

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY
DISABILITY, DEAF AND MENTAL HEALTH INSTITUTION HEARING**

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)
Paul Gibson
Julia Steenson

Counsel: Mr Simon Mount QC, Ms Kerryn Beaton QC, Ms Ruth Thomas, Ms Lucy Leadbetter, Mr Michael Thomas and Ms Kathy Basire for the Royal Commission
Mr Gregor Allan, Ms Sandra Moore and Mr Vaughan Dodd for the Crown

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

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TRANSCRIPT OF PROCEEDINGS

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13 **OPENING STATEMENT BY THE CROWN**

14 **MR ALLAN:** Tēnā koutou katoa. Ki te mana whenua o tēnei rohe, Ngāti Whātua ki Ōrākei, tēnā
15 koutou. Ki ngā Kaikōmihana, tēnā koutou. Ki ngā mōrehu katoa, tēnā koutou, tēnā
16 koutou, tēnā koutou katoa.

17 May it please the Commission, counsel's name is Mr Allan and I appear for the
18 Crown. To my far left is Mr Dodd from Whaikaha, the Ministry of Disabled People, and to
19 my immediate left, Ms Moore from the Crown Response Unit.

20 Other representatives of the various Crown agencies will also attend this hearing.
21 This will include representatives of the Crown Response Unit, the Ministry of Education,
22 the Ministry of Health and Oranga Tamariki. Others from these and other agencies will be
23 watching via the livestream.

24 As the Crown has previously emphasised, these public hearings are opportunities
25 for the Crown to listen and to learn. Consistent with that, the Crown has not asked
26 questions of survivors who have come forward to share their experiences. The Crown does
27 not expect to do so at this hearing either.

28 The Crown values these opportunities to listen because the Crown must listen. As
29 this Royal Commission has heard, many of those who entered into State care have been
30 subjected to abuse. The Crown's responsibility is not to deny or diminish, it is to accept
31 and acknowledge that abuse occurred.

32 More than that, the Crown must understand the experience of survivors so that it
33 can act. Under its terms of reference, this Commission must map past abuse and must
34 identify pathways for the future. The Crown supports that mission.

1 In earlier hearings, the Crown has emphasised its need to draw upon lessons learned
2 from those experiences. The Crown is here today and throughout this hearing as part of a
3 broader process to effect lasting change.

4 The sharing of survivor experiences is vital to that process. For survivors, abuse has
5 been, and remains, a lived and recurring reality. We need to learn from those experiences.

6 The Crown's need to listen and to learn is vital in the context of this particular
7 hearing, which examines the treatment and experiences of those with disabilities, those who
8 are Deaf, those who suffer mental health conditions.

9 For these groups, State care has carried particular and heightened risks. These are
10 the risks of a system that has failed to understand, let alone safeguard, the interests of those
11 with physical, intellectual or mental impairments. It has led to children at risk. It has led to
12 adults at risk.

13 These particular groups might experience not only the full range of abuse that
14 non-disabled people experience, but other forms too; including removal of access to
15 medications, to mobility aids and to disability services.

16 The Commission has heard that people in care are not often aware of their rights,
17 and we have just heard that in the video that was just played, or even of what constitutes
18 neglect and abuse, let alone how they can report it. They may require additional support to
19 report and seek support. The Crown needs to understand these systemic barriers to
20 recognising and responding to abuse so that they can be removed.

21 The Crown is morally and legally obliged to rise to that challenge. New Zealand
22 ratified the Convention on the Rights of Persons With Disabilities in 2008. This binds state
23 parties to take measures to protect persons with disabilities, both within and outside the
24 home, from all forms of exploitation, violence and abuse, including their gender-based
25 aspects. Such measures must include the provision of information and education on how to
26 avoid, recognise and report instances of exploitation, violence and abuse.

27 The Crown is especially grateful for the opportunity presented by this hearing to
28 better meet that challenge of responding to abuse.

29 Part of the Crown's response to that challenge is the establishment this month of
30 whaikaha, the Ministry of Disabled People. Available data indicates that approximately
31 one in four New Zealanders self-identifies as having a disability. The new Ministry aims to
32 better provide outcomes for disabled people by giving them greater control and choice over
33 their lives, and by building capacity across the system. Its future work will doubtless
34 reflect lessons learned, including those learned through this hearing.

1 To the survivors who will be sharing their experiences, on behalf of the Crown I say
2 thank you. For too long the violence and abuse has remained invisible, but not to those of
3 you who experience it. Your determination and the support of those around you, is
4 essential. I do not expect to ask questions of you. Please be assured this is not intended to
5 convey disrespect. To the contrary, it is because the Crown is here to listen so as to identify
6 the lessons learned and to make good on our commitments to address them.

7 Nō reira, tēnā koutou katoa.

8 **CHAIR:** Tēnā koe, Mr Allan, and tēnā kōrua to Mr Dodd and to Ms Moore. The Commission
9 appreciates your presence, it appreciates the reason why you're not asking questions, and
10 we appreciate that the Crown, the State is listening, and I'm sure that that gives some
11 comfort to our survivors as they give their evidence this coming two weeks, so tēnā koutou
12 katoa.

13 **MR ALLAN:** Thank you, ma'am.

14 **CHAIR:** We're now going to hear, I believe, from Ko Tāku Reo.

15 **MR COLTMAN:** Mōrena, counsel's name is Coltman. I'm here this morning simply to announce
16 my appearance for Ko Tāku Reo and of course to listen to the openings. Our opening
17 statement will be delivered in advance of the survivor stories being delivered on Friday
18 afternoon when I'll be present with members of our governance and management bodies.

19 So I'm here to announce my appearance, may it please you, thank you.

20 **CHAIR:** Thank you. Mr Coltman, your appearance is noted and we are grateful for the interest
21 and the participation of Ko Tāku Reo, it's a very important element of this hearing and
22 we're grateful for your appearance today, thank you.

23 I think we now have another video to watch; is that right, Ms Thomas?

24 **MS THOMAS:** Yes, and I must apologise I omitted to formally announce the appearance of
25 myself and my colleagues, so I'll just do that.

26 **CHAIR:** Why don't we do that right now just to make sure that you truly do exist.

27 **MS THOMAS:** May it please the Commission, counsel's name is Ms Thomas, and I appear here
28 today with my fellow Counsel Assisting Ms Basire and Mr Thomas.

29 **CHAIR:** Kia ora koutou.

30 **MS THOMAS:** Thank you. And yes, I think we are now at the point where we are almost
31 concluding our opening addresses this morning and just before people leave this venue to
32 go and have some morning tea in the foyer, I would like to briefly take a moment to let
33 everyone in the public gallery know, and for those who are watching on the livestream, to
34 know that we have some art in this hearing venue today. In the hearing room you will see

1 on the banners that line the walls art from Māpura art studios. This is an art studio of
2 disabled artists and we are very grateful for these artists to agree to have their work
3 exhibited during this hearing. So I hope everyone can enjoy having a look at that
4 throughout the hearing.

5 I would also like to introduce to you an artist who is exhibiting her sculpture and
6 photography work in the foyer area of the hearing venue, Catherine Daniels -- I might just
7 ask her to stand briefly.

8 **CHAIR:** Good morning, Ms Daniels. Thank you very much indeed, first of all for being here, but
9 particularly for the gift that you have given, we don't accept it as a gift, but to the survivors
10 and to the public of showing your extraordinarily powerful work, we're very grateful to
11 you, so thank you very much.

12 **MS DANIELS:** Thank you, I would like to thank you for listening to us and for all the survivors
13 here and all the ones that are at home that couldn't make it and didn't have the hearing,
14 because the first day you were touched you are changed for the rest of your life, so thank
15 you for listening.

16 **CHAIR:** Tēnā koe.

17 **MS THOMAS:** Catherine will be present with her art. She'll probably be sculpting more art
18 during the course of the week and is more than happy to speak to anyone that would like to
19 have a conversation with her during any of the adjournments throughout the hearing.
20 I interviewed Catherine as a survivor and took that interview from her in the form of a
21 video interview as she expressed her experiences of trauma and abuse through her
22 sculpture. We have compiled a short compilation of that longer video statement and I will
23 ask for that to be played shortly.

24 Before that is played, I do need to warn everyone who is watching here and at home
25 that some of the images in this video may be confronting, or triggering and hard to watch.
26 So if you would prefer not to watch it, you're more than welcome to go and start your cup
27 of tea in the foyer now, but otherwise I would ask for this four-minute video of "The Secret
28 Keeper", which is the name of Catherine's exhibition, to be played, thank you.

29 **[Video played]**

30 "I was nearly 50 before I realised that secrets make me sick. I was told it was all
31 my fault and to keep it a secret or I'd die. I promised never to tell. Secrets bottled up
32 slowly destroyed me. I hid my pain in trauma. Secrets come at a huge personal cost and
33 they changed my life forever.

1 My name is Catherine Daniels. I couldn't portray what I wanted to say to my
2 psychiatrist and psychologist, so I sat down and I thought that I would try and sculpt an
3 emotion that I couldn't verbally say out loud, so that's where The Secret Keeper started.

4 I was so scared to go out to society that I hid in my studio for six years making all
5 these sculptures. I lay terrified curled in a tiny ball. I tried to make myself invisible from
6 the monsters hiding in my bedroom, prowling shadows that are ready to pounce when the
7 light is turned off, they snatch pieces of me and come back night after night to haunt me as
8 horrible nightmares.

9 People that live with sexual abuse, it's a really dark place. The first time you're
10 touched you're never that same person ever again. When we went to school nobody said
11 anything, I was too petrified to say anything because of all the other abuse that was
12 happening at home. So it was like you get this neon sign saying, 'Pick me again'.

13 It needs to change. It's broken. You have a whole generation of broken people,
14 there's thousands of us. It's just going to carry on and their children and their grandchildren
15 are all going to be broken just like us. I stayed silent because I was petrified if I told
16 somebody, I would die, and if you told someone that's little enough that if they tell a secret
17 they're going to die you naturally think you're going to die.

18 Making these pieces have enabled me to look at myself for the first time through
19 lenses that aren't so damaged. These little ones represent the high percentage of men,
20 women and children who have been hurt and broken but never reported their rape or abuse.
21 They've been held hostage in their own world never able to speak out.

22 Once the word's out there with this exhibition it's going to encourage others to come
23 forward, it's going to encourage other people to go 'I'm brave enough to step forward.' And
24 for those that aren't quite ready to come forward yet, it's going to allow those people to feel
25 validated. They have a voice, in amongst these girls. 90% of those people that we've had
26 through have said 'this is my story, how did you know my words, how did you know what
27 I wanted to say?'

28 If we don't start speaking out about this and making changes, it's going to carry on.
29 And if we can help one person not feel like I felt then that's going to change one person's
30 life?"

31 **CHAIR:** Can I just thank you, again, Catherine, that was a powerful presentation and I do invite
32 everybody who's here today to go and have a good, careful, if somewhat painful look, and
33 the good news is Catherine Daniels is still alive.

1 **MS DANIELS:** I just want to thank the Commission for making the video and helping get the
2 exhibition here and Ruth and Pia and everybody else for helping support in doing this and
3 making the video. Thank you.

4 **CHAIR:** Thank you. Well, we have pleasantly arrived half an hour earlier than we expected,
5 which I think is good news, we have a lot of work to do today, a lot to hear and we don't
6 want to be rushed. So this buys us a little bit more time, Ms Thomas?

7 **MS THOMAS:** It does. Perhaps if we could reconvene maybe at 11.20 am, would that be
8 possible?

9 **CHAIR:** Yes. So it's time for a break and we will return at 11.20 am. Thank you, all.

10 **Adjournment from 11.01 am to 11.26 am**