical opinions by Professor Gary Walter (Chair of Child and Adolescent Psychiatry, University of Sydney) and the report by Judge Gallen, which the NZ Government had now claimed formed part of its investigation. We were arguing that the payments to the victims of ill-treatment at Lake Alice were ex gratia and not proper compensation as they were settling an out-of-court civil action against the Government.
13. CCHR further submitted that there was still no effort to seek accountability for the perpetrators of the ill-treatment and torture of the children in the Lake Alice Unit ("Additional information to the submissions by CCHR for the Committee against Torture", CCHR, April 2012, page 3 [WITN0502004]).
14. CCHR had obtained Professor Walter's reports which were commissioned by the NZ Police for their investigation and the Medical Practitioners Board of Victoria's investigation. As part of our evidence CCHR submitted Professor Walter's report for the Police which was attached to our submission to the UN Committee Against Torture. Significant quotes by Professor Walter were highlighted as they showed his disquiet and concerns about what had happened at Lake Alice and Dr Leeks' practice. Professor Walter stated that it was never appropriate to administer ECT in any form to children and that Paraldehyde was not meant to be used as a punishment for misbehaviour as it was a treatment for distress and agitation (pages 9 and 10 [WITN0502004]).
15. Professor Walter referred to the case of one patient who claimed the ECT was administered to his knees and genitals and the fact there would be medical

- risks associated with the procedure and that patients would regard the procedure as punishment not treatment (page 33 [WITN0502004]).
16. The report by Professor Walter was not acted upon by the Police in their eight-year investigation between the years 2002 to 2010 and CCHR pointed out to the UN Committee that Police had not even interviewed the Lake Alice complainants (page 10 [WITN0502004]).
 17. The last attachments to this submission were letters to the Committee Against Torture by two Lake Alice survivors, Paul Zentveld and GRO-A Mr FF
 18. Paul wrote about his treatment and how he, and the other victims, have never seen anyone made accountable for what they did. He appealed to the Committee to urge the New Zealand Government to investigate promptly and impartially what happened at the Lake Alice Child Unit and that the perpetrators are duly prosecuted and the victims accorded redress, including adequate compensation and rehabilitation (pages 36 to 39 [WITN0502004]).

Response of UNCAT

19. On 7 May 2012 the UN Committee Against Torture wrote to the NZ Government:
 - a. *The Committee is further concerned regarding allegations it has received that the State party has not conducted a prompt, impartial and effective investigation into all claims of abuse from Lake Alice or to prosecute alleged perpetrators of the torture and ill-treatment perpetrated there. Please clarify whether the State party intends to carry out an impartial investigation into the nearly 200 allegations of torture and ill-treatment against minors at Lake Alice, to criminally prosecute individuals found to have perpetrated this abuse, and to punish such perpetrators. Please indicate any steps the State party is taking to assess independently the sufficiency of the police investigation into the Lake Alice claims, which the Committee understands was closed in 2009, to inquire into complaints that police failed to interview a number of the alleged victims who filed complaints, and to re-open that investigation.* --Felice D. Gaer, Rapporteur for Follow-Up on Concluding Observations Committee Against Torture (Letter from the

Committee against Torture to the New Zealand Government, 7 May 2012 [WITN0502005]).

20. NZ implementing OPCAT and the National Preventative Mechanism

21. One of the measures taken by the New Zealand Government to ensure prevention of torture and cruel or unusual punishment by agents of the State was to ratify the Optimum Protocol to the Convention Against Torture (OPCAT) in 2007. Under the Crimes of Torture Act 1989 certain agencies act as the National Preventative Mechanism (NPMs) under the Human Rights Commission, which is the Central NPM. They are able to inspect any facility where people are detained.

22. In May 2013 the United Nations Subcommittee on Prevention of Torture (SPT) who oversee the Central National Preventative Mechanism visited New Zealand for the first time. While in the country they toured 36 places of detention and they met with Government and civil society organisations as well as the NPMs ("Monitoring Places of Detention", Human Rights Commission, 1 July 2013 to 30 June 2014, page 2 [WITN0502006]). Two representatives from CCHR met with three of the SPT members in Auckland to discuss some of their observations, especially in the mental health facilities. They spoke of the importance of independent reports from groups such as our own who were not connected to the official lines of politics and government as they present an alternative viewpoint to the official one. They welcomed our reports and the work that we do investigating human rights abuse in the area of mental health (SPT Meeting 2013, Photograph [WITN0502007]).

23. Following this visit the UN Working Group on Arbitrary Detention came to New Zealand a year later, to conduct further tours of places of detention such as prisons, refugee camps and psychiatric facilities.

24. Their report which came out in 2015 observed how the existing mental health law allowed medical practitioners *a wide margin of discretion to determine whether a person should undergo compulsory treatment and assessment and treatment*. Added to that they reported:

i. *Persons undergoing compulsory assessment or subject to compulsory treatment orders are often unrepresented, as they do not have sufficient financial means to seek legal advice and the availability of legal aid specifically for people with disabilities is limited.*

- *Report of the Working Group on Arbitrary Detention Mission to New Zealand 6 July 2015*

ii. (Report of the Working Group on Arbitrary Detention to the United Nations General Assembly, 9 July 2015 [WITN0502008]).

25. On reading the report, and in particular paragraph 93, CCHR are concerned that in the year 2015, the rights of the mentally ill may not be any more protected than they were in the 1970s.

26. We ask what are the safeguards that could prevent events such as Lake Alice from occurring again.

27. If compulsory detention and treatment is too broadly used by psychiatrists, and patients who have no easy means of recourse, then there could be occasions of its misuse leading to ill-treatment?

CCHR's report to the UN Committee Against Torture in 2015 at the 6th Periodic Review

28. In 2015, at the 6th Periodic Review session of the UN Committee Against Torture (UNCAT), CCHR reported again to UNCAT. The report included the case of a young woman who was incarcerated and given ECT against her will in 2013, and then held in seclusion with only a blanket to cover her naked body and a cardboard bedpan which she used as a pillow, electing to relieve herself on the floor (Submission by CCHR to UNCAT, February 2015, page 6 [WITN0502009]).

i. CCHR argued that not much had changed in mental health when events like these could still occur and the

woman herself felt it safer to lay her complaint with the media than the hospital authorities who would almost surely deny them.

- ii. In 2015 there was still no independent investigation of the events at Lake Alice and no effort to re-open a criminal investigation as directed by the UNCAT from the previous review session and recommendations of 2012.

Government Responses following UNCAT's letter of 7 May 2012

- 29. The New Zealand Government put forward that they had taken some steps toward addressing historic claims of psychiatric and institutional abuse.
- 30. One was the Confidential Forum and the Listening Service who had interviewed around about 1400 people who came forward with stories of abuse while in State care. Some were given compensation and assistance, such as counselling.
- 31. We argued that these Services appeared to be an effort to contain the complainants and to be little more than a sounding board without fulfilling the State's obligations under the Convention Against Torture, which would oblige them to investigate any claims of ill and degrading treatment and torture and to provide proper redress. We believed these low-level forums were purposeful in that they were an effort to remove threats of litigation and protect the State's reputation as well as the reputation of psychiatry.
- 32. If this was the case, then the Government approach would go against the States obligations under the Convention Against Torture:
 - i. *A State's failure to investigate, criminally prosecute, or to allow civil proceedings related to allegations of acts of torture in a prompt manner, may constitute a de facto denial of redress and thus constitute a violation of the State's obligations under article 14 (General*

Comment No. 3 (2012), Committee against Torture, 13 December 2012 [WITN0502010]).

CCHR and New Zealand 6th Periodic Review hearings at UNCAT

33. Over a period of five years, from 2010 – 2015, CCHR had put psychiatric ill-treatment and human rights abuse on the agenda at the United Nations Periodic Review sessions for New Zealand. The Lake Alice case of torture of children represented horrific abuse, but we were aware of similar abuses that occurred in other psychiatric settings. We wanted to discuss this with the UN Committee and the unwillingness of the NZ Government to really confront their responsibilities as a signatory to the Convention Against Torture.

- i. The director of CCHR, Steve Green, and Lake Alice survivor, Paul Zentveld, travelled to Geneva, Switzerland in 2015 to meet with the members of the Committee Against Torture and to sit in on the New Zealand 6th Periodic Review hearings.
- ii. Along with Tony Ellis, human rights lawyer, they met with two members of the Committee Against Torture. Steve talked about the role of CCHR and introduced Paul, a victim of the torture at Lake Alice psychiatric hospital. Paul said he was there on behalf of all the Lake Alice survivors. Paul told his story one of the Committee members said how they rarely get to meet victims of torture as often they are either dead or in regimes where they cannot easily leave. Certainly Paul was the only victim of torture from New Zealand who had appeared before the Committee.
- iii. The CAT members listened to Paul's account as well as our own. They greatly valued the fact Steve Green had come to see them in Geneva along with Paul as it brought home a reality of the concerns we had about

the NZ State's lack of responsibility concerning the human rights abuse at Lake Alice.

34. Felice Gaer also met with Steve Green and Paul Zentveld. Felice Gaer was the Rapporteur for *Follow-Up on Concluding Observations* in 2012. She had been part of the Committee Against Torture for many years and was familiar with CCHR's submissions. She was not impressed with the lack of action by the New Zealand Government when the evidence was there that ill-treatment and torture took place at Lake Alice. She said there was something really wrong when more repressive regimes will admit their crimes of torture and conduct appropriate investigations but New Zealand would not. To her it looked like there was a real effort to uphold a clean image of New Zealand and this seemed to be more important than doing right by the victims of the Lake Alice ill-treatment and torture.

35. The trip to the UN was a worthwhile undertaking, but ultimately it did not result in any immediate tangible action by the Government and their responsibilities under the Convention Against Torture. It did however help make the issue more visible and it was noticed by concerned Government agencies, such as the Human Rights Commission with whom we were getting a lot of support. It wasn't until three years later, and a lot of lobbying by many individuals and groups, that a Royal Commission of Inquiry was established to look at Abuse in State and Faith-based Care.

36. Discovering how the Police treated Paul Zentveld's complaint

37. After the UN trip, CCHR and Paul Zentveld applied to the NZ Police for records regarding their investigation of Paul's criminal complaint made in 2006. In the Police report it stated that Police considered the treatment Paul had received could have resulted in charges being laid.

- a. *On the face of it there appears to have been at least one occasion in 1974 when Mr ZENTVELD received Ectonus therapy as opposed to ECT and there is no record of this event in the notes. It is therefore considered that a charge could be considered in relation to the*

application of Ectonus therapy to Mr ZENTVELD in 1974 (Paul Zentveld Synopsis Redacted [WITN0502011]).

38. Despite this finding, the Police said it was too late to prosecute.
39. Finding this information became the impetus to then filing a formal complaint to the UN Committee Against Torture.

Formal Complaint to the United Nations Committee Against Torture (UNCAT) – July 2017

40. Given that we (CCHR) had tried every avenue available to hold people to account over what happened at Lake Alice, CCHR looked into the mechanics of how to file a formal complaint to the United Nations. We had been advised by a human rights lawyer that this was tricky as the UN receive around 2000 complaints a year and around 30 get upheld. We did not use a lawyer for financial reasons and so we researched how to put together a formal complaint to the Committee Against Torture ourselves.
41. We had to show that we had exhausted all of the local remedies in New Zealand which we were able to do.
42. The formal complaint with all of the necessary details was filed on 10 July 2017 on behalf of Paul Zentveld. CCHR argued that in all of the actions that had been taken by the State regarding Lake Alice, no one had been held accountable for what happened there. We said this was a violation of New Zealand's obligations under the Convention Against Torture, Articles 10, 11, 12 and 13 (Letter from CCHR to UNCAT regarding Paul Zentveld, 10 July 2017, pages 2 and 3 [WITN0502012]).
43. The NZ Government responded in May 2018 with a 35-page cover letter and around 450 pages of attachments. Their arguments included the following:
- The Inquiries of 1977 and subsequent actions were valid and that each found no wrongdoing on the part of the psychiatrist and staff who CCHR alleged were liable for crimes of ill-treatment and torture.
 - They also applied to have the action considered inadmissible due to not having exhausted all the local remedies.
 - Unreasonable delays
 - That NZ had not ratified the Convention Against Torture until 1989 and therefore were not subject to its dictates for events that occurred before

then (New Zealand Government Response to UNCAT, 18 May 2018 [WITN0502013]).

44. CCHR responded by pointing out that all of the Government actions were limited investigations and the inquiries only focused on individuals, effectively isolating them as one-off cases rather than to look at the extent of the abuse of a large number of children.

45. Further, that when there was evidence the abuse was wide-scale with the complainants coming forward in the later 1990s and the subsequent Government payouts as well as the Gallen report in 2001, the opportunity to conduct a proper Police investigation was squandered as they too reduced their investigation down to one example case as representative of the rest (Letter from CCHR to UNCAT regarding Lake Alice, 23 December 2018 [WITN0502014]).

46. The complaint was upheld by the UNCAT. In a 16-page decision, issued on the 29th of December 2019, they rejected the State party's arguments and application to have the complaint dismissed. At the end of their decision they urged the State party to:

(a) *Conduct a prompt, impartial and independent investigation into all allegations of torture and ill-treatment made by the complainant including, where appropriate, the filing of specific torture and/or ill-treatment charges against the perpetrators and the application of the corresponding penalties under domestic law;*

(b) *Provide the complainant with access to appropriate redress, including fair compensation and access to the truth, in line with the outcome of the investigation;*

(c) *Make public the present decision and disseminate its content widely, with a view to preventing similar violations of the Convention in the future* (Decision adopted by UNCAT under Article 22, 23 January 2020 [WITN0502015]).

47. At last we felt that finally here was an official body who was not only listening

to us, but had taken a very strong stance against the New Zealand Government. The victims of Lake Alice who were alerted to this news were overjoyed by the decision, but were understandably cautious when it came to how the Government might respond to the UN's demands.

48. CCHR made UNCAT decision known through various media and it ran nationwide in print, radio, TV and online news ("UN urges investigation into torture at NZ psychiatric facility", Radio New Zealand, 10 January 2020 [WITN0502016]).
49. The New Zealand Government replied to UNCAT saying a new Police investigation has begun and the Royal Commission of Inquiry into Abuse in Care are making a case study of the events at the Children's Unit at Lake Alice.
50. In their reply the Government said the decision was made known with a posting on the NZ Police website.
51. The Government also submitted that: *staff who have been involved in prior Lake Alice investigations are not being used to investigate the current or any future complaints* (New Zealand Government's response to UNCAT communication 852/2017 [WITN0502023]).
52. Our response to UNCAT was that we were pleased there was going to be a new police investigation of the abuses at Lake Alice but we were not happy that the UNCAT was not being made broadly known by only putting it on the NZ Police website (New Zealand Government's Response to CCHR's Reply, 15 May 2019 [WITN0502017]).
53. We recommended that several agencies should make the decision known, including the Ministry of Health, Oranga Tamariki (formally Social Welfare and Child Youth and Family Services), the NZ Medical Council, Ministry of Justice and the Human Rights Commission (Letter from CCHR to the Human Rights Treaties Branch, 13 July 2020 [WITN0502018]).
54. We further recommended that: *no-one in the Crown Law office who previously worked on Lake Alice cases from 1994 onward should be part of any evaluation of the new police investigation*. I refer to CCHR to UNCAT re NZ govt response 13.07.2020
55. To date the Human Rights Commission is the only additional Government agency that has made the decision known after meeting with us toward the end of last year.

56. Subsequently, the NZ Government considered there was sufficient exposure of the decision in their response in March this year. They cited that media reported on the decision which was largely generated by us, not the Government, and there has been no statement issued by the Government on the decision, only from the Police. What would seem to be the easiest step to take out the UNCAT's three directives has become the most difficult. They did not reply directly to point about Crown Law staff previously involved in evaluating Lake Alice cases, but wrote these points were noted. (The New Zealand Government's Response to CCHR's Submission [WITN0502019]).

United Nations Istanbul Protocol

57. We have pursued the Lake Alice case for 45 years. It was a clear-cut case of psychiatric abuse of children. It took place in a psychiatric hospital under the watch of numerous Government agencies including the Department of Health, the Department of Social Welfare and the Department of Education.

58. Our information gathering over the 45 years showed the complaints of ill-treatment, abuse and torture were covered up by officials in the agencies above as well as the Medical and Nursing Councils.

59. The United Nations Committee Against Torture have a document entitled *Istanbul Protocol--Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. This document defines what torture is, it also gives guidelines on how to investigate it, how to conduct interviews with victims of torture and the kind of redress that is needed to help rehabilitate these victims.

60. I have excerpted relevant parts as they relate to the Lake Alice psychiatric abuse and the subsequent actions by New Zealand authorities.

- a. *[T]orture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person, has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent*

or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions (Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, OHCHR, 2004, page 10 [WITN0502020]).

61. Within the document, there is a section on Health-care ethics (page 11-15 (pdf 20- 24) where it cites how the *World Psychiatric Association's Declaration of Hawaii* (Declaration of Hawaii, World Psychiatric Association, 1978 [WITN0502021]) prohibits the misuse of psychiatric skills to violate the human rights of any individual or group and that similar provisions are made for nurses in the directive on the *Nurse's Role in the Care of Detainees and Prisoners*. This was Adopted by the International Council of Nurses in 1975.
62. Throughout our investigations, we have seen health professionals and administrators who have not supported their colleagues trying to speak out against the abuses at Lake Alice, even to the extent of not conducting proper medical investigations and hiding behind policies that a doctor no longer registered is now exempt from such investigations, even though they held a medical certificate at the time of the abuse. The Istanbul Protocol has this to say:
- a. 55. *Health professionals also have a duty to support colleagues who speak out against human rights violations. Failure to do so risks not only an infringement of patient rights and a contravention of the declarations listed above but also brings the health professions into disrepute. Tarnishing the honour of the profession is considered to be serious professional misconduct. The World Medical Association's resolution on human rights (adopted in 1990) calls on all national medical associations to review the human rights situation in their own countries and ensure that doctors do not conceal evidence of abuse even where they fear reprisal* (page 12 [WITN0502020]).
63. On the subject of police investigations, the Istanbul Protocol says that States are required under international law to investigate reported incidents of torture promptly and impartially, and:

- a. *The fundamental principles of any viable investigation into incidents of torture are competence, impartiality, independence, promptness and thoroughness. These elements can be adapted to any legal system and should guide all investigations of alleged torture (page 17 [WITN0502020]).*
- b. *80. The investigative authority shall have the power and obligation to obtain all the information necessary to the inquiry. The persons conducting the investigation must have at their disposal all the necessary budgetary and technical resources for effective investigation. They must also have the authority to oblige all those acting in an official capacity allegedly involved in torture or ill-treatment to appear and testify. The same applies to any witness. To this end, the investigative authority is entitled to issue summonses to witnesses, including any officials allegedly involved, and to demand the production of evidence. Alleged victims of torture or ill-treatment, witnesses, those conducting the investigation and their families must be protected from violence, threats of violence or any other form of intimidation that may arise pursuant to the investigation. Those potentially implicated in torture or ill-treatment should be removed from any position of control or power, whether direct or indirect, over complainants, witnesses or their families, as well as those conducting the investigation (page 18 [WITN0502020]).*
64. Certainly the police investigation of 2002 – 2010 did not have this power and did not interview all of the available witnesses. Crown Law withheld from the Police statements of Lake Alice staff it had obtained, which told us there was at least some collusion to make this investigation incomplete and inadequate. Moreover when Police did interview former Lake Alice staff in 2006, we now know there was a least one registered nurse who said he saw a boy being electric shocked on the genitals as punishment by the child psychiatrist, Dr Leeks (Lake Alice Staff Police Interview, New Zealand Police, 8 September 2006 [WITN0502022]).
65. The Crown acted in defence of Dr Leeks in the Leoni McInroe case from 1995 onwards and for nine years held up her claim for compensation. Then Crown Law acted as adjudicators over a potential police prosecution of Dr Leeks

shows a conflict of interest. The Istanbul Protocol provides for this kind of thing which is why there is real value in having the Royal Commission of Inquiry into Abuse in Care look at these matters.

- a. 85. *In cases where involvement in torture by public officials is suspected, including possible orders for the use of torture by ministers, ministerial aides, officers acting with the knowledge of ministers, senior officers in State ministries, senior military leaders or tolerance of torture by such individuals, an objective and impartial investigation may not be possible unless a special commission of inquiry is established. A commission of inquiry may also be necessary where the expertise or the impartiality of the investigators is called into question* (page 18 [WITN0502020]).

66. The Istanbul Protocol lists what constitutes torture. Several of these describe the very events that occurred in the Lake Alice Children's Unit:

- a. *(d) Electric shocks;*
- (i) Sexual violence to genitals, molestation, instrumentation, rape;**
- b. *(l) Pharmacological torture using toxic doses of sedatives, neuroleptics, paralytics, etc.;*
- c. *(m) solitary confinement;*
- d. *(r) Psychological techniques to break down the individual, including forced betrayals, accentuating feelings of helplessness, exposure to ambiguous situations or contradictory messages;*
- e. *(u) Forcing the victim to witness torture or atrocities being inflicted on others* (page 29 [WITN0502020]).

67. There is a separate section on Electric shock torture:

- a. 212. *Electric current is transmitted through electrodes placed on any part of the body. The most common areas are the hands, feet, fingers, toes, ears, nipples, mouth, lips and genital area. The power source may be a hand-cranked or combustion generator, wall source, stun gun, cattle prod or other electric device. Electric current follows the shortest route between the two electrodes. The symptoms that occur when electric current is applied have this characteristic. For example, if electrodes are placed on a toe of the right foot and on the genital region, there will be pain, muscle contraction and cramps in the right thigh and calf muscles.*

Excruciating pain will be felt in the genital region (pages 40 and 41 [WITN0502020]).

68. Dr Leeks would have us believe what he was doing with his ECT machine was aversion therapy and the electric shocks he, and some of the nursing staff, applied to various parts of the body of the children were below the threshold of pain. Yet testimony after testimony of the survivors talked about the excruciating pain they felt, while others described how they heard the screams of the child victims while they received these shocks. This was reported on in detail by Judge Gallen in 2001, and he pointed to the medical files and statements from the victims as his evidence. Here we are 20 years after that report with a new Police investigation and a Royal Commission to uncover what occurred in Lake Alice and subsequent events.
69. The UN Committee Against Torture lists investigation and prosecution of the perpetrators as the first action to take place when there is alleged torture. The victims of the abuse believe Dr Leeks and Lake Alice staff should be held to account by the Police and in a court of law. To do otherwise would mean these medical and psychiatric professionals would be above the law and immune from prosecution.

The Effects of Torture and Redress

70. The *Istanbul Protocol* covers the effects of torture, both physical and psychological. The list is long, including such things as:
- a. re-experiencing the trauma;
 - b. profound personal detachment and social withdrawal;
 - c. inability to recall an important aspect of the trauma; difficulty either falling or staying asleep; irritability or outbursts of anger; difficulty concentrating;
 - d. hypervigilance, exaggerated startled response; generalized anxiety;
 - e. shortness of breath, sweating, dry mouth or dizziness and gastrointestinal distress;
 - f. high risk behaviour;
 - g. pain, headache or other physical complaints, with or without objective findings;
 - h. sexual dysfunction;
 - i. psychosis;

- j. paranoia and delusions of persecution; substance abuse; and
- k. Neuro-psychological impairment (pages 46 and 47 [WITN0502020]).

71. Many of the victims of the Lake Alice torture we have spoken to experience these symptoms and effects as documented in their statements, which for the most part are lifelong. It is for this reason that redress of torture victims must include rehabilitation and restitution as well as compensation.

72. Paramount however from many of the Lake Alice survivors is that the perpetrators of the ill-treatment and abuse be held to account by law. For them there is a real injustice when the alleged perpetrators have not been held to account.

New Police investigation 2020-21

73. The *Istanbul Protocol* describes the purpose of the investigation into torture:

- a. *77. The broad purpose of the investigation is to establish the facts relating to alleged incidents of torture, with a view to identifying those responsible for the incidents and facilitating their prosecution, or for use in the context of other procedures designed to obtain redress for victims* (page 17 [WITN0502020]).

74. Now that a new Police investigation has begun, CCHR have been in regular contact with the detectives working on the case, and supplying them with a lot of information that CCHR has gathered over the many years. We have encouraged many survivors to also talk with the Police and make their claims known to them.

75. While it is understood the passage of time is a hindrance to such an undertaking, it is fortunate that the Police have been able to interview over 100 former patients and several former staff in the past year. We were told that the UN decision changed everything for the Police and their investigation.

76. We are anticipating that this investigation will establish the facts of Lake Alice and the alleged incidents of torture and hold those responsible accountable. The survivors of Lake Alice expect nothing less.

Royal Commission of Inquiry into Abuse in State and Faith-based Care

77. We have communicated through our networks the importance of this Inquiry and have encouraged people to attend private sessions with the Commissioners. We have also attended some of these sessions in support of people coming forward.

78. We have supplied the Royal Commission with our research on Lake Alice Psychiatric Hospital and the events that took place there.
79. There is great hope that this Royal Commission will make known the truth of what happened at Lake Alice Child and Adolescent Unit and why there has been so much obfuscation and cover-up in face of possible exposure and investigation. There is hope that the Royal Commission's work will facilitate future change in the child welfare system preventing children and young persons being put into the mental health system and being given treatment without full and informed consent, both from the child or young person and their parents, guardians or advocates.
80. CCHR has pursued the Lake Alice psychiatric case for almost half a century. From the very first discovery in 1976 that children were being punished with electric shocks and drugs until now, our group has helped bring this to the attention of the New Zealand public and the authorities. Our initial concerns have been born out to be true. With each successive step we have taken to try to establish the truth of what happened at Lake Alice we have unearthed some very dark secrets where children were subjected to cruel and inhumane treatment at the hands of a child psychiatrist and registered nurses.
81. We, as a group, could not let this matter rest. Yes, the treatment stopped within a year-and-a-half of our revelations, but no-one was being held to account, despite two inquiries, and Medical Council and Police investigations.
82. As we progressed through our own investigations we have seen what could at best be described as an unwillingness to truly look at what happened at Lake Alice. We viewed this as a privileged afforded to the psychiatric profession where the practising child psychiatrist was somehow able to obfuscate his torturous treatment of children with his theories and therefore able to escape real scrutiny and continue to practice up until 2006.
83. It has taken nearly 50 years and a ruling by the United Nations Committee Against Torture to finally get something real happening in the way of an investigation, not only into the psychiatrist, but also those people in the system who allowed it to happen and were unwilling to account for what occurred.
84. CCHR can say, we were right all along. Only what we know now is that what happened in Lake Alice was far, far worse than we possibly imagined. What was administered to the children amounted to torture, using known torture

techniques, under the guise of treatment at the hands of a registered psychiatrist inside a government-run psychiatric hospital. This should never have happened and it should never happen again.

Recommendations

78. We recommend as follows:

1. We believe that the Medical Council should have investigated Dr Leeks' practise at Lake Alice even though he surrendered his license. After the claimant settlements in 2002, there was a lot of available information and complainants wanting to know what he was doing in the Children's Unit and they wanted him held to account. Dr Leeks worked with a Medical Council license in the 1970s at Lake Alice. We had filed complaints on behalf of survivors. The Medical Council chose not to investigate, even though they could have.

The Medical Council could have been the heroes in this saga by investigating Dr Leeks and his practice. However, they chose not to conduct any proper investigations and therefore they protected the psychiatrist involved, rather than act responsibly for the victims of the abuse.

We recommend a change to the legislation regulating the Medical Council that would compel them to investigate claims of serious medical malpractice and disgraceful conduct, even though that practitioner might have surrendered their license to practice.

2. Other agencies involved in the Lake Alice could have demanded an investigation, both at the time of the Children's Unit operation and subsequently. These were:

- Nursing Council
- District Health Boards
- Ministry of Health
- Royal Australian and New Zealand College of Psychiatrists
- Psychologists Board
- Oranga Tamariki (formerly Social Welfare and Child Youth and Family)
- The Health and Disability Commissioner

- Ministry of Education

- Police

At various times people working within these agencies could have submitted information regarding the abuse of children at Lake Alice and demand an investigation. Children talked about painful electric shocks, drugs and seclusion as punishment to social workers, teachers, psychologists and even police officers. Only in a few instances did individuals raise concerns, only to be threatened or effectively silenced by seniors. And that those people reporting alleged offences be protected from any form of retribution, loss of employment or denigration in any form.

Therefore, we recommend that there be legislation compelling people working in these agencies to report all instances of serious abuse, cruel, inhumane, or degrading treatment to an authority under the National Preventative Mechanism who can and must investigate the matter to reveal the nature of the alleged abuse and take further action as required.

3. That all reports of systemic abuse of cruel, inhumane or degrading treatment within the mental health system be investigated by an authority under the National Preventative Mechanism who can and must investigate the alleged abuse and take further appropriate action by turning this over to the Police to investigate under the Crimes of Torture Act 1989.

4. That all people, but especially children and young people, in Oranga Tamariki and Mental Health care, have an open channel of communication to an authority under the National Preventative Mechanism for reporting abuse. And that this channel of communication cannot be withheld, prevented or interfered with by anyone in the agency in charge of the child's or young person's care.

There should be similar communication channels for any person incarcerated in prisons, youth justice facilities and all places of detention.

5. That there are no time limitations for reporting crimes and abuse under Mental Health law that would prevent investigation and possible prosecution.

Statement of Truth

This statement is true to the best of my knowledge and belief and was made by me knowing that it may be used as evidence by the Royal Commission of Inquiry into Abuse in Care.

GRO-C

Signed Auckland

Michael Ferriss

Dated: 27 April 2021

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