

# Written statement: Marylands Investigation

## Peter Dunbar Read on behalf of New Zealand Police

### 1 Introduction

- 1.1 My name is Peter Dunbar Read. I am the Detective Superintendent for Wellington and the South Island. I have 42 years' experience working for Police, including 35 years as an investigator, 25 years as a supervisor of investigations, and 20 years as a commissioned officer.
- 1.2 I am providing this witness statement in response to a request issued by letter by the Royal Commission of Inquiry into Historical Abuse in State Care and the Care of Faith-based Institutions, dated 21 May 2021, and the subsequent Notice to Produce No 202 dated 2 June, to provide information about Marylands Residential School. I have noted the questions answered from paragraphs 9 to 31 of that letter below.
- 1.3 At the time of the Operation Authority investigation into Marylands (beginning in 2002) I was a Detective Inspector in Christchurch and oversaw child sexual violence investigations. I appointed the Operation Authority investigation team and oversaw the investigation. I was also involved in aspects of the file, including significant decisions about the direction of the investigation and prosecution. I did not carry out investigatory work myself and so I have relied on documentary records in answering questions I do not have first-hand experience of, and to assist me in recalling events of almost 20 years ago.

### 2 Background to Police investigations

#### **[10] Circumstances in which Police commenced an investigation into Bernard McGrath in 1993 and circumstances of opening Operation Authority in 2002**

##### *1993 investigation into Bernard McGrath*

- 2.1 Four former Hebron Trust<sup>1</sup> attendees and four former Marylands pupils made reports of abuse by Brother McGrath, leading to his prosecution in 1993. The outcome of that prosecution is discussed below.

##### *Operation Authority*

- 2.2 Operation Authority commenced in July 2002, following the television and newspaper media releases alleging large scale sexual abuse by the Brothers of St John of God at Marylands. Brother Peter Burke, at the time the Provincial of the Australasian Order of St John of God and based in Australia, had become aware of allegations of abuse at Marylands and had published an 0800 number in New

<sup>1</sup> A Saint John of God-associated live-in programme.

Zealand newspapers for victims of abuse at the school. Brother Burke had travelled to New Zealand, together with Consultant Psychologist Michelle Mulvihill, and made contact with over 100 former pupils of Marylands School, their next of kin, and some former residents of St Joseph's Orphanage who had complained of sexual abuse by the Brothers of Marylands School. Interview notes were recorded. Brother Burke had advised those he spoke with to report abuse to Police.

- 2.3 It was clear at an early stage that the Marylands investigation would be a significant and extensive one, given the number of complainants and offenders, issues relating to complainants and offenders being overseas, the historical nature of the offending, the fact that the offending was against children, and the seriousness of the allegations. Police decided at an early stage (around August 2002, shortly after the June 2002 media releases) that it was appropriate to establish a specialist team of three detectives under a Detective Sergeant and reporting directly to a Detective Inspector.
- 2.4 The team members were chosen for their particular skill, sensitivity, and experience in handling this type of investigation. The team established at the beginning of the investigation was largely unchanged throughout Operation Authority, which was pleasing and illustrated their commitment to this difficult and lengthy investigation. The Operation Authority team would have had other files throughout this period, and their level of engagement in the investigation would have waxed and waned at different stages of the proceeding, but throughout the many years of Operation Authority this would have been a significant file on their workload, and often the most significant. With an investigation such as this one, with a high level of engagement with complainants and their support people, it was important that the team was well resourced but not so large that they became diluted. A concentrated team would facilitate building strong rapport with the complainants, many of whom had a criminal history and so were distrustful of Police. The complainants' wellbeing was at the forefront of the investigation team's mind, and my view has always been that they did a good job of this.
- 2.5 Police did not proactively contact those spoken to by Brother Burke and instead dealt with complainants as they came forward to Police. Brother Burke had already advised those he had spoken to that they could contact Police if they wished to pursue the matter. Where it was believed that other children could have been witnesses to abuse they were approached and interviewed. During these interviews the children were asked if they had been the subject of abuse whilst at Marylands. Only those that confirmed abuse and agreed to providing statements of that abuse were included as victims. This was a typical approach for that time. Now Police would initiate scoping interviews for all of the pupils that attended Marylands and the Hebron Trust. This would have necessitated a far larger response initially.
- 2.6 Many of the defendants and the complainants were in Australia by the time Operation Authority was underway. Several officers travelled to Australia in June 2003 for around a month to conduct interviews with complainants and defendants, and extradition proceedings followed later in the investigation.

### **[11] Steps taken in relation to reports of abuse at Marylands prior to Operation Authority**

- 2.7 The main instance of reports of abuse at Marylands prior to Operation Authority were those reports leading to the 1993 prosecution of Brother McGrath. Police had received eight reports of abuse, four for abuse at Marylands and four were at the Hebron Trust. Charges were laid in relation to seven of the eight reports of abuse. Charges were not laid for the eighth complainant because he withdrew his statement part-way through disclosing the abuse. Police made a number of attempts to contact this complainant but he confirmed he did not want to pursue his complaint. Police accordingly decided that no charges could be laid in relation to this complainant.
- 2.8 The prosecution led to conviction on ten charges for offending against six complainants.
- 2.9 One other apparent report of abuse to Police is discussed below, in which a complainant stated in his 2003 statement that he had made a report of abuse to Police in 1976. We do not have a record of a formal statement being taken at that time, nor any other contemporaneous record of this report of abuse.

### **3 Nature and extent of abuse at Marylands**

- 3.1 Question 12 of the Commission's letter asks a number of questions about the nature of dispute reported to Police. We have answered these questions by reviewing and compiling information in more than 100 formal statements made to Police by the 56 complainants in Operation Authority, and the four complainants who disclosed abuse at Marylands in the 1993 prosecution (two of whom also participated in Operation Authority). Two of the 56 Operation Authority complainants were subsequently convicted of making false complaints to Police. Details of the false reports of abuse are included in answer to the questions below.

#### **[12] (a)-(k) Reports of abuse**

- 3.2 A total of 58 complainants made reports of abuse at Marylands.<sup>2</sup> Approximately a dozen of these consisted of a single instance of abuse; most reports included multiple instances of abuse. For a significant number of the reports the number of instances was not counted and instead described as occurring regularly or on multiple occasions. Four of the Operation Authority complainants did not end up completing formal statements, either because the complainant disengaged from the process or decided they did not want to give evidence and face trial. The fact that a complainant completed a formal statement did not necessarily mean that complainant wished to pursue charges for offending against them however. Some complainants were prepared to make formal statements in support of charges for abuse against other people, but not themselves, and other complainants decided not to pursue the matter later in the process, after having made their formal statement.
- 3.3 A further six people were referred to as having been possible or likely victims of abuse in other complainants' formal statements. The reason that formal

<sup>2</sup> Being the four 1993 complainants and the 56 Operation Authority complainants, including two of the 1993 complainants.

statements recording abuse were not recorded for those six are either that they were deceased, denied that they had been abused, or declined to discuss the matter with Police at all.

- 3.4 There was also one instance of a report of abuse not being recorded in a formal statement, noted above. A complainant advised in his 2003 formal statement to Police that, in 1976, he had disclosed abuse to a Police sergeant who had given Brother Moloney a warning. The 2003 statement suggests that the unnamed sergeant took notes relating to the offending disclosed in 1976, but it is not clear that a formal statement was taken and we have not located one in the course of responding to the Royal Commission's request.<sup>3</sup>
- 3.5 Aside from those instances noted above, we have not located any records of abuse not being recorded in formal statements. Given that formal statements are the main source of locating reports of abuse, this is not surprising. Nevertheless, there is nothing to indicate that reports had previously been made and did not lead to formal statements being made, where the complainant wished to make a formal statement.
- 3.6 All reports of abuse were made by men who were between six and sixteen years old at the time of the abuse. Ethnicity was not always recorded in the formal statements of those who made reports of abuse but Police does have information for some of the complainants. Of the 58 Marylands complainants:
- (a) forty-three are recorded as European/Pākehā;
  - (b) four are recorded as Māori; and
  - (c) we do not have ethnicity data for the remaining 11 complainants.
- 3.7 Complainants were born between 1945 and 1969. The majority of the reports of abuse were first made in 2002 and 2003 and so there was a range of ages of complainants when they first reported abuse, from early 30s to late 50s. Similarly, there was a significant range in the time between the abuse occurring and the reports of abuse. For some of the abuse that occurred in the mid-fifties, there was a delay of over 45 years between the abuse and reporting. The shortest delay between the end of the abuse and reporting to police was around 17 years.<sup>4</sup>
- 3.8 Disability data is also somewhat unclear. Approximately 21 of the 58 complainants indicate that they had a disability in their formal statements. The disabilities referred to include autism, dyslexia, intellectual disabilities, and learning disabilities. A number of other formal statements indicate the complainant was sent to Marylands due to behavioural issues and/or being a "slow learner".
- 3.9 Of the 56 formal statements, 18 disclose abuse by more than one offender. In most of these cases the reference is to two religious members having offended against the complainant; five reported three or more offenders.<sup>5</sup>

<sup>3</sup> Statement dated 25 July 2003, 10557.

<sup>4</sup> Formal statement dated 22 August 2008, 10068.

<sup>5</sup> One of those five complainants is one of the two who was later convicted of making a false complaint to Police in respect of the report.

- 3.10 The majority of the offending occurred on Marylands premises. Eleven formal statements identified some offending external to Marylands, including five at the a Waikuku Bach owned by St John of God Brothers and four while travelling in vehicles.
- 3.11 The nature of abuse varied but generally were very serious. The reports included some complainants who had one-off instances of indecent assault (such as masturbating the complainants or being made to masturbate the offender) through to repeated instances of oral and anal penetration. A large number of the allegations included sexual violation – that is to say they disclosed sexual offending at the most serious end of the spectrum. Some statements disclosed indirect coercion or pressure being placed on boys to comply as part of the offending (including providing rewards) and others disclosed more overt threats, including threats to kill if the complainant disclosed the abuse, or actual physical violence accompanying the sexual offending. Injuries from the offending were described, including rectal bleeding.
- 3.12 The overwhelming majority of reports described the abuse occurring without anyone else present. A handful indicated that another boy was also present, and sometimes also a victim, and three described more than one offender being present at the time of the abuse.

#### **[12](m) First report of abuse in relation to Marylands School**

- 3.13 The first recorded reports of abuse at Marylands were those received in 1993, leading to the first prosecution of Brother McGrath.

#### **[12](l), (o)-(r) Involvement of religious members**

- 3.14 In the formal statements, the following were identified as primary offenders in perpetrating abuse: Brothers McGrath, Moloney, [GRO-B-1], Berchmans, Lebler (aka Thaddeus), Killian, Garchow, Delaney, Ambrose, Sebastian, [GRO-B Br DQ] (thought to be another reference to [GRO-B Br DQ]), Timothy, [GRO-B-3], Raphael, Griffin, and Ignatious. The list of those identified as having perpetrated the abuse was not entirely clear as some complainants could not always clearly recall and identify the person who committed the abuse. All of the named religious members were therefore suspects, to varying degrees, of having committed abuse. Charges were not laid against all defendants for a number of reasons. Six of the suspects were already deceased; several were only accused by complainants who were convicted of making false complaints; one was only accused by a complainant who chose not to pursue a complaint; and for others there was insufficient evidence to proceed to charge.
- 3.15 Charges were laid against Brothers McGrath, Moloney, [GRO-B-1], Garchow, and Lebler. Convictions were entered against McGrath and Moloney, [GRO-B-1], Moloney, and Garchow were successfully extradited to New Zealand. The prosecution of [GRO-B-1] commenced but he was subsequently able to obtain a stay of proceedings. An extradition application for Lebler was dismissed. Thirty-three of the 58 complainants had alleged abuse against Moloney and/or McGrath.

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### **[12](n) Reports of abuse after Operation Authority**

- 3.16 Two complainants have reported abuse since Operation Authority. One of those is the complainant who decided not to pursue the matter in 1993 (and he has again decided not to take this further). The other complainant made allegations against Brother McGrath, who is currently serving a sentence in Australia.

## **4 Police investigation in Operation Authority**

### **[13] Investigations undertaken in Operation Authority**

- 4.1 The focus of investigation in Operation Authority was on establishing and proving criminal liability for the identified offenders. Police did not investigate the criminal or civil liability of St John of God Brothers. Police do not investigate civil liability. Institutional criminal liability is within the Police's function, and this could have been considered in Operation Authority. The large number of complainants, the extradition requirements for overseas defendants, and the well-known obstacles to securing convictions for sexual violence offending, particularly where the offending is historical and against people who were children at the time of the offending, meant that Operation Authority was already a complex and difficult investigation. The first priority was securing convictions against the offenders and to my recollection little consideration was given as to whether St John of God might be criminally liable as an institution. The additional hurdles associated with proving institutional criminal liability would have added to the complexity of the investigation. The investigation worked closely with the Christchurch Crown Solicitor's office in preparing charging documents and deciding who charges would be laid against.
- 4.2 Police did not undertake specific investigation into systemic failures at St John of God that contributed to the offending, or issues relating to whether reports of abuse reported to St John of God were responded to appropriately, as separate issues in the investigation.
- 4.3 New Zealand Police did not investigate abuse in other countries by St John of God as part of Operation Authority. It would be unusual for Police to investigate crime in another country. We did however provide significant support to Australian prosecution of some of the St John of God Brothers who were also prosecuted in Australia for offending in Australia. This included providing access to files and one officer travelling to Australia to give evidence at trial.

### **[14] Decision-making and outcomes in Operation Authority**

- 4.4 Prosecution decisions were made by Police in conjunction with the Crown Solicitor. It is not unusual for the Crown to be involved in pre-charging discussions in complex investigations such as this one. Decisions about charging were made with reference to the Solicitor-General's Guidelines for Prosecution. The large number of complainants and the consistency of their evidence meant that we were able to lay charges in respect of more complainants than we likely would have done if that complainant's case was prosecuted in isolation. Extradition requirements also placed some restrictions on charging decisions. Australian authorities do not recognise representative charges and so we had to specify each charge as a set of circumstances at a particular time in order to satisfy Australian extradition requirements. The large number of complainants

allowed us to meet the evidentiary test under the Solicitor-General's Guidelines more easily. Of the 56 Operation Authority complainants:

- (a) two were prosecuted as false complaints;
- (b) seven declined to have further involvement with Police;
- (c) four either did not identify a suspect, or the suspect was deceased;
- (d) three were cases where Police decided not to take further action; and
- (e) charges were laid in relation to the remaining 40 complainants.

4.5 Decisions about which complainants will give evidence at trial are inherently linked with decisions about charging and are again made in conjunction with the Crown Prosecutor. Given the nature of the offences in Operation Authority, charges could only be laid for a particular complainant if they were going to give evidence at trial. It would not have been possible to provide sufficient evidence to have a reasonable prospect of conviction without a complainant giving evidence at trial. It would have been intended that each complainant for whom charges were laid would give evidence at the *time* of charging. In a couple of instances there was discussion about the ability of the complainant to give evidence. This mostly hinged on the cognitive ability of the complainant or their level of suggestibility, which was linked to their cognitive ability. In Operation Authority we were concerned about the extent to which some complainants would be able to withstand cross examination, both in terms of their personal resilience and their suggestibility. That was an ongoing assessment carried out by Police and later by the Crown, with input from family and caregivers of complainants. Investigators tried to locate corroboration evidence to support the more vulnerable complainants. This is often harder to find when the allegations are historical.

4.6 As it eventuated, there will have been a number of complainants for whom charges were laid and who were intended to give evidence at trial, but did not do so because the trial did not proceed when the complainants could not be successfully extradited or where the trial was stayed.

4.7 For complainants who had a disability, this could have had an indirect impact on the Police and Crown consideration of whether that complainant would give evidence at trial (and whether charges would be laid for that complainant). The test is always whether the possible charge meets the Guidelines. Disability may impact in some circumstances on both the evidentiary test and the public interest test. If disability affected a witness's ability to recall and describe the offending, that would impact on the assessment of whether a matter met the evidentiary test. Where a prosecution is likely to have a very significant negative impact on a complainant, that factor may weight against laying a charge. Disability may in some circumstances be relevant to assessing the possible impact of a prosecution on a complainant. On other hand, the seriousness of offending will be aggravated where the offending is against a vulnerable victim. Disability will often mean a victim is more vulnerable, and so this factor may also weight in favour of laying a charge.

4.8 These issues played out in the course of the proceedings.

- (a) Charges against Garchow were eventually withdrawn because one complainant's charges were stayed by the Court after a ruling in a previous trial, against a different priest, in which that complainant's evidence was directed to be put aside to his suggestibility. The other complainant's charges were withdrawn because of the complainant's poor health.
- (b) In the GRO-B-1 proceedings, defence obtained orders for psychological examinations of three complainants, leading to lengthy delays in the trial and subsequently a successful stay application.

- 4.9 I am aware of one case in which the complainant had difficulties separating his real life experiences from things he saw on TV.<sup>6</sup> This may have been in part contributed to by that complainant's intellectual disability. The interviewing detective considered the complainant was unlikely to be credible to a jury and it appears this is one of the reasons no charges were laid. In cases such as this one, it is not the fact of the disability that caused Police to decide not to lay charges, but applying the Guidelines to all of the circumstances of that complainant.
- 4.10 The severity of the alleged sexual conduct of a religious member may well be a factor in charging, once a potential offence has cleared the evidentiary test under the Guidelines. The seriousness of the offence is a predominant consideration in assessing the public interest test for prosecution under the both the current Guidelines and the 1992 Guidelines which applied to both Maryland's prosecutions. In a case such as Operation Authority, where a defendant may be facing dozens of charges, then it may be less likely that less serious offending will be charged. This is however only one factor in decision making. If the offending met the evidentiary test for prosecution that would have been a strong factor in favour of charging.
- 4.11 There were a number of allegations made where the identify of the offender could not be established, or where the offender had since passed away. Those allegations could not be charged. The allegations ranged from more moderate offending, such as touching intimate parts of the body, to the most serious, being sexual offending involving penetration. Some of the less serious allegations were not considered for prosecution due to their nature and/or the length of time since they were alleged to have been committed.

## 5 Vulnerable witnesses

### [15] Details of vulnerable witnesses

- 5.1 The Commission has defined vulnerable witnesses as those with an "intellectual or physical disability, cognitive or other impairment". All of the victims of offending were children at the time of the offending and they were of course vulnerable in that respect but I understand the focus of these questions of people who had a special vulnerability at the time they were complainants and witnesses in a trial, not at the time of abuse.

<sup>6</sup> Witness statement dated GRO-C 2003, GRO-C.



- 5.2 As noted above, 22 of the 58 Marylands complainants had disabilities. Of those, 18 had charges laid<sup>7</sup>.
- 5.3 Police records do not disclose how many of the witnesses with disabilities gave evidence at trial, or had charges dismissed for lack of evidence.
- 5.4 The Police and Crown prosecution team worked closely with complainants and their support people to prepare them for giving evidence. The Police team had longstanding relationships with the complainants and their support people through the Operation Authority investigation and prosecution. We also worked closely with Ken Clearwater and the Male Survivors of Sexual Abuse Trust (MSSAT). MSSAT provided specialised support to the complainants throughout, and a support group of the complainants was established. There were a number of different counsellors who provided support to the complainants and their families, before, during, and after the trial. Due to the nature of some complainant's disabilities, a number had established support people who not only assisted with the investigation and trial but also more broadly in other aspects of their lives.
- 5.5 At the time the investigation commences there was no training for Police staff that I could locate that related to dealing with vulnerable complainants with intellectual disabilities. Current policy and practice recognises the special care that needs to be taken with vulnerable complainants and allows for constant support for all victims, including those with disabilities or other vulnerabilities.

#### **[16] Approach to vulnerable witnesses**

- 5.6 I would not expect Police to go beyond the Solicitor-General's Guidelines for Prosecution in assessing whether to lay charges, including in relation to vulnerable complainants. Assessments of veracity, credibility, and the likelihood that a witness will be compelling to a jury will all be relevant factors under the Guidelines. I am not aware of those involved in the prosecution holding any views doubting the veracity or credibility of the complainants generally. More relevant considerations would be the extent to which the complainant had the ability and durability to give evidence as a witness (including in particular cross-examination). If a witness is not likely to be able to endure cross-examination then prosecution of the charge would likely fail both steps of the prosecution test.
- 5.7 As noted, two complainants were convicted of making false reports to Police. In both cases the dishonesty became apparent when we discovered the complainants were not in the institution at the same time as those who they alleged had abused them. The offending could not therefore have occurred. Making a false complaint to Police in these circumstances is serious and has the potential to undermine prosecution of this type of offending. It was also strategically important to the prosecution of the Marylands defendants for Police to demonstrate that a careful assessment of the evidence had been made and that the prosecution had taken steps to satisfy itself of the integrity of the reports of abuse. The fact that two complainants were prosecuted for making false complaints should not be confused for any doubt within Police about the veracity of the complainants' allegations generally. Rather, this demonstrated

<sup>7</sup> Of the four for whom charges were not laid, in two cases the complainant chose not take the matter further and in the remaining two Police decided not to take further action.

the seriousness with which Police took the allegations and pursued the prosecution.

- 5.8 Witness selection for trial would, to a large extent, have followed charging decisions. Where charges were laid in relation to a complainant, that complainant would have to give evidence of abuse at trial. These charging and witness selection decisions would be made in conjunction with the Crown Prosecutor, as outlined above in response to question 14.

**[17] Concerns raised in relation to the Police investigation, treatment of vulnerable witnesses, and selection of witnesses for trial**

- 5.9 I am not aware of concerns being formally being raised in relation to Police's investigation in Operation Authority, the treatment of vulnerable witnesses, or the selection of witnesses for trial. I am aware that there was some discontent where charges were not laid for particular complainants. My recollection is this was more from the families or supporters of those complainants, rather than the complainants themselves.
- 5.10 Police are often required to make decisions not to lay charges. Where the offending is serious these decisions are difficult, as are the conversations with complainants explaining the decision. Justifiably, complainants can find these conversations challenging and hard to understand. Police are careful to emphasise that decisions not to lay charges do not mean that the allegations are not believed. Often the reason is that we just don't think the system will produce a good outcome for that complainant, and we don't want to put them through a difficult process without a good prospect of success. In Operation Authority Police offered to meet with complainants and support people to discuss and explain the decision. The strong relationships that the investigatory team had built with complainants and their supporters meant they were well placed to have these difficult conversations.
- 5.11 In the case of Operation Authority, the investigatory team maintained contact with complainants for whom charges were not laid, and kept them updated on the progress of those charges that were prosecuted. While some particular complainant's allegations did not result in charges, it was important to keep them updated and to give them what satisfaction could be had from knowing that several of the offenders ended up receiving significant convictions.

**6 Oversight of Marylands by Police**

**[18]-[19] Absconding from Marylands and Police oversight**

- 6.1 Many of the formal statements taken from complainants refer to boys absconding from Marylands, and Police sometimes being involved in retrieving them. We have not been able to locate any Police documentary record of absconding from Marylands. Such events would not necessarily have been documented. If they were documented, it would be difficult to find evidence of them in Police records.<sup>8</sup> Police did not carry out any oversight of reports of

<sup>8</sup> Police records from this period cannot be searched by a term such as "Marylands". Rather, each year's records of reports to Police, Police attendance at incidents, and other records would have to be manually searched by surname of the person involved. If any of those surnames matched people who were at Marylands that year, their file could be reviewed in

abuse in this capacity either. Our involvement was limited to the two Marylands investigations and prosecutions.

## 7 Victims and survivors

### [20]-[23] Barriers to disclosing abuse and support to complainants and whānau

- 7.1 There were a number of barriers to disclosing abuse for the victims and survivors of abuse at Marylands. These included:
- (a) the difficulty that we find complainants very often experience in violence cases in disclosing abuse – it is not unusual for complainants to be reluctant to report this type of abuse and even more reluctant to participate in a trial process where their evidence may be challenged; and
  - (b) distrust of, or poor relationships with, Police arising from many of the complainants' own involvement with the criminal justice system as defendants.
- 7.2 Police have also recognised there can be barriers to reporting crime or to otherwise engaging with Police by communities that have historically been marginalised, including Māori and Pacific communities. Recognising these barriers has contributed to the change in process where by Police now involves agencies to help with culturally appropriate engagement.
- 7.3 The principal way in which Police in Operation Authority sought to overcome these barriers to disclosure was by building strong relationships with the complainants and, where appropriate, their family and support people. The interviewers all knew each complainants' counsellor, support, or family members, who were provided with the opportunity to be present during Police interviews. It would have been rare for any of the complainants to be interviewed alone.
- 7.4 Disclosure of abuse can at times be iterative and not all abuse will necessarily be disclosed the first time a complainant talks with Police. A trusting relationship with the Operation Authority team was necessary in order to enable complainants to disclose abuse.
- 7.5 In today's environment Police can seek assistance and support for victims from specialist iwi and ethnicity-based support agencies that cater to different cultural needs of victims during investigation processes and court cases. There is also specialised training courses for investigators and supervisors, including on dealing with vulnerable witnesses and children. Both prosecutors and the judiciary are also now better trained to deal with vulnerable people and so the entire criminal justice process serves vulnerable people more appropriately.

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case it contained any reference to absconding from Marylands. That search has not been undertaken for all people who attended Marylands across their respective time periods. We have searched for record for one complainant who gives details of having absconded from Marylands, and of Police being involved in returning him to Marylands, in his formal statement. No records have been found. It appears therefore that records of absconding have not been kept in Police records, if they ever existed.

- 7.6 The creation of specialised investigation groups within Police that deal with child abuse matters and sexual abuse matters has continued to improve our ability to respond to these allegations. Child abuse units had been established in 2002 and staff working in those areas received specialised training, support, and supervision, however these units were targeted at situations in which the complainant was still a child. They addressed the specific needs of child complainants and so these did not deal with historical allegations of offending against children, where the complainant was now an adult. The investigation of historical sexual abuse matters was not specifically catered for. Now specialised investigations groups are often ring-fenced to ensure they focus only on their specialty area (like sexual abuse investigations) and do not get dragged into dealing with other matters.
- 7.7 The Operation Authority staff were selected based on their experience in investigating sexual abuse matters and in complex investigations, and that they were empathetic investigators who were good with people.

#### **[24] Engagement and support provided by Police to survivors and whānau**

- 7.8 As discussed above, the Operation Authority team had longstanding engagement with complainants and their support people. That support and engagement included both those complainants who continued through all stage of the trial process and those who made reports but where charges were not laid, or were later withdrawn. The primary emphasis was on providing support to complainants themselves.

#### **[25] Principles of Te Tiriti o Waitangi and tikanga in engagement**

- 7.9 The principles of Te Tiriti and tikanga Māori were not explicitly part of Operation Authority's engagement with complainants, including Māori complainants. All investigators on Operation Authority were Pākehā. Some aspects of our engagement could be considered to be consistent with Te Tiriti and tikanga, including in particular involving not only complainants themselves in our ongoing support and engagement with complainants as they went through the investigation and trial process, but also their wider support network, often including family or whānau members. As noted above we are now better equipped with culturally appropriate support agencies for complainants.

## **8 Deceased children**

#### **[26] Records relating to children who died at Marylands**

- 8.1 We have not located any records of deaths of children while at Marylands. The school's logbook shows three boys are listed as having left the school on the same day as their death, and so it is likely that these boys died while at Marylands. We do not hold any information about the circumstances of these deaths. We made preliminary investigations with the Coroner's Office about the circumstances of these deaths, and have been advised that the Coroner's Office is already providing this information to the Royal Commission pursuant to a separate notice to produce.

**[27] Investigation by Police into deaths at Marylands**

- 8.2 I am not aware of any Police criminal investigations into deaths of any children while at Marylands. Police would have been involved in attending any sudden deaths at Marylands on behalf of the Coroner but I have not had access to those files.

**9 Impact of abuse**

**[28] Impact of abuse: considering tikanga Māori and Pacific cultural norms**

- 9.1 Consideration of the impact of abuse is indirectly relevant to a number of the aspects of Police's role in the Operation Authority investigation and prosecution. Most formally, the impact of offending will be part of the public interest element of the prosecution test under Solicitor-General's Guidelines. Police were not under any doubt as to the very significant impact of the abuse, including on the family of complainants.
- 9.2 I am not aware of particular consideration being given to the impact of abuse in terms of either Māori or Pacific cultural norms and values. There would be greater consideration and understanding of cultural perspectives if a similar investigation were undertaken today. Given the nature of the offending at Marylands, I do not consider that the lack of explicit consideration of the impact of abuse from a cultural perspective will have changed charging decisions. In other words, I do not consider there will have been cases where the abuse was considered not to have had sufficient impact on the complainant as to fail the public interest test, because the offending was generally serious.
- 9.3 The impact of abuse is also relevant to how Police interact with complainants and their support people. I am not aware of explicit consideration of the impact of abuse from a tikanga Māori perspective, or in terms of Pacific peoples' cultural norms and values, as part of this role. The Operation Authority team referred complainants to counselling services and MSSAT and I cannot say the extent to which those services were or were not culturally appropriate. While Police would today take a more sophisticated and partnership-oriented approach with culturally appropriate support organisations to consider cultural perspectives as part of how we would interact with complainants, the Operation Authority team was compassionate, caring, dedicated, and professional in their dealings with the Marylands complainants. Part of that was to ensure that we were mindful of the gravity of the offending for complainants. There is now more of an emphasis on both active referral to other support services and accounting for cultural perspectives within Police.

**10 The Hebron Trust**

**[29] Police engagement with Hebron Trust**

- 10.1 We have not located any records indicating Police engagement with the Hebron Trust, including evidence of referrals to the Trust for social services or pastoral care.

**[30] Reports of abuse in relation to the Hebron Trust (1989-1996)**

- 10.2 Police received four reports of abuse at the Hebron Trust as part of the 1993 prosecution, discussed above in relation to question 11. Charges and convictions were entered in respect of all four complainants. All reports of abuse and convictions were in respect of Brother McGrath only.

**11 [31] Police approach to sexual violence by religious members**

- 11.1 Police did not have a unique approach to sexual violence complaints against religious members of Catholic Church authorities between 1990 and 2005. Investigations and prosecutions would generally involve the same Police approach as in other instances of sexual violence allegations. Through this period there was however a growing awareness, within Police as in wider society, of sexual violence allegations against members of the Catholic Church (and other religious institutions). While this awareness would not have changed the fundamental approach to an investigation, Police were aware of allegations of a culture of transferring perpetrators and covering up offending. Requests were made to the Catholic Church for attendance records for pupils and staff at Marylands over the relevant periods of time. Brother Burke was able to provide data that had evidential value in supporting the allegations made against the Catholic brothers. Additionally, investigations that involve institutions have similar components in regard to locating and obtaining evidence. Experienced staff, such as those involved in Operation Authority, are familiar with the powers available to obtain such evidence.
- 11.2 While there was no special or particular priority given to investigations because of the involvement of the Church, any set of allegations involving large numbers of perpetrators and young victims of serious sexual offending would always have been given priority.
- 11.3 It was clear from an early stage that the investigation would need to involve extensive investigative work, interviews with a large number of people, and considerable time before charging decisions could be made. The only way to successfully investigate these allegations was to put together a dedicated group of competent investigators who were not hampered by other work commitments and given the support the needed to complete the investigation to provide confidence to Police, and to the complainants, that the allegations were properly dealt with.

**Proactive approaches to complainants**

- 11.4 At the commencement of the operation Authority investigation in 2002 Police did not actively pursue complaints. In today's environment we do what is referred to as "scoping" which entails Police (or partner agencies, depending on the age of the complainants) conducting brief interviews with possible victims, for instance the attendees of a school, community or group to ascertain if any sexual criminal offending has occurred. If it appears there may have been offending then a further in depth interview is then scheduled to take formal written statements. In deciding whether to scope the Marylands allegations by approaching the 500+ former pupils, consideration would have had to be had to the media and publicity already generated asking victims to contact Police, the number of victims that had come forward already, and the interviews undertaken with complainants that had identified other possible victims.

### Degree to which Police considered allegations a matter for the Catholic Church

- 11.5 Police do not consider allegations of sexual violence, or other violence, to be a matter for the Catholic Church authorities and that was never an element of the Operation Authority investigation which I oversaw. I am not aware of that having been an element of the response to the earlier (1993) reports of abuse at Marylands School either, which is consistent with my expectation. The Catholic Church provided significant cooperation to Police over Operation Authority.

## 12 Conclusion

- 12.1 The Police response and investigation into the sexual allegations arising at St John of God was a large, complicated and long running investigation and prosecution. It commenced in 2002 and the last New Zealand prosecution was concluded in 2008. Since 2008 New Zealand Police has helped Australian law enforcement authorities with their prosecution of McGrath with propensity evidence, copies of offender interviews, disclosure of large parts of the New Zealand Police file and even involved a member of the original investigation giving evidence in Australia. There were a significant number of convictions for a large number of complaints made by the victims. While we were disappointed that convictions were not reached for other offenders who were charged (due to extradition being declined and stays), these are realities of the prosecution process.

## 13 Statutory declaration

- 13.1 I, Peter Dunbar Read, of Nelson, New Zealand Police Detective Superintendent, solemnly and sincerely declare that:
- (a) The information in this statement is true and correct to the best of my knowledge and belief.
  - (b) I am not aware of documents, information, or records relevant to this request having been destroyed or otherwise disposed of, except as noted in my statement.
  - (c) In order to comply with this request, we have conducted a full search of the Operation Authority digital and physical records (which includes the 1993 Marylands prosecution file as well). As noted in this statement, in limited cases some Police records have not been able to be searched due to the way archived historical Police information is stored and organised.
- 13.2 I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.
- 13.3 While most sensitive and identifying information has been removed from this statement, some still remains. Accordingly the information is provided on the understanding that if the Royal Commission wishes to use it, for example in briefing a witness or putting to a witness, the Royal Commission will advise the

Crown in advance so that the Crown may consider whether to apply for an order under s 15(1)(a) of the inquiries Act.

**GRO-C**

Peter Dunbar Read

Declared at Dunedin this 5<sup>th</sup> )  
day of August 2021 )  
before me: )

**GRO-C**

**Marama Walker**  
Deputy Registrar  
Dunedin High/District Court

A Solicitor of the High Court of New Zealand / (Deputy) Registrar