

NZ Police Investigation Summary

Lake Alice 2018 -2023 (File No 060622/6273)

BACKGROUND

1. The Lake Alice Child & Adolescent Unit (The unit) was set up in the 1970s. It was an adjunct to Lake Alice Psychiatric Hospital in Manawatu-Whanganui, which also housed the National High Security Unit for special patients as a separate unit.
2. The principal child psychiatrist employed at the Unit between 1972 and 1977 was Doctor Selwyn Leeks. The unit treated children and adolescents (mostly aged between 8-16 years old) who had psychiatric and/or behavioural problems.
3. There were several pathways into the unit. Some children were admitted because parents couldn't control them, some as a result of being taken into state care and then placed there by the then Department of Social Welfare (DSW), some came from residential boys' homes (a female annex was also opened later), and some were committed under the Mental Health Act 1969.
4. For some the stays were only weeks but for others it was months to years. The Child and Adolescent Unit was closed around 1979 following concern about supervision and several critical investigations by different agencies into what was occurring at the unit.
5. In 1997, many ex-patients sought compensation by way of a class action for how they were treated at the unit.
6. It included claims that they had received electric shocks in the guise of electro-convulsive therapy (ECT) as punishments. Some were also subjected to physical and sexual abuse as well as being drugged as punishment. A Christchurch based solicitor Grant Cameron represented the complainants in the class action suit.
7. After extended negotiations with both the National and Labour Governments, in 2002 the class action was eventually settled out of court by the then Labour Government.
8. Initially there were 95 patients in the settlement, but a second group of 90 former patients came forward and also received a settlement with the government paying a total of approximately \$12.6 million to the former patients.
9. In 2002, following the settlements, the then Prime Minister and Minister of Health wrote to each of the complainants and apologised on behalf of the Government for their treatment at Lake Alice.
10. At the conclusion of the civil claims Grant Cameron, with his client's consent, forwarded 34 written patient statements to Police for investigation.
11. Additional complaints were received by Police from other former patients or through intermediaries such as the Citizens Coalition for Human Rights.
12. The complainant's accounts referred to the application of electric shocks and the administration of drugs as punishment and instances of alleged sexual offending.

PREVIOUS INVESTIGATIONS

13. Over the years there have been a number of investigations by different agencies such as the Ombudsman (1976), Commission of Inquiry (1977), Medical Council (1977) and Police (1977, 2002-2010).
14. In 1977 Police undertook an investigation into the unit as a result of complaints from six patients about their treatment at Lake Alice. The focus of this investigation was under section 112 of the Mental Health Act 1969 which made the ill-treatment of mentally disordered persons an offence.
15. This investigation included expert medical and legal opinions and the decision was made that there was no evidence of criminal misconduct around the actions of staff at the unit.
16. This 1977 investigation file was filed and was not able to be located when Police undertook the 2002 to 2010 investigation. It was only found in National Archives in 2020.
17. The 2002 - 2010 Police investigation concentrated on the 34 statements received from Grant Cameron. The investigation focussed on the application of electric shocks as a form of punishment.
18. The allegations of sexual offending were not pursued as it was deemed that they had already been dealt with by the appropriate authorities or were so vague as to make any investigation all but impossible, or the suspect and/or complainant was dead.
19. A legal opinion sought stated the case did not meet evidential sufficiency, nor the public interest test. This decision was based on several factors, but in summary concentrated on the difficulty in distinguishing the difference between ECT treatment given as aversion therapy or as punishment.
20. A peer review of the opinion by senior counsel concurred with the original opinion.

2018-19 Investigation

21. In 2018 after being assigned several Official Information Act requests in relation to Lake Alice, the Sexual Violence Team at PNHQ identified that a number of patients had disclosed sexual abuse while at Lake Alice. A review was completed of the 2002 - 2010 investigation to identify what had been done in relation to the alleged sexual assaults including the use of ECT on the genitalia of some patients.
22. As a result of the review, formal video statements were taken from three former patients, two of whom alleged ECT treatments to their genitals and one who alleged sexual assaults by a former staff member at Lake Alice. The allegation of sexual assaults by the former staff member was reviewed. Pursuant to the provisions of the Solicitor General's Prosecution Guidelines, it was decided there was insufficient evidence to lay any sexual assault charges against that staff member.
23. Enquiries continued into the allegations of ECT treatments applied to genitals. In 2019 Police commenced a process to obtain further expert medical advice regarding Electro Convulsive Therapy (ECT) and its use in aversion therapy.
24. These enquiries were placed on hold following the release of the United Nations Convention Against Torture (UNCAT) report in December 2019. The UNCAT report related to a complaint made to the Human Rights Commission by a former Lake Alice Child and Adolescent Unit patient.
25. The report was critical of the New Zealand Governments response to Lake Alice and requested that 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 perpetrators, and the application of the corresponding penalties under domestic law.

26. In February 2020 as a consequence of the above report, a full criminal investigation was commenced into the actions of staff at the unit.

THE INVESTIGATION PROCESS

27. The Operation Lake Alice investigation objectives determined at the start of the investigation were to:

- conduct a criminal investigation into the actions of staff and patients at Lake Alice Adolescent Unit from 1972 to 1978
- review evidence gained to date and look for options to gather more evidence
- carry out approaches and interviews of previously identified patients who wish to complain to Police about their treatment at Lake Alice Adolescent Unit
- carry out an assessment and examination of all evidence gained and consider options to move the matter forward
- ensure all patients and witnesses where possible are fully supported and kept updated during the investigation process.

Scope

28. The scope of the investigation was deliberately broad. It involved revisiting all historical evidence available to Police, both from Police's own previous investigations, and from any other inquiry into these matters where information had been provided to Police or was publicly available.

29. The investigation started with the documents contained within the 2002-2010 investigation and utilised the file number from that investigation (060622/6273).

30. Former patients were identified using various sources. These included:

- the 1977 Police investigation,
- the 2002-2010 Police investigation file,
- information obtained from Grant Cameron Associates,
- records obtained pursuant to a production order from Whanganui District Health Board,
- patient representative organisation Citizens Commission on Human Rights New Zealand (CCHRNZ),
- Crown Law and Ministry of Health records.

31. Investigators endeavoured to locate and contact every former patient for whom Police already had a signed statement or subsequently obtained a copy of a signed statement from that patient.

32. Police managers were very aware of the possibility for revictimisation, which is the reason only former patients who had at some point expressed an interest in engaging with authorities were identified as persons to be approached initially.

33. It was recognised that Dr Selwyn Leeks had directed what occurred and what treatment each patient received at Lake Alice. The focus of Police enquiries was to understand what occurred and whether there was any criminal culpability for Dr Leeks or any of the other involved staff.

34. Once the former patients that had previously supplied statements were identified, their latest address were confirmed, and the local Police were tasked to approach these patients.

35. Former patients were all approached with support people present where appropriate or requested and asked whether they wished to be interviewed formally and participate in this investigation.

Staffing

36. This investigation was run from Police National Headquarters (PNHQ) by the Adult Sexual Assault and Child Protection National unit. Oversight was given by Director: Criminal Investigations with the officer-in-charge of the investigation a Detective Inspector.
37. The second-in-charge was a Detective Senior Sergeant. A Detective Sergeant was assigned as file manager and an Intelligence Analyst was also part of the core team. The core team was supported at PNHQ at various times by other Detectives and Police employees. Two Detective Sergeants based at PNHQ were later responsible for liaison with the former patients.
38. Enquiries and interviews were undertaken in various Police Districts by specialist staff as required – over 100 staff were involved at various times. For example, each interview would involve a minimum of two staff, and a supervisor who assigned the task and provided advice.
39. District staff approached and liaised with former patients and staff, conducted and monitored interviews and summarised evidence.
40. The number of Police staff involved in the investigation was fluid. In this investigation there were several very labour-intensive periods where more significant resource was committed to it.

Former Patient Interviews

41. It was recommended that investigators first contacted the former patients by telephone. This was done to avoid alerting any other household members who may not have been aware of the patient's history. Emphasis was placed on minimising revictimisation and the requirement to put the welfare of the former patients first.
42. Any former patients contacted who did not consent to be interviewed were asked if they would consent to the use of any previous statements they had made and any relevant medical records. It was anticipated that further parties might come forward once interviews commenced.
43. All witnesses are different, and training for undertaking these interviews suggests three interview models, two of which are relevant to cooperative witnesses:

Free recall for cooperative witnesses – this model allows for pauses, discourages interruptions, uses active listening with minimal prompts, suggests the use of sketches and expands using open ended questioning. The witness's information is summarised back to them to ensure the witness has been correctly understood.

Enhanced cognitive interviewing – this model is used to maximise the quality and quantity of information and build on free recall.

44. The third interview model is

Conversation management: enables the interviewer to control the interview and elicit as much information as possible from a reluctant interviewee. This was not required for these interviews.

45. The interviews were generally conducted at the nearest Police station to where the former patient lived.

46. Many of the interviews took some hours to complete and some had to be stopped and restarted later due to the emotional trauma of talking about the events. Every interview was also transcribed so what was alleged could be analysed.
47. Interviewees were asked to sign a privacy waiver to allow access to their relevant medical records and any complaints to other agencies. Districts were also asked to supply a District liaison person for each former patient and to provide the email address of the national investigation team.
48. A total of 63 former patients were interviewed by Police on video. They were interviewed by specially trained interviewers in the areas where they reside.
49. A further 19 were approached and declined to be interviewed but agreed for their previous statements during the civil claim hearing to be used.
50. A further 20 were approached but declined to be interviewed or be involved in the investigation.
51. A further 31 former patients were identified as having died prior to this investigation commencing.
52. The interviews were all captured by video in a manner compliant with the Evidence Regulations 2007, Subpart 1.

Medical records

53. Information requests and production orders were sent to the Whanganui District Health Board for the patient medical records in relation to former patients that were involved in this investigation.
54. These medical records were reviewed and compared with the formal interview statements given by the former patients.
55. It would be fair to say that many of the medical records were not complete. This was an added complication when analysing the evidence.

Scene

56. There was no scene examination undertaken during this investigation as the buildings had been removed from the Lake Alice site which had reverted to farmland.
57. There were however photographs taken of the buildings and area during the 2002-2010 Police investigation. At the time these photographs were taken, the buildings had been abandoned and were derelict. There were also other archive photographs and scene plans located.
58. There was also television video footage located and copies obtained from the National Archives.

Documentation collected and reviewed

59. Documentary material obtained and reviewed included:
 - All file holdings from the 2002-2010 Police investigation file
 - The 1977 Police investigation file
 - Redacted statements and medical records from Crown Law Office
 - Documents provided by the Medical Council of New Zealand
 - Documents provided by Grant Cameron Associates Lawyers
 - Documents sourced from Whanganui District Health Board, including administration and medical records in relation to former patients

- Documents from CCHR NZ, including statements from former patients, interview notes and some medical records
- Documents from the Australia Health Practitioner Regulation Agency (AHPRA), including affidavits in relation to the 2006 investigation into Dr Leeks by the Victoria Medical Board
- Footage held by the National Library of New Zealand from television documentary programmes made about Lake Alice Hospital.

Staff interviews

60. Using the victim statements and the sources listed above, a list of potential former staff was assembled. In addition, information was obtained from the Ministry of Health and a Whanganui District Health Board staff reunion list.
61. Thirteen former staff of Lake Alice Hospital were interviewed as witnesses. The previous statements of other staff were considered and formed part of the investigation.
62. Thirty-nine former staff members were found to be deceased. Some of whom had made statements during previous investigations, which were considered. All former staff were considered initially as witnesses and interviewed on that basis.

EVIDENTIAL ANALYSIS

63. In 2021 once all the former patient and staff interviews had been conducted and evidence gathered a further group of 21 investigators were engaged to assess each patients' allegations.
64. Statements from 82 former patients were analysed.
65. This analysis required the investigator to identify the allegations made by each former patient in their statements or video interview and then look for any supporting or contradictory evidence.
66. Once the allegations were assessed, other documents were analysed to identify if there was other evidence that supported the allegations. Documents like other patient statements, medical records or staff statements were looked at.
67. They were asked to identify allegations of:
 - ECT being used as punishment (rather than treatment)
 - Paraldehyde being administered as punishment.
 - any sexual assaults.

Allegations regarding the use of Electro Convulsive Therapy (ECT)

68. ECT refers to the application of electric shocks to the brain in timed pulses that cause a convulsion or seizure. This is done by attaching electrodes to the patient's head that sends shocks from the ECT machine.
69. In the case of patients at Lake Alice, there appeared to have been three different types of "treatment" used involving the application of electric currents that forms the basis of complaints from patients.
70. The first two treatments are the application of ECT known as Modified and Unmodified. The conventional method, known as Modified ECT, involves the use of an anaesthetic and muscle relaxant prior to the application of the ECT. The patient is therefore unconscious or close to it when receiving the electro treatment.

71. The unmodified application of ECT does not involve the prior use of an anaesthetic or muscle relaxant. This means the patient is awake when the electric pulses are applied to the brain. The shock itself is supposed to cause the patient to become unconscious almost immediately, however from the various patient memories it seems this did not happen on every occasion and patients suffered excruciating pain before becoming unconscious.
72. The medical notes obtained from Lake Alice disclose multiple uses of both forms of ECT along with some background to the circumstances in which the ECT was applied.
73. The third treatment which appears in the notes is what has since been characterised as "Aversion Therapy". It appears this is referred to in the nursing notes as ECT, Ectonus or Ectonus Therapy. This entailed the ECT machine being used on a different setting to that of modified or unmodified ECT treatments.
74. "Aversion therapy" involved the patient receiving an electric shock at a lower level of electric current as a means of modifying behaviour. These applications of electric shocks are not recorded in the ECT notes but were often referred to in the nursing notes. The nursing notes make no distinction between the various ways in which the applications of shock treatment might be given.
75. The location on the body in which the electric shock was delivered during these "aversion therapy" treatments according to patient accounts were determined by the sort of behaviour that led to the application of the electrodes in the first instance.
76. For example, boys who ran away might expect to have the electrodes applied to their legs; boys who were caught masturbating or offending in a sexual fashion could expect to have the electrodes attached to their genitals; boys who were fighting might expect to have the electrodes attached to their shoulders or arms.

Administration of Drugs

77. Paraldehyde was a drug regularly used at that time on patients at Lake Alice.
78. It was used to calm patients down or help control them, particularly during a violent outburst. The accepted method of administering Paraldehyde was by injection, usually into a large muscle such as the buttock although it could also be taken orally.
79. Charge nurses were authorised to use the drug to help calm violent or aggressive patients down. It was not authorised to be used as punishment.
80. Patients who received these injections often complained of the pain caused and the fact it made their legs numb which often meant they were unable to walk for some hours.
81. They also talked of a horrible smell that leaked from their pores for days afterwards. It would often also leave a terrible taste in the patient's mouth for 2-3 days.
82. Some patients alleged having received injections of Paraldehyde on dozens of occasions as a punishment. One also described it being administered into their fingers and toes.

Allegations of a sexual nature

83. Allegations of rape, sodomy and indecent assault/acts were investigated as part of this investigation.
84. Some were against staff members, and some were against other patients.

RESULTS

Use of ECT as Punishment.

85. Once all the evidence had been gathered, the analysis was done on the allegations made by the 82 former patients (63 interviewed and 19 prior statements) that had expressed a willingness to be part of the investigation.
86. The analysis identified that there were over 140 separate occasions involving 51 patients where it was alleged the ECT was administered either unmodified or “aversion therapy” as punishment.
87. In all but one occasion it was alleged that Dr Leeks was responsible for the administration of the ECT. On the other occasion the nurse alleged to be responsible was deceased.

Administering of Paraldehyde as punishment.

88. The analysis identified that around 68 patients disclosed being administered paraldehyde as punishment and there were in excess of 350 separate occasions when it was administered. This was done mainly by the head or charge nurses.
89. There were many and various situations that led to paraldehyde being administered. These included:
 - Misbehaving at school
 - Fighting with other children
 - Running away
 - Arguing with staff
 - Smoking or stealing cigarettes
 - Not doing what they are told by staff
 - Being cheeky or talking back to staff
90. On many occasions the patients could not recall or identify who administered paraldehyde. For many of the other occasions, the charge or head nurses identified were either deceased or not fit to plead.
91. From that analysis and evidence assessment it was identified which staff members needed to be interviewed as suspects for potential criminal offending.
92. The strength of the evidence lay in the sheer number of patients describing similar types of events where in many cases they had not spoken to other patients since being with them at Lake Alice.
93. Any allegations against former staff members who were now dead were not progressed or analysed in any detail. At the time of the investigation, seven deceased former staff members had allegations against them.
94. At the time of the investigation, four living former staff members had allegations against them. It was decided these warranted further interviews and a decision on whether charges would be laid.
95. One of those was Dr Selwyn Leeks. He was alive at that stage in the investigation.
96. It was recognised that Dr Leeks had overall responsibility for the treatment of the patients at the unit, however there may have been occasions when “treatment” that was administered was outside what had been authorised by Dr Leeks.

Sexual Allegations

97. There were allegations of sexual offending against former staff members. Each allegation was looked at separately but no charges were considered. This was due to one of three reasons as follows:
- The alleged offender was deceased, or
 - Pursuant to the Solicitor-General's Prosecution Guidelines, there was insufficient evidence to prosecute, or
 - The alleged offender was unable to be positively identified.
98. There were three allegations of rape. For one allegation, the alleged offender was not able to be positively identified and there was insufficient evidence that an offence had been committed. In the other two instances the alleged offender was deceased.
99. There were three allegations of sodomy where the alleged offender was deceased. There were an additional three allegations of sodomy where the offender was unable to be positively identified.
100. There were six allegations of indecent assault/act where the offender was unable to be positively identified. There were an additional three allegations where the alleged offender was deceased and two further allegations for which there was insufficient evidence to prosecute.
101. All allegations of a sexual nature were investigated unless the alleged offender was identified and known to be deceased.

SUSPECT STAFF INTERVIEWS

102. It was identified that Dr Selwyn Leeks and three other living former nurses needed to be formerly interviewed as suspects.
103. The allegations needed to be put to them and explanations sought.

Dr Selwyn Leeks

104. Dr Leeks was living in Australia. In 2021, Police contacted his wife with a view to interviewing him and putting the allegations to him. His wife indicated that he was very unwell and gave authorisation for Police to contact his medical practitioners (a General Practitioner and a Specialist).
105. Contact was made with those medical practitioners. Ultimately, a Neurological Assessment of him was undertaken and a report completed. This was prepared and provided by a Clinical Neuropsychologist.
106. A second medical opinion was sought in relation to Dr Leeks. Requests for a second medical assessment that was necessary for that opinion were declined for medical reasons due to the COVID environment in 2021.
107. It had been decided that should Dr Leeks be fit to stand trial he would be charged with wilful ill treatment of a child under section 195 of the Crimes Act 1961 with respect to many of the former patients of Lake Alice and that NZ Police would commence extradition procedures.
108. These charges would have related to the use of ECT on many of the patients as a form of punishment or "aversion therapy".

109. The exact number of charges or the names of the various patients those charges would relate to were never finalised.
110. Based on the independent neurological assessment it was decided Dr Leeks was firstly unfit to be interviewed and secondly unfit to stand trial.
111. Dr Leeks died on the 6th of January 2022.

John (Dempsey) Corkran

112. Mr Corkran was approached to be interviewed as a suspect regarding the use of paraldehyde on various patients at Lake Alice. He declined the interview.
113. The allegations were that the use of paraldehyde on the patients was as a punishment and not part of any treatment programme.
114. In December 2021, Mr Corkran was charged with 8 charges of wilful ill treatment of a child under section 195 of the Crimes Act 1961. The matter progressed through court awaiting trial.
115. In June 2023 during pretrial applications and after hearing medical evidence a High Court Judge ordered a stay of proceedings with respect to this prosecution.

Third Nurse (Living out of New Zealand)

116. An approach was made to interview this nurse with a view to putting the allegations to them and seeking an explanation. These allegations related to the use of paraldehyde on the patients allegedly as punishment.
117. The New Zealand Police's International Liaison Officer in the country where this individual resided made inquiries as to the individual's health.
118. Information was obtained from the individual's partner and from the manager of the advanced dementia care facility where the individual was resident at the time.
119. As a result they were not interviewed, and a decision was made that no criminal prosecution would commence.

Fourth Nurse

120. A fourth nurse was interviewed as a suspect and allegations were put to them around the use of paraldehyde.
121. The interview was conducted by specially trained suspect interviewers. The interviewee was given copies of any previous statements the interviewee had made, invited to confirm that they were accurate, and invited to elaborate on those statements.
122. All allegations that had been made against the interviewee were put to the interviewee during the interview and the interviewee was invited to comment.
123. Where documentary evidence supporting an allegation was available, for example, a nursing note, the interviewee was asked to look at the document in question and confirm it was their handwriting / initials on the document.

124. The interviewee was then asked to provide further information about the incident and anything else the interviewee could remember about it.
125. At the conclusion of the interview the evidence was analysed, and it was decided there was insufficient evidence under the Solicitor General's Prosecution guidelines to commence a prosecution.

EXPERT OPINIONS

Legal Opinions

126. In 2020 and 2021 Police sought legal opinions in respect of various matters related to this investigation.
127. These opinions were also peer reviewed by another senior legal counsel.

Psychiatric and psychological opinions

128. Police obtained specialist medical opinions from Professor Garry Walter, Professor Werry and Dr Leah Andrews regarding the practices employed at Lake Alice in the 1970s.
129. Professor Garry Walter was asked to confirm comments made in his 20 January 2009 report to Police around the use of aversion therapy and the use of electrodes on genitals as a form of aversion therapy and whether it was an acceptable medical practice in the 1970s.
130. Dr Leah Andrews was asked to review the description of events alleged by former patients around the use and administration of paraldehyde and give an opinion as whether it was a major departure from the standard of care expected at that time.

APPROACH TO CULPABILITY

131. Because of the historical nature of the allegations, charges considered were those in existence at the time of the alleged offence. Each allegation was treated on the individual circumstances and the evidence that supported the allegation. **As mentioned earlier, the strength of evidence came with the volume of patients disclosing similar types of occurrences in similar circumstances.**
132. **In the case of paraldehyde being used as punishment, the charge considered was Wilful ill-treatment of a child, under section 195 of the Crimes Act 1961.**
133. **In the case of ECT being used as punishment, the charge considered was Wilful ill-treatment of a child, section 195 of the Crimes Act 1961.**
134. **The charges available in relation to the allegations were Rape, section 128 of the Crimes Act 1961, Sodomy, section 142 of the Crimes Act 1961, Indecent assault on woman or girl, section 135 of the Crimes Act 1961 and Indecency between males, section 141 of the Crimes Act 1961.**
135. The charge appropriate for physical assaults is Assault, section 196 of the Crimes Act 1961 or Assault on a child, section 194 of the Crimes Act 1961. It is not possible to lay those charges now as the statute of limitations for those charges is five years.

136. No charges were filed related to offending involving the use of an ECT machine because the alleged offenders were either deceased or medically unfit to stand trial.
137. Police considered the possibility of filing criminal charges on a party liability basis.
138. It was decided that, in respect of administering electric shock treatment, the principal person administering the treatment would be the person considered liable to charges.
139. The principal person responsible, with one exception, was Dr Selwyn Leeks. The one other person who was alleged to have administered electric shocks to patients on his own auspices (i.e. without Dr Leeks present and without his authorisation) was deceased.

PROSECUTION

140. In December 2021 the former Lake Alice nurse John Dempsey CORKRAN then aged 89 years was summonsed to Whanganui District court on 8 charges of wilful ill-treatment of a child under section 195 of the Crimes Act 1961.
141. The matter progressed through the court process with Whanganui Crown Solicitor representing Police. It was set a trial date for August 2023.
142. On the 20th of June 2023 during pretrial hearings, evidence was given of Mr Corkran's deteriorating health to the point that the Judge decided to issue a stay of proceedings on the basis of delay.
143. At this stage the Police investigation file contained 3,428 documents with over 60,000 pages.
144. The former patients that had engaged with Police were then contacted and advised of the result of the court case and that in effect closed the Police investigation into the actions of staff at the unit.
145. For many patients this was a form of closure but for others it was still felt that the people responsible for how they were treated whilst at the unit were never held accountable.
