

The Historical Institutional Abuse Inquiry

Module 3 Rubane Boys Home

Written submission on behalf of [REDACTED] (BR2)

1.1 The allegations against BR2 have been broken down into three categories:

1. Sexual abuse of boys.
2. Physical abuse.
3. Reports of Abuse made to BR2.

With regard to the allegations made by witnesses against BR2 we make the following observations:

Allegations of Sexual Abuse arising out of Operation Overview 1995:

1. [REDACTED] DL301
16 April 1968 - June 71
RUB-62137

1.2 DL 301's allegation of sexual abuse was addressed by BR2 in his statement at RUB-1939 paragraph 58 and in his oral evidence on Day 74.¹ BR2 has denied smacking or patting him on the bottom. He has also denied coming into DL 301's bedroom and sexually assaulting him. BR2 has informed the Inquiry both in his written statement and oral evidence of SR 32's suspicions that DL301 was interfering with other boys in her Chalet which resulted in him being moved to the main house. There is a record that DL301 was transferred to the main house on 1 September 1970.

1.3 BR2 has informed the Inquiry that he discovered DL301 and DL315 in the toilets and he suspected that they were interfering with one another, he reprimanded them and sent them back to their beds.²

¹ page 16 line 12 to page 21 line 15

² RUB 1940 paragraph 58

1.4 Significant corroboration for the activities of DL301 can be found in the statement of HIA 56 at **RUB- 529** paragraph 33 he indicates that he was abused by DL301 and that DL301 was very sexually active.

1.5 Importantly in relation to the issue of discussing sexual activity by boys the Brothers had been advised by their Provincials not to provide sexual guidance or education. BR2 indicated that he would warn the boys about their behaviour, but counselling was provided by **DL 140** and for some boys Dr Dr Macaulay, the psychiatrist, was engaged. In relation to the specific example BR2 stated:

A. So as regards that particular incident I did not give any guidance to DL315 or DL301. DL301 was due to be discharged from the home at that time. So there was no point in warning him or telling him about his activity, because he knew about it already, because SR32 was aware of it and that was her method of dealing with it, to send him to the house for closer supervision.

Q So you kept an eye on him.

A. We --

Q. If at any stage you found them engaging in that type of behaviour, then you reprimanded them --

A. Correct.³

1.6 BR2 stated very clearly to the Inquiry that he never had any sexual involvement with DL 301.

2. **DL213**

1.7 DL213's allegations have been addressed in BR2's written statement at **RUB 1941** paragraph 68 -69 and in his oral evidence on Day 74.

1.8 DL 213 has been described as a pitiful character⁴ and a chronic alcoholic⁵ by the police and his allegations of being repeatedly sexually assaulted by four Brothers acting in concert was

³ Day 74 page 19 line 9 -16

⁴ **RUB-64138**

considered too fantastic to even be put to BR2. The view of the Superintendent at RUB-64129 was that the complaint had been fabricated.

1.9 BR2 has been given the opportunity by this Inquiry to clearly and publicly reject these false allegations.

3. **HIA 256**

Resident in Rubane: 27 April 1983 to 29 May 1984.

1.91 The context of **HIA 256**'s allegations of sexual abuse in terms of time is a period after there has been a major police investigation; BR1 had been suspended for alleged sexual misconduct with boys, BR77 had been convicted of assaulting boys and DL509 had been convicted of sexually abusing boys.

1.92 **HIA 256** was unable to recall the name of the Brother who sexually abused him but provided police with the approximate age and physical description and identified his abuser as both a teacher and a farm worker.⁶ **HIA 256** claimed to have identified the Brother who abused him from a television report⁷. From **HIA 256**'s claims a video tape was compiled by police comprising local news footage of nine persons attending various courts.⁸

1.93 **HIA 256** viewed the tape and identified BR2. **HIA 256**'s wife whom he claimed to have identified his abuser to while watching the news was unable to identify anyone.

BR2 explained to the Inquiry in his oral evidence that there was only a short period of time approximately 3 months, in which both he and **HIA 256** were present in the home at the same time.

1.94 The age and physical description provided do not accord with BR2 nor does the role that has been ascribed. In 1983 BR2, would have been 48 and had fair hair, he did not have black hair⁹. In 1983, BR2 was neither a teacher nor farm worker, nor had he anything to do with the gym. He had ceased being a teacher in 1973 and he had never worked on the farm, in-fact no one had that dual

⁵ RUB-64129

⁶ RUB-62204

⁷ RUB-62207

⁸ RUB-62124

⁹ RUB-62204

role. In his Police interview on 27 June 1996¹⁰ BR2 described the allegations as “totally daft completely untrue and absolutely outrageous”¹¹

1.95 He has no recollection of **HIA 256** and he has thoroughly addressed his allegations in his written statement at **RUB 1942** paragraphs 72 -75 and in his oral evidence.¹²

1.96 As with the allegations of DL 301 and DL213 the police again directed no prosecution.

Allegations of Sexual Abuse Arising out of Operation Overview 1995

1.97 Clearly these allegations still have a profound effect on BR2 and he continues to be troubled that they were made. While he is grateful of having the opportunity to state publicly that he was not engaged in sexual abuse of anyone, he remains deeply affected by having to address false allegations. “I just could not believe when those allegations were put to me. I just could not believe it.”¹³

Physical Allegations Arising out of Operation Overview 1995

1. **DL274**
DOB 25.8.57
Resident at Rubane 1968-70

2.1 BR2 addressed these allegations in his statement to the Inquiry¹⁴ and in his oral evidence on day 74.¹⁵ BR2 denied using a strap to administer corporal punishment and he stated there was no strap filled with pennies and believed that to be a myth.

2. **DL64**
DOB 14.01.60
Resident at Rubane 1971-75

¹⁰ **RUB-62269**

¹¹ **RUB-62277**

¹² Day 74 page 23 line 14 to page 27 line 4

¹³ Day 74 page 27 line 2 -4

¹⁴ **RUB-1938** paragraph 54

¹⁵ page 27 line 8 to page 28 line 3

2.2 The allegations contained in this statement,¹⁶ of being leathered many times by Brothers including BR2 and being in agony for days afterwards, were addressed and denied in BR2's statement to the Inquiry at **RUB 1940** at paragraph 59 and 60 and further addressed and denied in his oral evidence on Day 74. Certainly BR2 has no memory or any record of administering corporal punishment to DL64, and in his oral evidence BR2 indicated that it was his normal practice last thing at night to document punishment administered in his diary¹⁷

3. **DL 286**

DOB 14.1.60

Resident at Rubane 1971-1973

2.3 **DL 286** alleges that he was subjected to numerous beatings while at Rubane. Some of the most serious were from BR2. However, he did not recall any specific incident.¹⁸ BR2 was interviewed by Police on 31 July 1995 in relation to these allegations, and denied beating him.¹⁹ These allegations were further addressed by BR2 in his statement **RUB-1939** at paragraph 57. BR2 totally rejects the allegations against him and states that he carried out corporal punishment in accordance with the guidelines.

4. **DL 284**

DOB 23.7.59

Resident at Rubane 1970

2.4 He alleged that DL271 complained that his boots were too hard, and taking a new pair of football boots; he alleged that BR2 saw this and then deliberately struck 'Half pint' over the head with a hurley bat and knocked him unconscious. He further alleged that DL271 was carried up to his room and left there for days, and that while BR2 was beating him he seemed to be enjoying it.

¹⁶ **RUB-62141**

¹⁷ page 29 line 4 to page 31 line 18.

¹⁸ **RUB-62143**

¹⁹ **RUB-62244**

2.5 DL271 did not make a complaint to police. However the matter was put to BR2 at interview on 31 July 1995²⁰. Detective Inspector Pentland very properly intervened and informed BR2 before he answered the question that the police had not received a complaint and he thought the matter was irrelevant at that stage.

2.6 In any event BR2 reiterated both in his written statement at **RUB 1940** at paragraph 63 and in his oral evidence on Day 74²¹, that this incident did not happen and is completely untrue.

5. **DL 307**
DOB 23.11.59
Resident in Rubane 1974

2.7 **DL 307** alleged that BR2 came into his chalet, one night about ten o'clock and thumped him and a couple of other lads with a cane for talking instead of sleeping. The only other lad he could remember was **DL 308**. Enquiries revealed that **DL 308** died on 25.1.82.

2.8 The allegation was addressed and denied by BR2 in his written statement at **RUB 1941** at paragraph 64. The allegation was addressed in his oral evidence on Day 74²²

2.9 When it was put to BR2 that this allegation would fall within the realms of corporal punishment and it is possible that it occurred but the witness has incorrectly identified BR2, BR2 stated:

A. Well, he must be mistaken, because I never had any occasion to go over to the chalet that he was living in at that hour of the night. There would have been a Brother or the care staff in the chalet at that time, 10 o'clock. They would probably be going to bed at that time, and I had never any occasion to go over to that particular chalet, chalet 4. He was in that particular chalet, and never -- no, I had never any occasion to go over there.

Q. Is it possible that what he is describing might have been done by another Brother as punishment for him -- it is the sort of thing that corporal punishment might have been administered for? Is that fair?

A. Well, I guess it's possible. It is possible.²³

²⁰ **RUB-62255**

²¹ Day 74 page 34 line 9 - page 35 line 8

²² Day 74 page 35 line 9 -page 36 line 17

6. **HIA 511** DL116

2.10 The allegation contained in **HIA 511**'s statement to police²⁴, is that he witnessed his brother, DL198, being attacked with an iron rod²⁵, and he included BR2 amongst 5 or 6 others in that attack. DL198, who himself made statements to the police did not make any mention of this barbaric attack or having any difficulty with BR2.

2.11 As there was no complaint from DL198 the matter was not put to BR2 by Police.²⁶ It has been comprehensively addressed in BR2's statement to the Inquiry at **RUB-1941** at paragraph 65-66, and on Day 74 of his oral evidence.²⁷ BR2 stated emphatically: "I never used a crowbar to hit any boy."²⁸

7. **[REDACTED]** DL202

2.12 DL202 was in the home between 1963 and 1969. He says that another boy called **[REDACTED]** was beaten until he passed out for running away.²⁹ This allegation was rejected completely by BR2 on day 74³⁰ and comprehensively addressed in his statement at paragraph 67 and in his oral evidence.

3. **Reports of Abuse made to BR2 arising out of Operation Overview:**

1. **DL 119**

BR77

²³ Day 74 page 36 line 5 -18

²⁴ **RUB-62184**

²⁵ described as a "crowbar" Day 74 page 36 line 25

²⁶ **RUB-62121**

²⁷ Day 74 page 36 line 19 - page 37 line 18

²⁸ Day 74 page 37 line 18

²⁹ **RUB-62197.**

³⁰ page 38 line 9

3.1 This allegation was comprehensively addressed by BR2 in his written statement at RUB 1940 at paragraph 62 and in BR2's oral evidence on Day 74.³¹

2. **[REDACTED]** HIA 73
BR18

3.2 This allegation has been addressed by BR2 at RUB 1940 paragraph 61. BR2 has no recollection of any report being provided to him by Mrs Savage concerning an assault by BR18 on Thomas McFall.

3. **[REDACTED]** DL 309
Resident in Rubane between 1972 -1974
BR18

3.3 DL 309 alleged that BR18 had viciously assaulted him he described it in his statement:
"He dragged me inside and down the stairs. He held me by the hair and punched me three times in the face, once on the nose and twice on the mouth. At one stage he pushed down my head in an effort to knee me in the face. I resisted by pushing back. I told BR3 what BR18 had done to me. He just said I deserved it. I eventually told BR2 the following day and I believe he might have spoken to BR18, but I heard nothing more about it. My nose was swollen for a few days -- my mouth was swollen for a few days and my nose was swollen for almost two weeks. I didn't receive any medical attention."³²

3.4 BR2 stated in his statement at RUB 1942 at paragraph 70 that he has no recollection of the incident. This was re-stated in his oral evidence although he did recollect that there was an incident involving DL 309 which he had documented in his diary.³³

4. **DL 310**
BR18

3.5 **DL 310**'s allegation is of being punched in the right eye by BR18 for smoking in the toilets and subsequently reporting the matter to BR2. This allegation has been addressed by BR2 in

³¹ Day 74 page 39 line 11 -page 41 line 8

³² RUB-62201

³³ page 46 line 15 to page 47 line 1

his statement at **RUB 1942** at paragraph 71, and in his oral evidence on Day 74.³⁴ BR2 doesn't have any recollection of this particular boy, this particular incident or being told about what BR18 is said to have done.

³⁴ page 47 line 23 to page 48 line 11

1. **Allegations of Sexual Abuse Arising out of Operation Charwell 2010:**

(I) **HIA 26** [REDACTED]

4.1 HIA 26 did not give oral evidence. HIA 26 [REDACTED] is an unreliable witness. The Inquiry will recall that this witness provided statements to the Police on 27 September 1995, 1st November 1996 and 11 November 1996. In none of these statements did HIA 26 make any allegations against BR2 it was not until he spoke to the Police in May 2012 that he made allegations against BR2.

4.2 The allegations have been addressed by BR2 in his statement to the Inquiry at paragraphs 33 - 37 and in his oral evidence on day 74.

(II) **HIA 191** [REDACTED]

4.3 HIA191 clearly was a very disturbed and unreliable witness who has fabricated incidents and was undoubtedly influenced by what he has read in newspapers and seen on television. The Tribunal will note the allegations he has made against BR1 and the fact that BR1 was not permanently in the home until 1977. The Tribunal will no doubt be aware of the fact that this matter also arose in the Trial of HIA 148 [REDACTED] and was an issue that seriously undermined the credibility of HIA 34 [REDACTED]. There is no record available of BR2 being interviewed by the Police in relation to these allegations and BR2 does not believe he was interviewed. Aside from his ability as a table tennis player he was not an individual who appears to have made an impression on BR2 and he couldn't recall him causing problems.

4.4 The lasting impression of this witness was his graphic and imaginative account of a frenzied and violent knife attack on 4 other boys over the death of a stray dog. He sought to impress upon the Inquiry that it was his intention to kill those boys.

4.5 "Not long after this incident involving this Brother, I found some peace. I had found a stray dog which I started to look after, a black and white mongrel. I always took the dinner scraps for it and it would come running to me and jump on me, I loved it. I used to walk with him in a wooded

area. I came down one day and whistled for it but it didn't come. I did it again but it still didn't come. I knew something was wrong."³⁵

4.6 Q You found out that four guys had hung it. They claimed the dog was terrifying their bantams:

A "I told them they were going to pay for that, but they said there was four of them and only one of me. Following that incident, I went into the kitchen, took two kitchen knives and I hid them in my dormitory. The next day I went back down to where they were and pulled the knives out. I told them I had evened out the odds when I slashed one of them and tried to stab the other. I got a really bad beating that time by BR2."³⁶

4.7 On Page 25 Line 10 he returns to his description of his attack on the four boys who he identified as being responsible for murdering his dog:

"I lost it. I admit I lost it. I went berserk. I went and I done what I done every other night, sneaked down into the kitchen, had a big bowl of cornflakes, covered it in sugar and milk and I ate it, washed the dish and put it away. On my way out, I took two big kitchen knives with me and I hid them in the dormitory. What threat I made to them, I intended to carry out. I went down and I was there first."

4.8 On page 26 line 12 the witness informed the Inquiry that he had every intention of killing all four boys and he made no apology for intending to kill. In case the Tribunal misunderstood his intention he repeats it at page 27 line 7:

"I had every intention of killing them, I will be outright and blunt, killing them stone dead."

4.9 The content of the account is troubling and the manner in which it was delivered will be indelibly etched on the panel. There is no medical evidence to support this extremely violent episode which resulted in boys sustaining significant injuries. The idea that **BR 2** removed the knives from him and then beat him in the violent manner described is fanciful.

³⁵ Day 61 page 22 line 11-19

³⁶ Day 61 page 22 line 22 - page 23 line 4

4.10 His response to the perceived injustice over the death of the stray dog and the punishment he received, was startling and dramatic, he described in paragraph 10

RUB-625 and repeated in oral evidence at page 23 day 61, that he got on a bicycle with no tyres, no pedals and no brakes. A lorry hit him and sent him into a ditch.

He stated: "I ended up in Newtownards hospital. I went out on that road with the intention of getting killed. I had had enough."³⁷

4.11 The incident was described in more moderate terms and recorded in **BR 2**'s diary at **RUB-2488** and is referred to at paragraph 29 of his statement **RUB-1929**.

4.12 The diary records **HIA 191** being knocked off his bicycle by tractor on the 18 March 1970 days before his release from Rubane on 25 March. There is no record of him being injured or being in Ards hospital for at least a week as stated in his oral evidence. It was addressed by BR2 in his oral evidence:

A. "Not quite right. I was on duty in the yard at the time and HIA191 was flying around the bike around the house and circling around, and the next thing was he flew out the gate. Well, he went out the gate and DL98 was driving the tractor up past the gate at the time and HIA191 just hit the tractor. There was no real damage done to either the tractor or to HIA191. No, there was no damage to HIA191. He wasn't hurt in any way, just shocked.

Q. So it wasn't a lorry as far as you recollect. It was the farm hand on the farm -- on the home's tractor, as it were --

A. Yes."³⁸

4.13 The inflated and disturbed account of a minor road traffic accident reveals to the Inquiry a willingness to exaggerate and distort incidents, it is consistent with a fantasist.

4.14 BR2 completely rejects the allegations of physical and sexual abuse made by this witness. This was stated very clearly by BR2 in his oral evidence.³⁹

Conclusion

This witness is delusional and should not be relied on.

³⁷ Day 61 page 23 line 8-10

³⁸ Day 74 page 57 line 5 -17

³⁹ Day 74 page 59 line 18

III. HIA 128 [REDACTED]

4.15 HIA 128 did not provide oral evidence to the Inquiry, the inconsistencies and the improbability of his account has been thoroughly addressed by BR 2 in his statement to the Inquiry at RUB-1936 at paragraphs 44 through to 47, and in his oral evidence on day 74. His allegations are completely rejected. The allegations and BR2's memories of HIA 128 were addressed by BR2 in his oral evidence:

Q I think you make the point that he was a boy with obviously some difficulty, but that despite that he wasn't someone that caused any difficulty for you in the home.

A. Absolutely not. I had him in class maybe for a year or two and I remember he used to sit down at the back of the class and HIA128 would go off into a world of his own, maybe half asleep, not listening to me possibly, and I would say to HIA128, "HIA128, are you there, HIA128?" and HIA128 would look up to me and give me a big smile and then withdraw again, but he was -- he was a good child. Never had any trouble with HIA128. He was a very simple boy and he was in DL115's chalet, chalet 3, and HIA128 was not interested in activities like football or hurling or anything like that. DL115 looked after him, gave him little jobs around the chalet in his spare time. They are my recollections of HIA128. Absolutely no trouble with that boy whatsoever, and, of course, I have to reject all those terrible allegations.⁴⁰

(IV) [REDACTED] (HIA 34) Statement RUB 468-473

Monday 3 November 2014

Day 63

4.16 HIA 34 provided his evidence to the Inquiry on Day 63. He was admitted to Rubane on 1 March 1974 and was discharged on 20 May 1974, therefore he was present in Rubane for less than three months.

4.17 HIA 34 provided a statement to police on 20 February 1995 in which he stated:

⁴⁰ Day 74 page 60 line 16 to page 61 line 5

"During the whole time there I was not sexually or physically abused by any of the staff...BR2 was in charge at that time. Other members of staff I can remember are BR18 and DL6."⁴¹

4.18 He has alleged that he was abused by both BR18 and BR2 in the laundry room on a Saturday afternoon adjacent to the TV room in an area that the Brothers would have been using. That the abuse was done openly and indeed BR18 witnessed it and then participated in the assault. He has made a further allegation against BR2 of another assault a couple of weeks later at the same location.

4.19 The allegations lack credibility and the situation was addressed by the LCJ at paragraph 23 of his judgment:

“It seems highly unlikely that an abuser would leave himself open to detection so easily. The evidence in this case did not indicate that there was any sense of open abuse of children within the home but rather that the abusers behaved surreptitiously and were able to secure the silence of the children.”

4.20 HIA 34 was an inherently unreliable witness who had previously attempted to deceive the LCJ in relation to his unavailability to provide evidence. Further the LCJ concluded that he had attempted to bolster his evidence by stating that BR1 was present in Rubane. In addition the LCJ noted the inadequacies in his explanation for his late reporting of the abuse to a solicitor in 2010.

4.21 HIA 34 provided a written statement to police in 1995 in which he expressly stated that he had not been subject to sexual or physical abuse. In his evidence to the LCJ he stated that he had been approached by the police and asked whether he had been abused at the home, he claimed he had a short conversation with the police office in his kitchen.

4.22 The Inquiry will also note that HIA 34 claimed in his police statement to have been in the yard with his “wee friend DL162” DL162 has stated:

“At no time during my time in Rubane did I witness sexual things taking place.”⁴²

⁴¹ RUB-68451

⁴² RUB-65974 Day 63 page 19 line 25 - page 20 line 2.₁₈

In his Inquiry statement HIA34 claimed to have informed DL162 about the abuse and he responded by telling him that the same thing happened to him.

4.23 The Inquiry will note that one of the supporting features of his evidence at the civil trial - BR1 was conspicuous by his absence from Rubane. In his Inquiry Statement, he has now remembered BR1 from St Patrick's. No doubt this revision has occurred because this issue was identified by the LCJ at paragraph 26 of his judgment as a significant matter that undermined his credibility. When questioned on Day 63 on this issue he was most unconvincing:

A. "I do remember BR1, but the exact -- the same in Rubane House. I just -- it was either there or St. Pat's I met him. I just can't recall the exact time and when.

Q. But you would accept that when you were giving evidence in the trial, you actually said you remembered him from being in Rubane? Did I? Well, if I did, yes, yes.

Q. But you remember you were cross-examined about that?

A. Oh, yes, yes, yes.

Q. But you would accept that when you were giving evidence in the trial, you actually said you remembered him from being in Rubane?

A. Did I? Well, if I did, yes, yes"⁴³

4.24 The claim to have been taken by surprise on this issue was not credible. Also the Inquiry will recall the tone of his delivery and the manner in which it was delivered that he was not convincing. He was rather like the child smothered in chocolate professing his innocence when confronted by an irate parent.

4.25 The Inquiry will be aware that in the civil case of DL 324, HIA 34 indicated that BR18 entered the Laundry room when he was holding BR2's penis and BR2 was holding his; this was both preposterous and offensive and it is no surprise that HIA 34 has altered his evidence again. His revised sequence of events is at paragraph 8 of his HIA statement at **RUB-469**:

'He came over and said that the trousers were a bit loose on me. He was fiddling about and he pulled the trousers down and he put his hand inside my pants and he started rubbing my private parts and he said 'you have a very small one there' I was freaking out and he said 'it's alright, it's alright'. I said 'no, no'

⁴³ Day 63 page 14 line 6 -14

He then grabbed my hand and forced it through a hole in the side of his robe and made me put my hand on his penis. He had an erection. He said ‘just touch it, that’s the way it should be, that’s the way you’ll have it someday, you’ll get one of them.’

4.26 The Inquiry will note that in his police statement of 2011 HIA 34 stated:

“He was rubbing on my privates, my penis. he then took his own penis out and said something like this is the way they’re meant to be”⁴⁴

4.27 The HIA statement continues at paragraph 9:

I said ‘no Brother no’ and he said ‘you will be alright, you will be alright’ He then pulled me over a bench in the middle of the room and pulled my pants down.

At that stage BR18 came in and he said ‘oh is this one being a bit awkward?’ and he looked at me and slapped me in the face.’

4.28 Therefore the sequence of the assault has changed and what was occurring when Brother Patrick arrived in the laundry room has changed.

4.29 Further, he indicated that BR2 and BR18 had stated jointly: “you’ll be alright, all the boys get this.” This remark was attributed to BR2 in the police statement of 2011 and was made when BR18 had left the laundry room⁴⁵.

4.30 He personally is not credible and his uncorroborated evidence is both implausible and has been inconsistently told. It is also inconsistent with established facts. BR2 has repeatedly denied the allegations and in his oral evidence he informed the Inquiry: “I never abused that boy in any way”⁴⁶.

(V) [REDACTED] HIA 41
17 November 2014
Day 67

⁴⁴ RUB-65177

⁴⁵ RUB-6518 line 13 -15

⁴⁶ Day 74 page 63 line 20

4.31 HIA 41 was not a convincing or reliable witness, and gave his evidence slowly and hesitatingly. In common with other unreliable witnesses he took issue with minor points for example he was adamant that the boys all wore the same clothes, in spite of the photographic evidence that was shown to him that this was not correct. He claimed that they would never have got out of the home if it weren't for BR10. Again this was shown to be incorrect and somewhat implausibly he claimed to be unsure if he was in photographs.⁴⁷

4.32 In common with HIA 244 he sought to inflate and exaggerate his evidence to a fantastical level, describing BR 23 as a violent vicious giant with a South African accent, who hit with full force and kicked and punched boys in the same way that Mike Tyson had the ability to do.⁴⁸ A further example is HIA 41's description of the physical assaults and general loss of control by DL6 – According to HIA 41 DL6: “Battered and tortured at least 15 boys a day. He was a complete lunatic.”⁴⁹

4.33 BR18 was also built like Mike Tyson and he also hit like Mike Tyson. However he never hit HIA41, in-fact he relied on HIA 41 and another boy to run the farm.⁵⁰ There was an issue in which HIA 41 was accused of fighting to which HIA 41 responded “I was certainly never involved in any fighting. I just didn't have the ability.”⁵¹

4.34 HIA41 has provided 8 statements to police. In his first statement on 24 April 1980 he stated that BR1 was sexually abusing DL37 and BR 77 was physically attacking boys. He made a supplementary statement to police on 13 November 1980 in which he referred to peer experimentation amongst the boys.

4.35 He made a further statement to police on 16 January 1995; he indicated that he felt he could trust the particular police officer who was dealing with him and that is why he was able to provide more detail- he did not name BR2.

4.36 He claimed to have been sexually abused by Father Brendan Smyth in Nazareth Lodge and BR1 in Rubane and that he was hit by BR6, BR 23 and BR77 and DL149 that BR1 was continually abusing boys and that DL81 was brutal.

⁴⁷ Day 67 page 12 line 15 to page 13 line 3

⁴⁸ Day 67 page 19 line 13 -18

⁴⁹ Day 67 page 41 line 6-8.

⁵⁰ Day 67 page 43 line 1-4.

⁵¹ Day 67 page 22 line 22 -24.

4.37 BR2 was named for the first occasion in the 4th statement on 24 January 1995, and it is not until his sixth statement on 10 September 2010 that HIA 41 makes allegations that would amount to BR2 sexually assaulted him. This allegation has been repeated in his statement at **RUB-496**. HIA 41 has alleged that he was stripped naked along with **DL 90**, **DL 53** and a boy called **██████████**, and BR2 searched around their backsides and privates for cigarettes. This allegation is preposterous improbable and offensive. We have not been provided with any statements to corroborate this version of events. The Inquiry was informed that the others make no mention of the checking of the body parts in the manner described by HIA 41.

4.38 In his oral evidence to the Inquiry he stated:

"Got us out of bed, stripped us under the guise of looking for cigarettes. Well, he knew I didn't smoke and the boys were given permission when they were 14 to smoke, but I didn't smoke. So the chalet was empty and BR2 came in. Why did not BR23 not deal with it if he was there? Because he was drunk all the time over in the house. That is how that took place. It explains why BR2 came into the chalet, knowing that BR23 was down in the underground quarters where they were all drinking."⁵²

4.39 BR2 dealt with this issue very decisively in his oral evidence before the Inquiry on day 74, and he set out very clearly why he was in Chalet one on this particular night. It was clear that he has a very distinct⁵³ memory of the incident and having to discipline HIA 34 for being out of his bed, it is also clear that HIA 34 was wondering around in his underpants and it is very clear that there was no indecent assault.⁵⁴

4.40 "I was sleeping in one of the rooms in the centre of the hallway and then I heard this noise, doors banging and shouting going on. I went out, opened the door, down the corridor. I was in bed at the time. Got up, opened the door, and I see HIA41 there running down the corridor in his underpants. He should have had on his pyjamas, but he didn't have. He was the one I caught. I just took him out and put him standing outside the door at the end of the corridor for ten minutes and then told him, "Off to bed with you". And that was the sum total of what happened."⁵⁵

⁵² **Day 67 RUB-80429.**

⁵³ Day 74 page 71 line 8.

⁵⁴ Issue comprehensively addressed by BR2: Day 74 page 71 line 8 - page 74 line 9.

⁵⁵ Day 74 page 73 line 12 - 22.

4.41 HIA41 provided further statements to the police on 26 February 2010, 10 September 2010, 6 September 2011, and 4 September 2012. He withdrew his co-operation with police and stated that he was angry with the police officers and he was now looking for a police officer who would take the Roman Catholic Church on.

4.42 It is perhaps no coincidence that HIA 41 and HIA 50 have been regular attendees at the inquiry and on occasion HIA 41 has positioned himself as comforter and protector to the victims, a vivid example of this is HIA 31. The Inquiry Panel will no doubt recall the evidence of HIA 31 and the mental distress that he clearly presents with. HIA 41 was present with a kind word and a comforting arm, issuing gentle persuasion and reassurance which undoubtedly did help calm HIA 31. However, in light of his evidence, his actions and his almost daily attendance must be viewed with some degree of scepticism.

2. Allegations of Physical Abuse Arising out of Operation Charwell 2010

1. HIA 262 [REDACTED]

5.1 HIA 262 did not give oral evidence. HIA 262 is an unreliable witness. We would direct the Inquiry to the fact that the principal allegation that he makes against BR2 is contained at paragraph 9 of his statement RUB-827 and on his account this occurred in June 1964, which was, prior to BR2's arrival in Rubane, on 31 August/1 September 1964.

Q "So the point you make is it can't have been you. If he is telling the truth about the event, he's got your participation in this wrong, because you were not in Rubane as yet.

A. That is correct.

Q. Is there anything else you want to say about that, BR2, or have I covered the main ...? A. No, I had no hand or part in anything of that nature."⁵⁶

5.2 The allegations were addressed in BR2's statement to the Inquiry at RUB-1935 paragraphs 38 to 41 and in his oral evidence.⁵⁷ BR2 categorically denies that any boy would have had their trousers taken down and he denies participating in the assault on this boy or ever having to restrain any boy to facilitate an assault.

⁵⁶ Day 74 page 78 line 14 - page 78 line 22.

⁵⁷ Day 74 page 75 line 23 - page 78 line 21.

2. [REDACTED] HIA 244

5.3 HIA 244 provided his oral evidence on day 59, Monday 20 October 2014. His statement to the Inquiry is at RUB -646 and signed on the 21 February 2014. BR2 responded to HIA 244's allegations at RUB - 1929 at paragraph 48 to 53.

5.4 HIA 244 did not present well in his oral evidence and was not a convincing or reliable witness. He took issue with straightforward matters such as his date of admission to the home and sought to exaggerate his evidence. By way of example he sought to present the home as being like a prison camp in which the children never got out - he claimed he only got out once to go to the cinema and he didn't get to see Belfast. This is contrary to a significant body of other readily available evidence; including photographs and statements from other boys. He also informed the Panel that the children were forced to eat the same food every day for 3 weeks and the boys were so sick of spam that they threw it away. In addition he claimed Birthday's were not recognised and they never received Christmas presents. Again this is contrary to other evidence.

5.5 The image that has developed in his mind is that Rubane was something akin to a concentration camp. This image has undoubtedly contributed to his mistaken belief that he was punished for absconding by having his head shaved and beaten black and blue.

5.6 Somewhat incredibly the witness alleged that the boys got up at 6.00am and were required to carry out two hours cleaning before schooling stating:

"We used to use big buffers to polish the floors and they were so shiny you could see your face in them. We did all the work in Rubane. The Brothers never did any physical labour, and if anything needed to be repaired, I would do it. I used to repair all the slates on the roof and the guttering."⁵⁸

5.7 At page 10 Day 59 he stated: "That's why I am a roofer today, because I done the roofing with him. I done -- I done all the slating".

⁵⁸ This allegation was put to BR2 at Police interview at page 579 RUB -66759 and was repeated in his oral evidence on day 59 page 9 and 10. It was not contained in the HIA statement provided to BR2.

5.8 When it was put to him that in-fact the boys were awakened at 8.00am on weekdays and 9.00am on weekends he stated at line 3 page 10:

“No, that's totally wrong. We went to church every morning, said the rosary every morning. We were in there about an hour, and then when we came out, we went cleaning for an hour and we went to school at 9 o'clock, down to the school house. We done that all the time, every morning regular.”

5.9 The additional gloss provided by the daily recitation of the rosary and attendance at mass resulted in the amount of cleaning being reduced by 1 hour, and therefore a further inconsistency with the account previously provided. Nonetheless, it is somewhat unfortunate that the redaction process employed by the Tribunal resulted in this significant passage being removed from the statement of HIA 244 supplied to BR2. This is evidence of the significant handicap that BR2, which has handicapped BR2 commenting on all issues of those witnesses who have made allegations against him. In order that the established tests referred to in the opening can be appropriately employed allegations should be seen not only in their isolated context but in the context of the overall reliability of the witness. It is unfortunate because what is alleged is so manifestly untrue but is consistent with a witness who exists in a parallel world of fantasy and delusion.

5.10 The specific allegation contained in paragraph 16 of his statement is that BR2 was present when other named Brothers shaved HIA 244's head with a razor and beat him black and blue as punishment for absconding. He does not state that BR2 participated in the assaults. This version of events is inconsistent with the witness's police statement at RUB-66724 as in this version of events HIA 244 alleges that BR2 was the person hitting him with a big bamboo stick but in his HIA statement he alleges it was BR6 . Further he states it was BR 6 who was choking him and not ^{BR 26} [REDACTED] who he does not even mention. In his police statement HIA 244 states that BR2 was late 40's and 6' 2'', BR2 is in-fact 5'9'' and his date of birth is 18 June 1935 meaning he would have been 29 years of age at HIA 244's admission on 21/08/64.

5.11 At RUB-66731 HIA 244 also alleges that he was assaulted by a police officer:

“The police officer assaulted me - he hit me on the back of the head because I wouldn't stop running. I made him run for ages along railway lines and I think he was annoyed with me for making him run. I think he was from Carrickfergus and he was a giant of a man. I was

dragged back to the police station and spent all day locked up in a cell before 2 Brothers came to collect me.”

5.12 This account lacks credibility with the description of the assault administered by an exhausted giant from Carrickfergus dragging HIA 244 back to a cell, consistent with a work of fiction as found in a children’s fairytale. This account changed in his statement to the Inquiry at **RUB –648**. This was redacted from the statement provided to BR2. However this passage was quoted on day 59 page 24 line 6:

"I got as far as Carrickfergus before the police caught me and I was taken to the police station but I managed to run away again. This time a police officer chased me, and because I wouldn't stop running, he assaulted me after he caught me. They dragged me back to the police station and I spent all day locked up in a cell"

5.13 At paragraph 17 **RUB -650** HIA 244 described a boxing incident in which he alleged that he was forced to box a much older and bigger traveller boy in a makeshift ring of desks, using antique gloves stuffed with straw. He stated that BR2 forced him to fight and deliberately made it an uneven match because he didn’t like him at all:

“He forced me in and the other boy just hit me once and knocked me unconscious. When I came round he hit me again. He smashed my nose to bits, my face was all swollen and I had two black eyes. The fight was watched by all the other boys as well as BR2, **BR 15** and **BR 28** **██████████**.”

5.14 In his oral evidence his description of the fight changes; at page 32 line 11 he stated:

“I didn't want to fight anyway in the first place, but they put the gloves -- they more or less pushed me in to have a go at him. I didn't last two seconds. He broke my nose straightaway, and then when he had me on the ground, he still kept battering me and he nearly knocked me unconscious.”

5.15 BR2 addressed this matter in paragraph 52 of his statement⁵⁹. The boxing match if it did occur would not have been conducted in the manner described and if serious injuries had resulted they would have been treated appropriately.

⁵⁹ RUB 1937.

5.16 A further example of this witness's tendency to exaggerate and distort his evidence can be found when he rather dramatically informed the Panel that when he left Rubane at 15, he went straight away to Derry and made his way back to St Eugene's Cathedral where he spoke to Bishop Daly and advised him of the Abuse in Rubane.

Day 59 page 44 line 14:

No. I'd spoken to -- the only -- when I got out when I was 15, when I actually did get to Derry, I went straight to the cathedral chapel and I think it was a priest at the time, SND 228, and I spoke to him and I told him of all the carry on that was going on in there and all the abuse. He told me -- I says, "You've got to do something about it" and he said, "We'll look into it and get everything sorted". Nothing was ever heard about it at all.

5.17 He was further questioned on his meeting with Bishop Daly in St Eugene's Cathedral by the Chairman at page 47 line 13 and at page 48 line 11 it is recorded:

Q. But you said that you spoke to a priest and you said that later -- you didn't say later, but later on we know that he became SND228. Are you sure that it was the bishop you spoke to?

A. I can't be sure of that. I can't be sure of that, because I just think it was SND228, because he was young at the time, and I can remember seeing him on the television during the Troubles and I said to myself, "That's the priest I went to see when I got out of the home". I recognised him off the television.

The certainty of the consultation is now replaced with something far more unclear with an implicit recognition that this could well be a false memory created by a television image.

5.18 Conclusion

HIA 244 was an unreliable witness whose evidence is improbable, inconsistent and wholly unbelievable.

3. [REDACTED] HIA 225Week 4Day 63Monday 3 November 2014

5.19 “This is the way it was. I mean, that's -- that's what we grew up with either in Rubane or in Nazareth Lodge, but in Rubane, yes, there was painful memories but there are also positive experiences as well, to be fair.”⁶⁰

5.20 He explained that he had positive memories about BR2 and BR6:

“I had good -- I thought I had good relationships with most of the Brothers.

I would have had a good relationship with BR2, who taught me how to play hurling. He was a good hurler, if I recollect correctly.”⁶¹

5.21 HIA 225 was a very impressive witness, he gave his evidence in a calm composed and moderate way. He is presently working as a social work services manager, managing five social work teams, and managing three children’s homes and an intensive support services team.

5.22 He first mentioned BR2 in the context of making a complaint to him about the behaviour of Mr and Mrs [REDACTED] towards him, he recalled a specific incident where Mr and Mrs [REDACTED] had forced him to take a tablet after he had spent too long in the toilet. He informed BR2 and this was addressed by BR2:⁶²

“I went to see BR2 and had advised that I was very unhappy about this and wanted to move from this couple's care, and in fairness BR2 very quickly made arrangements for me to move to the house.”⁶³

5.23 The matter was further addressed by the witness in answering questions about when he could speak out about issues:

⁶⁰ Day 63 page 47 line 21-25.

⁶¹ Day 63 page 47 line 7-10.

⁶² Day 63 page 36 line 13 - page 37 line 2.

⁶³ Day 63 page 37 line 2-6

“Yes. That was the age I felt I could speak up and in fairness I was listened to at that stage. BR2 did intervene and I realised then I could speak up.”⁶⁴

5.24 HIA 225 recollected that shortly after his arrival in Rubane in August 1968 he had witnessed BR2 putting two boys over a railing and beating them on the backside:

"I remember two boys running away once. BR2 put the boys over a railing and beat them really hard on the backside with a bamboo cane. We were told never to run away because they would find us and punish us. I never ran away."⁶⁵

5.25 HIA 225 was unable to recall who the boys were at this stage, however it was his belief that the punishment was for absconding, it was administered at the railings across from what would become the billiard/snooker room and in-front of the other boys.⁶⁶

5.26 BR2 categorically denied that this incident occurred. He said he would not have punished boys in this manner and he would not have had the authority to administer punishment at this time:

“I never did that. I’m -- I’m sorry to hear that such a thing should have happened out in the open and boys put across a railing. You could almost call it a public -- no, I will not use the word -- public punishment in that way. I have never done anything like that. If he says that it happened and the boys were lined up in the school yard and it happened on that occasion, I would not have been in the school yard then. I would have been in my classroom preparing my lessons. I would have waited in my classroom for the boys to come in, and it -- possibly it had been a mistaken identity as far as I am concerned, but I never witnessed anything like that or I never participated in anything like that”⁶⁷

5.27 In 1968 BR6 was in charge of the Home and it would be his responsibility to administer corporal punishment.

5.28 At paragraph 36 of his statement HIA225 described a vicious assault on him by DL95. He described it as a “good hammering, he split his lip, made my nose bleed and gave me a black eye,

⁶⁴ Day 63 page 38 line 22 -24.

⁶⁵ **RUB-640 paragraph 29.**

⁶⁶ Day 63 page 43 line 17 to page 45 line 2.

⁶⁷ Day 74 page 90 line 11 -23.

DL95 was the toughest boy in Rubane. Nobody intervened. I realised afterwards that BR2 was watching.”⁶⁸

5.29 HIA 225 was questioned about this incident on Day 63 beginning at page 65 line 12

Q.This is an incident where you say BR2 saw what happened and didn't intervene. DL95 has said to the Inquiry that you are mistaken. It was BR12, not BR2 --

A.Uh-huh.

Q that pulled him off you as he was -- I think you described it to me earlier as he was giving you a beating, but you are clear your recollection is it was BR2 who saw what happened?

A. All I can recollect is I can't say for certain whether he saw it or deduced from the conversation we had that he had done so, but to put this in context, both these boys took delight in trailing me down this set of stairs and hurting my middle back and I saw red and went to hit the other person.

Q. Not DL95?

A. Oh, absolutely not. You wouldn't hit him.

A. I managed to hit him and he gave me a beating and I wouldn't stay down, and I don't know who pulled him away. I can't recall that.

Q.That could have been BR12?

A. It could very well have been. I do recall BR2 speaking to the two of us in his office and asking me what had happened. Well, I wasn't for saying what happened -- you didn't do that -- and we both got caned. Interestingly, though, anybody previously who would have been giving me a tough time stopped. I'm not sure what connection that has to it, but I certainly wasn't for telling.

⁶⁸ RUB-642

Q. And BR2 has denied to the Inquiry that he watched a fight and didn't intervene. He says that in paragraph 16 at 1931, but you have -- that's your --

A. That's my view. I can't -- I'm not suggesting that BR2 has been anything but giving his version, but certainly I recollect the conversation we had, and if he didn't see it, he knew about it, and I felt I was twice victimised. I got a pasting. I kept my mouth shut and then I got caned as well.

5.30 This is a very significant passage in the evidence of HIA225 because it quite graphically illustrates the problems that even a genuine and sincere witness has in describing an incident that occurred over 40 years ago. It is of enormous assistance because it helps the inquiry to address the primary question in determining matters of dispute in relation to this particular witness. It is not whether this witness is sincere and genuinely doing his best but rather is he accurate.

5.31 The issue of mistaken identity is something that HIA 21 also raises in connection with HIA225. However the fact that HIA identified that BR2 was someone who would listen to and address a complaint, is very important, equally significant was that the threat of informing BR2 was sufficient to bring this incident to an end:

“Q. -- and you describe basically waking up and finding this boy at your bed, and you describe his hand under the covers trying to touch you.

A. He was on the edge of my bed. I woke up and his hands were down my pyjamas or whatever I was wearing, and I told him at that stage to stop, and I suggested to him that if didn't he stop, I would tell BR2. I had enough at that I didn't want anything more to happen to me in there.”⁶⁹

5.32 A further important aspect of his evidence was the fact that this witness contacted BR2 to request work experience to enable him to compete in the job market when his lack of experience was identified in a job interview. He contacted BR2. He informed the Inquiry:

“I tried to work out, "How can I do this?" and in fairness I did ring BR2 and the Order was extremely helpful in inviting me down, and I worked with her at weekends for a period of time. Then I did some youth work, and then saw an advertisement in the paper for an assistant

⁶⁹ Day 63 page 70 line 3-11.

houseparent in a children's home and applied for it and got that job, and my career started from there.”⁷⁰

5.33 He publicly expressed his gratitude to BR2, for facilitating the start of a successful career.⁷¹

5.34 Conclusion

HIA 225 is a very important witness who provided convincing evidence of BR 2's commitment to caring for and assisting destitute and deprived boys.

4. HIA 31

Day 66

5.35 HIA 31 was clearly a very damaged individual. However he recognised that BR2 was good:

Can you remember the names of the people you say were good? Well, BR2, he only hit me when I stepped out of line or ran away from the home -- right -- because that was probably a rule. You broke the rule, you got slapped, you got punished. You got grounded. Know what I mean? I ran away that many times. I knew BR2 was going to slap me. Right?

5.

HIA 25

Day 66

5.36 At page 104 of Day 66 HIA 25 outlined the Corporal punishment that he received for absconding. He detailed that it was not simply painful but was a lesson of fear. He was not 100 percent certain that BR2 administered the punishment but believed it was the Head Brother who had punished him. This less certain position contrasts with his statement at paragraph 17 RUB-848 and it conflicts with HIA 18's description of BR2.

⁷⁰ Day 63 page 89 line 10-17.

⁷¹ Day 63 page 89 line 22- page 90 line 1.

5.37 He went on to state that he didn't have any other difficulty with BR2 beyond the caning.

5.38 The Inquiry will be well aware of the particular circumstances of HIA's 25 and the arrival in the home at the age of 7. BR2 stated very clearly in his evidence that Corporal punishment would not have been administered to a seven year old.

5.39 HIA 25's allegations against BR2 have been inconsistently made and are inconsistent with other evidence. His description of his time in Rubane has become distorted and confused over the passage of time.

Other relevant witnesses

Monday 20 October

Day 59

██████████ (HIA 64) (1963-66)

6.1 HIA 64 was present in Rubane during BR2's time (BR2 was appointed on 31 August 64). He describes in detail being punished in an excessive manner for absconding. He states that the punishment was administered in front of the class and he was spread eagled. He details that he was held down by other boys but significantly the caning was administered by the Head Brother - who would have been BR6 and not BR 2. - We have not been supplied with the date that this punishment was administered on.

6.2 HIA 64 was a very reliable witness. Diligent, honest, hardworking he has been married 43 years and has two sons and a grandson. He has been employed more or less continuously from the time he left care, initially employed in jobs through the Nazareth Lodge after care committee and then as a painter and decorator up until the last 10 months. He lost his job as a consequence of the recession.

6.3 He moved to Rubane as part of the August intake from Nazareth Lodge on 15 August 63.

6.4 The witness detailed bullying behaviour amongst the boys and detailed violent behaviour by the woodwork teacher DL6. This teacher has almost uniformly been categorised as a brilliant craftsman but temperamentally unsuitable for a teaching position. It would appear that the boys were well aware of this and would tease him to provoke a violent reaction.

6.5 He then described being caned by the Head Brother who would have been BR6, in-front of the class. He described being spread eagled and caned on the backside and this was more severe than the usual caning; both as punishment and deterrent to him and other boys. In response he ran away for a second time. When challenged on this issue in his oral evidence he stated:

“Well, I'm not sitting here telling lies. I got it. I know I got it. I'm not going to -- I'm not going to take it away. I did get it. I got a hammering for -- all right. I run off, but I shouldn't have got hammered the way I got hammered. I don't mind getting punished for something I done, but not like that.”⁷²

6.6 He also detailed an attempted sexual assault which he believes was committed by BR 15. He has surmised it was him as a male attempted to grope him when he was sleeping and he didn't see who it was but “hit him a dig” and he noticed that BR 15 had a black eye the next day. He also referred to BR 15 having “favourites”. It has been accepted by the Order that BR 15 was an abuser.

6.7 He also referred to being aware of peer abuse in the home and being aware that it was an issue.

6.8 HIA 64 also addressed the more positive aspects of his time in Rubane:

And then you describe positive aspects of your time. A number of people complained about potato picking, but you say you loved it.

A. Yes.

Q. Paragraph 28 on 548. You got off the premises, as it were, to another farm to do this.

A. We did, yes. I enjoyed it.

Q. You enjoyed it.

A. I wouldn't know. I wouldn't know.

Q. It wasn't a problem you ever had?

A. No. It was one I stayed out of. If I had to fight, I fought to stay out of it. That was it, but I don't know how big a problem it was.

Q. You are just aware it was an issue?

It was an issue, yes.

Q. But not for you?

⁷² Day 59 page 64 line 6 -11.

Q. I mentioned to you before, if I could summarise it this way, the flavour through your evidence is that you were able to look after yourself as you got older -- Yes.

A. I enjoy physical work.⁷³

6.9 HIA64 is an important witness for BR2 because he is another witness who describes the punishment for absconding in similar terms to HIA225 but in common with HIA 36 and HIA21 he describes BR6 as the Brother who was likely to have administered it.

Day 61 Wednesday 22 October 2014

(HIA 110)

6.10 This witness appeared before the inquiry on the afternoon of Wednesday 22 October and provided an immediate contrast with HIA 191. He came up through St Josephs and Nazareth Lodge and then went to Rubane on 16 August 1967 when he was 12 as part of the 'annual group'.

6.11 He now lives in Divis Tower has a keen interest in gardening and developing his allotment - makes vegetable soup and he developed his interest in gardening in Rubane. He had no complaints to make about **[REDACTED]** BR 2 **[REDACTED]**⁷⁴

6.12 HIA110 developed a good relationship with BR22, who arrived aged 66 in September 1968. He had spent 40 years in the Keady Community of the Order. He introduced HIA 110 to a family in Keady who still to this day take him down to their house for Christmas and the summer.

6.13 He mentioned being friends with **[REDACTED]** HIA 19, **[REDACTED]** HIA 152 and **[REDACTED]** HIA 64. Those friendships have continued to this day and he recounted occasions when the boys were taken to Newtownards Cinema, which was something he enjoyed.

(HIA 132)

6.14 He was in Nazareth Lodge and transferred to Rubane on 20 August 1968 aged 11 as part of the summer intake. He stayed there until 25 June 1972 aged 15.

⁷³ Day 59 page 69 line 18 - page 70 line 1

⁷⁴ Day 61 page 53 lines 11-23.

6.15 He has been married for 37 years, and has 3 sons and 4 grandchildren. He worked as a sales rep up until 6 years ago, when he retired to become a full time carer for his wife

6.16 He was a truthful witness who gave his evidence in a composed and convincing manner. He was extremely complimentary to BR2 and continued to visit him in the years after he left Rubane. He has visited him in Dublin.

6.17 He was however critical of the quality of the education that he received and the care that he received and said he was abused by DL134.

6.18 He was friends with HIA 21 and HIA183 and he publicly thanked them for the support they have provided to him.

6.19 He also gave evidence that Br 13 was a real gentleman.⁷⁵

6.20 “No, any of the Brothers I have no difficulty with. You also had a good relationship with BR 2? Yes, I always had a good relationship with BR 2. Even when I left the home and in later years, I used to call in to see him in Dublin. You would have been a rep on the road? Yes, and I would call and see him numerous times, and in too, BR 3, and they looked after me big time No problems with them.”⁷⁶

6.21 HIA132 was also the Housekeeper for DL140. He outlined to the Inquiry how he had responsibility for cleaning his house, and making him his breakfast. He was taken out in his car a Ford Cortina estate to Portaferry for a drive for around an hour on a Sunday. He had a very good relationship with him and describes him as a father figure.⁷⁷

6.22 At page 10 on day 62 he provides a detailed and convincing account of the sexual abuse he was subjected to by DL134 a houseparent in chalet 1. He was sexually assaulted in a car on his own returning from an accordion lesson in Newtownards. HIA132 had not revealed the abuse to his family until he had discussed it with his family the previous night before he gave evidence. He also provided a convincing account of meeting DL134 years later in a shopping centre, and DL134 had asked if he had told anyone about the abuse.

⁷⁵ Day 62 page 8 line 2-5.

⁷⁶ Day 62 page 17 line 19 - page 18 line 1.

⁷⁷ Day 62 page 19 line 14 - page 20 line 17.

6.23 HIA132 provided reliable evidence of the physical abuse by the wood work teacher DL6.

HIA 36

3 November 2014

Day 63

6.24 He gave his evidence to the Inquiry on the 3rd November 2014. He was a straightforward uncomplicated witness who gave his evidence in a composed, reliable and balanced manner. He described sexual abuse carried out by BR15 and DL141 but was complimentary towards BR2 and to BR3. He succeeded in a considered and careful way balancing the horrific abuse that he suffered, against the good times that he enjoyed. He appeared very aware of the difficulties failed by the Brothers and the need for discipline within the home.

Q. And you say to the Inquiry that you have a series of positive experiences that you want to also reflect. Most of it was positive. Most of it. That's God's honest truth. It wasn't -- you know, I know you are more or less dealing with the sexual -- sexual nature of this here, but it wasn't all based round that, you know. There was positive times and there was good times and ...⁷⁸

A. I don't have anything bad to say. Honestly they are -- I found them all very fair.

Q. You got the normal six of the best at times?

A. Of course I did. That was the normal, like, you know -- it was -- you broke the rules. You got punished for it, you know, but ...⁷⁹

6.25 HIA 36 is an important witness for the Tribunal because of the complaint that he makes to his mother about sexual abuse by BR15 **BR 15**. This was investigated by BR6 Albert and brought to the attention of the Irish Provincial. The meetings are recorded in BR2's diary⁸⁰:

⁷⁸ Day 63 page 154 line 18 -23.

⁷⁹ Day 63 page 144 line 11 -16.

⁸⁰ Day 63 page 135 line 21.

6.26 He also said that he enjoyed a good relationship with BR3, and BR6 who he described as hardworking. He made a statement in 1997 in which he said he found it difficult to believe the allegations that were being made against them at that time.⁸¹ In relation to BR2 he stated:

“A. Because I didn't want to bring any sort of -- the Brothers were --
You know, I found them more or less -- they were all pretty good like, you know, and I didn't want to tarnish their name more so.

Q. Just on that subject, the two mentioned here, BR6 and BR3

A. -- Uh-huh. --

Q the other main Brother who was there in your time was BR2. You had a good relationship with all of those?

A. Yes.”⁸²

6.27 In his statement at **RUB 479** at paragraph 28 and in his oral evidence he addresses the issue of punishment for absconders and he recounts an incident very similar to that described by HIA 225 and HIA 21.⁸³ Significantly he states that he believed that this punishment was administered by BR6. This account provides further corroboration for BR2's contention that HIA 225 is mistaken when he identified BR2.

HIA 104

4 November Day 64

Page 100 line 9 -12

6.28 Q. “So some of the other Brothers who were there in your time, the likes of BR6, BR2, BR3, later known as BR3, those Brothers you never had any difficulty with?

A. Never, not an ounce.”

⁸¹ **RUB 2589 11 August 1997 Day 63 page 142 line 16 -23.**

⁸² Day 63 page 143 line 6 -15.

⁸³ Day 63 page 152 line 4 - 154 line 4.

██████████

HIA 50

6.29 HIA 50's allegations lacked all credibility. He has alleged anal rape against BR 33. This was fully investigated by the police and social services in 1984 and there is a very detailed report which has been compiled by Mairie Frizzel. While there clearly was inappropriate discipline and intoxication, there was no sexual assault.

6.30 HIA 50 alleged that BR 33 came back one night drunk went up to his room stripped him naked and then raped him and there were other boys present who would corroborate him.

6.31 One of the Boys ^{DL 97} ██████████ stated there was no sexual assault in 1984 and now in 2012 stated he could not remember.

6.32 HIA 50 has alleged at the time that BR 33 was drunk and he found HIA 50 up and running about BR 33 then disciplined HIA 50. In response HIA 50 threatened to run away, to prevent this BR33 took HIA 50's drawer and locked it up.

6.33 HIA 50 retrieves his drawer and clothes the next morning, in order to do so he has to walk downstairs wrapped in his blanket to protect his modesty. BR33 accepts most of the story but claims to have had 2 pints and that HIA 50 stripped his own clothes off.

6.34 The Order paid him £10,000 which he described as an enormous amount of money. The Order has stated that they regret paying him.

6.35 On day 68 at page 89 line 10 HIA 50 stated that:

“Your mouth had to be shut if you spoke out, you were hit, you met BR2 and you got a slap.”

6.36 We were not provided notice of this allegation and it is not contained within the statement that is available on the Inquiry website **RUB-764**

6.37 HIA 50 was a poor witness and the allegations that he makes against BR2 are implausible.

██████████ DL 40

Day 71

6.38 The Inquiry is aware of the background and occupation of this witness. He clearly was an impressive witness who gave his evidence in a balanced and thoughtful way. He provided his statement to the Inquiry through Napier Solicitors and he did not consider that he was abused by the Order. However the Inquiry felt that he could provide evidence to assist them. He made it clear at the outset that he still held the Brothers in high regard, and at the beginning of his testimony looked up to the gallery in a considered gesture to where BR2, BR10, and BR 45 ██████████ were sitting.

6.39 He provided detailed and consistent evidence of grooming behaviour followed by sexual abuse by Father Brendan Smyth. His evidence was that he had informed BR 1 ██████████ (BR1) of the abuse. The witness stated he was informed by BR 1 that he would deal with it; after this there was no letters, no money, and no visits from Brendan Smyth.⁸⁴

6.40 The witness was informed that there was no record of BR1 reporting this abuse and that Smyth had gone on to abuse others.

6.41 Excerpts of BR1's police interview were relayed to the witness. Setting out that BR1 knew the witness describing him as a good lad and a coloured boy who resided in Chalet 3. The Panel was informed that Father Brendan Smyth was a big man with a big head and would not be the type of person that you would forget. The witness agreed with this description.

6.42 Portions of BR1's police interview were read to the witness in which BR1 repeatedly claimed to have no recollection of Brendan Smyth or of being informed of the abuse by DL 40. Clearly this was not true and it caused the witness to be visibly shocked and distressed. This was evident to all in the chamber.

6.43 In relation to BR2 DL40 stated:

6.44 'You identify a number of Brothers in your statement. I just want to touch on those with you. You talk at paragraph 8 at 1485 about BR2 and how you had respect for him.

⁸⁴ RUB 60442

"He was a gentleman, strict but in charge, and needed to be."⁸⁵

6.45 BR2 was a very fair man, firm, but fair, and again I regard him as a gentleman and as a person I would keep in contact right up to this day.⁸⁶

HIA 21

Day 70

6.46 HIA 21 was another convincing and reliable witness who informed the Inquiry that he had provided evidence on behalf of BR2 in the civil trial of DL 324 and that he holds him in the highest esteem.⁸⁷

DL 455

Day 70

6.47 In a very comprehensive and considered statement this witness provided details of his time in Rubane with pen portraits of each of the Brothers that he could recollect.

6.48 In common with HIA 21, HIA 259, and DL40, he identified one of the major problems in the home as being the two distinct groups of boys; the Orphan and destitute boys, and those boys who had come through the criminal justice system. The Inquiry will recall that avoiding this toxic mix of people was one of the principal reasons of establishing a home in Rubane in the first place.

6.49 He provided important corroboration for the evidence of HIA152 - in relation to the sexual abuse he suffered by BR15. He also confirmed to the Inquiry that HIA147 was a very disturbed person who masturbated in the middle of the dorm.

6.50 As regards BR2 he described him as an inoffensive man rather quiet. He just did his job. Big into sports. He felt that he could have intervened when a boy name tried to interfere

⁸⁵ Day 70 page 92 line 19.

⁸⁶ Day 70 page 93 line 22 -24.

⁸⁷ At RUB 888 paragraph 53.

with him. However the witness acknowledged that BR2 may not have seen the incident or appreciated what was happening.

HIA 18

6.51 HIA 18 presented with some difficulties and there can be no question that events have become distorted in his mind. However in respect of BR2 he stated:

“At the same time the Order, those who are alive who can comment on it, the likes of BR2, who you have a good word for, would say that it wasn't that excessive, that corporal punishment was used, but that -- beyond that these incidents of violence, certainly he is not aware of them, didn't engage in them. You make no allegation that he did, but you are saying others did.

A. Exactly, yes.”⁸⁸

HIA 381

Day 69

6.52 Along with his brother HIA 382 he did not give oral evidence to the Inquiry however in his statement he described BR2 as simply being in charge and he got on alright with him.

HIA 382

Day 69

6.53 He felt he was respected by the Brothers and enjoyed his time in the Home, he indicated that there was no sexual abuse and he was not aware of sexual abuse.

6.54 He was an individual who had difficulty with his teeth and there is a considerable amount of documentation relating to appointments, reviews and treatment.⁸⁹

6.55 The reports by social workers have described him as being subject to temperamental outbursts on occasions and that this progress had been reasonable but he required close supervision.

⁸⁸ Day 66 page 34 line 5-12.

⁸⁹ Period 1982 -83.

6.56 He is described as a great sportsman, matured so much that he is like a member of staff and a house captain.⁹⁰

6.57 He recorded that DL360 a PE teacher punched him on the face and broke his nose and he also indicated that he witnessed BR6 slapping boys around back of the head and administering corporal punishment in the storeroom. He also claimed to have witnessed BR10 hit boys where no one would see a mark. He never hit me.⁹¹

6.58 The allegations against BR10 are not accepted and given the amount of information that is available on this man and the regular visits to both hospital and by social workers if he had indeed had his nose broken in the manner described one would expect this fact and the reasons for it to have been documented. It is respectfully suggested that on these issues the witness's recollections have become distorted with the passage of time.

Conclusion

6.59 The reliable evidence confirms that BR2 is a man who did his best in challenging circumstances to improve the opportunities in life for deprived and destitute boys. He was not a predatory individual who engaged in the physical or sexual abuse of boys. The basic decency of the man and his commitment to Christian justice was demonstrated to the Inquiry when he provided oral evidence on day 74. The profound effect that the allegations, police interviews and court cases have had on him is particularly marked and it is incredibly sad that a life which has been devoted to improving the lives of children less fortunate has for the last 20 years been controlled by malicious and false allegations of the most vile abuse.

Written submission on behalf of [REDACTED] (BR 62).

7.1 The Inquiry is referred to the witness statement of BR 62 dated 23rd September 2014 which was submitted on his behalf on 26th September 2014.

⁹⁰ RUB 32562- A Social Work document.

⁹¹ RUB 728 paragraph 17.

7.2 A medical report from Dr. Patrick Redmond dated 10th October 2014 was forwarded on 14th October 2014. This report set out the significant health issues which prevented BR 62 attending at the Inquiry to give oral evidence.

7.3 There is a single allegation against **BR 62** as he is now known and this was made by **HIA 222** – HIA 222 in his witness statement to the Inquiry which is dated 4th March 2014 (**RUB-629 to 633**). He gave oral evidence at the Inquiry on Tuesday 4th November 2014.

7.4 It is not proposed to restate any of the matters referred to in BR62's statement to the Inquiry other than to confirm he was an assistant House Parent in chalet one from September 1974 to June 1975 and had no other allegations made against him throughout this period of time.

7.5 It is understood HIA 222 has not made a statement to the police at any time.

7.6 In page 11 of the transcript at line 18, HIA 222 describes the incident with BR62 which also involved DL131. However the allegation itself is uncorroborated and in particular it would appear DL131 had not come forward to support the account of this incident. In line 21 of page 13 Inquiry Counsel confirmed to HIA 222 this is the only allegation that has been made against BR 62. In page 14, line 6, Inquiry Counsel asked why he did not report the alleged assault to Mrs McCann the social worker who visited him or BR 2 and the response to that is given at line 11 to the effect there was a culture of not reporting allegations of this nature.

7.7 The second allegation made against BR 62 is referred to in the transcript at page 16 at line 6 when again it is alleged BR 62 came into the bathroom in close proximity to the dormitory and allegedly used a strap to beat the boys. He said "BR62 came through the bottom door like a madman..... and then he went in and I heard him walloping all round him with that strap and the squeals of them ones that was in the bathroom."⁹² However HIA 222 does not identify the boys involved in this incident and no-one has come forward to corroborate his account.

⁹² Day 64 page 16 lines 14-20.

7.8 Page 22 of the transcript deals with the allegation contained in paragraph 11 of HIA 222's statement. Again although a number of boys seem to have been involved, no other former residents in chalet one has described a similar incident.

7.9 In page 30 at line 7, HIA 222 was asked whether there were marks caused after he was struck in the face by a strap following the smoking incident referred to above. At line 13 his response was there were marks on his face and body but although other staff would have seen the marks he stated nobody commented on them. It seems remarkable that no-one enquired or investigated this alleged assault.

7.10 The De La Salle Order response is at **RUB-3299** through to **3301**. BR2 commented that he never heard of BR62 being aggressive in this way and also pointed out BR62 had no recollection of HIA 222 and denied ever having a leather strap in his possession or administering corporal punishment. In summary no other boy in chalet one has made any allegations against BR62 and the allegations themselves are totally uncorroborated. Furthermore there is no contemporaneous reporting of the allegations to a social worker, family members or any other person in authority in the Home. In his statement to the Inquiry BR62 emphatically denied the allegations against him.

In conclusion, it appears remarkable that if BR62 was brutal and violent as alleged by HIA222, no other allegations were made against him and no other individual has come forward to complain about his behaviour towards the boys.

Written submission on behalf of [REDACTED] (BR 25).

8.1 **BR 25** [REDACTED] – BR25 made a statement to the HIA Inquiry which is dated 30th September 2014 and in that statement he referred to the sole allegation made against him by **HIA 41** [REDACTED] – HIA41. It is not proposed to go through the contents of BR25's statement other than to confirm he was a relief assistant and not a permanent member of staff at Rubane during part of the summers during the years 1978 until 1981 and with the exception of the allegation made against him by HIA41, his name has not otherwise come up in this Inquiry.

8.2 HIA41 was called to give oral evidence on Monday 17th November 2014 and the Inquiry panel will be aware HIA41 made his Inquiry statement which is at **RUB- 484** to 512

as well as a total of eight police statements, details of which are referred to by Inquiry Counsel in page 4 line 20. It was only in a police statement dated 10th September 2010 – **RUB-67626** that HIA41 mentions BR25 for the first time and makes allegations against him. In a subsequent police statement dated 6th September 2011 – **RUB-67038**, HIA41 again refers to the allegations he has made against BR 25. Following these two statements BR25 was interviewed by the police on 15th November 2011 and the transcript of the police interview is at **RUB-67998 to 68020**.

8.3 At the end of page 28, line 25 of the transcript HIA 41 referred to his allegations against BR25. Further details are set out in page 29 and at line 8 Inquiry Counsel referred to BR 25's police interview in 2011 and the fact he was angry that he had discovered, through others, that something had been put on a website about him in 2011 and that he googled HIA41's name and this website had come up. The comments purportedly made by HIA41 on the website are graphic and extremely abusive about BR25. In response, at line 17; HIA41 stated: "I know nothing about that".⁹³ However his denial is hard to accept given the fact he is clearly identified by name on the website; he specifically referred to and described BR25 which is matched by the contents of his police statements, and he is the only person known to have made allegations against BR25. In page 30 of the transcript he again referred to BR25 as being in care of the boys in chalet one and at line 7 stated two of the boys he took into the shower were DL131 and DL47. This account is similar to that set out in his HIA statement at **RUB-497**. However in his HIA statement, he introduced a sexual element to his account of this incident for the first time. He suggested the reason the boys were lined up in the shower with their backs towards him was because he thought BR25 was masturbating.

8.4 When he described the same incident in his earlier police statement dated 10th September 2010 at **RUB-67632** and again in a subsequent police statement dated 6th September 2011 at **RUB-67044** there is no suggestion of a sexual element to his allegation.

8.5 BR25 vehemently denied the allegations made against him both during police interview and in his HIA statement referred to above. There is no evidence the other boys referred to by HIA41 as having been forced to stand naked in the shower with him, have come forward or supported the account of this incident made by HIA41. The Inquiry will note HIA41 has made a large number of statements to the police but has not been consistent in his account of the alleged incident concerning BR25 and although he has described BR25 as

⁹³ Day 67 -page 29 -line 17.

being very violent towards him, regularly beating him with his fists and feet – see **RUB-67632**, **RUB-67044** and **RUB-497**, no further details or description of the alleged assaults has been provided. Following a consideration of the evidence and the allegations made against him, the PPS subsequently directed no prosecution against BR25.

8.6 We have already commented on credibility issues concerning HIA41 and his engagement with this Inquiry and we would refer you to our comments in our submissions on behalf of BR2. We suggest HIA41's allegations against BR25 cannot be relied upon and his abusive rant against BR25 on the internet (which he implausibly denies any knowledge of) stands in stark contrast to a Brother who has dedicated his life to teaching children, often underprivileged and in disadvantaged circumstances as set out in paragraph 3 of his HIA statement.

Written submission on behalf of [REDACTED] (BR 10).

9.1 **BR 10** (BR 10) provided a statement to the HIA Inquiry which is dated 3rd October 2014 and also gave oral evidence on Tuesday 25th November 2014.

9.2 It is not intended to restate what is contained in BR 10's statement to the Inquiry, other than to confirm he went to Rubane on 1st September 1975 as a House Master supporting the House Parents in various chalets until 1985 when he took up a teaching position in a school in Dublin. It is also fair to repeat the contents of paragraph 34 of his statement in which he asserts, apart from his 10 years at Rubane, no other allegations, whether of a physical or sexual nature, have ever been made against him during his 34 years teaching and supervising children. He has never been charged with any criminal offences arising out of the allegations made against him at Rubane. The reliable evidence establishes that he was very supportive to the children and in particular encouraged those who had an interest in sports and music. The Inquiry has heard testimony from some of the former residents who expressed their gratitude to him for his extra curricular activities, bringing the children on trips outside the Home and participating in sporting and musical events. Further support for this view of BR 10 is found in the remarks of BR 7 who gave evidence on day 75, page 74, line 15. He observed BR 10 got on well with the young people in general. He was involved in a lot of

activities. He ran a musical group and involved local people from around Portaferry and entered Scor competitions.

9.3 However, five persons, namely HIA 18, HIA18, HIA 170, HIA170, HIA 259, HIA 259, HIA 382, HIA382 and HIA 25, HIA25, provided statements to the Inquiry in which they made allegations against BR10. Furthermore, following a review of the material provided by the HIA Inquiry, BR10 in his statement also commented on other allegations made against him by a number of former residents. BR10 denied he was violent or used excessive force and his detailed responses to each allegation are set out in his statement. Only one allegation of a sexual nature was made against him – by DL 190 and his denial of this particular allegation is contained in paragraph 26. Again it is not intended to repeat the denials or refer to the inconsistencies or lack of corroborative evidence as BR10’s comments about these matters are contained in his statement. There are however a number of matters which should be commented on regarding the oral evidence given by HIA participants insofar as they relate to BR10. Finally it is also intended to refer to BR 10’s oral evidence.

9.4 HIA 259, gave evidence on Wednesday 5th November 2014 and the transcript is contained from page 58 to 117. Inquiry Counsel first referred to the allegations against BR10 in page 79 at line 10 (although the Brother designation number is incorrectly referred to as BR59).

9.5 In page 81 commencing line 15 HIA 259 recounted his allegation against BR10 following the bonfire on Halloween night in which he was allegedly assaulted in the bedroom of his chalet. At line 25 of page 81 continuing into page 82, he described going into the woods and that BR 10 didn’t like it and came in after him and told him to go to bed. He then goes on to describe the assault itself in the chalet bedroom. However in page 107 Inquiry Counsel put inconsistencies in the various accounts HIA 259 has given about this incident. From line 11 Inquiry Counsel described the contents of his 1995 police statement when he stated he was put to bed early for cheek and for not going to a call up like a roll call. He was asked what he meant by the call up, the roll call. His response at line 18 is “that’s what I am saying. That doesn’t make sense... We were having a bonfire that night. So the roll call – actually I don’t know where that part came into it. That actually – the roll call was only used during the day when we were called for activities. So I don’t know about this roll call part, you know. I don’t know how that got into it”. Further down page 108 at line 16 it is put to

him that he talked in his statement to the Inquiry about other boys having to pull BR10 off him but that he doesn't make any mention of this in his police statement. The response by HIA259 to this inconsistency is set out in line 19. He says "Right. Well, from what I gathered they did. I was actually under the blankets trying to protect myself and I could hear scuffling going on outside apart from myself. So I take it they were trying to stop him – you know what I mean..."⁹⁴ The Inquiry may take the view that this is an attempt by HIA 259 to explain an obvious important contradiction in the accounts he has given about this incident. This is because in his statement to the police dated 14th August 1995 at **RUB-61981 to 61984** he described the assault in a completely different way.

9.6 Specifically, at **RUB-61983** he stated "He beat me about my face and broke my nose and burst my lip. My eyes were black because my nose was broke. He left the room and I was left to clean up my blood. I couldn't sleep that night with the pain". Yet in his HIA statement – **RUB-680** he described it as follows, "He was kicking me and actually got up on the bed and stuck his boots into me so hard that the other boys had to pull him off me". A further inconsistency in his account is put to him in page 109, line 16. Inquiry Counsel referred him to the police statement which he made after he had spoken to the Inquiry and in respect of the incident involving BR10 he told the police then that he was actually caught kissing a local girl and that was why he was sent to the chalet. He responded to this at line 22 by stating, "... we were trying to make arrangements to go and meet these ladies in the woods beside where the fire was – that's what we were trying to do". However he does not even attempt to explain this discrepancy or confirm which account is in fact correct.

9.7 HIA 259 made another allegation against BR10 in his HIA statement. In paragraph 36 he described an incident in which he alleged BR10 was dismissive about a sexual assault perpetrated by one boy on another.

9.8 The account of this is set out at **RUB-684**. In his witness statement to the Inquiry BR10 refers to this matter in paragraph 20 and pointed out the fact HIA 259 names the alleged abuser as **DL 59**, whereas in a statement to the police dated 5th June 1980 he described the same incident but names the abuser as **██████████**. In page 104 at line 20 this discrepancy is pointed out and HIA 259 is asked if he can explain that. His response at the top of page 105 is "I can't really, no... don't know why this other person came in. Maybe it

⁹⁴ Day 65 page 108 at line 16.

was mixed up with something else that was being asked of me at the time”.⁹⁵ It is clear his recollection of this incident is suspect, particularly as he provided two different names of the person who was abusing another boy. His assertion that BR10 was told about this incident and made the comment “This is a boys’ Home, what do you expect?” – **RUB-684** – should therefore be treated with some caution. BR10 did accept in his statement, paragraph 20, that he may well have come across an incident in which boys had been fighting but would not have been aware or told about the cause of the fight.

9.9 **[REDACTED]** **HIA 18** gave evidence to the Inquiry on Thursday 6th November 2014. One of the issues which arose on several occasions was whether HIA18 was regularly on the football team involved in matches and HIA18 insisted he was. At page 26, line 2, Inquiry Counsel put to him that BR77 said to the Inquiry the allegations are made up against him because he didn’t put HIA18 on the team and that this was resented. In line 13 HIA 18 disputed this and said “Not just football team. We played on the hurling team, Gaelic, basketball”. BR10 in his Inquiry statement at paragraph 10 described witness HIA18 as enthusiastic but that he was not strong enough to be in his group and he did not recall supervising him directly during football training and matches. HIA18 alleged he was subject to a vicious assault perpetrated by DL149 and that BR10 witnessed the assault but simply told him to get cleaned up and back onto the pitch (see RUB-426). In page 31, line 5, the response made by DL149 to this allegation is that there is “Not a shred of truth in it. Absolutely untrue”. This is important as HIA18’s credibility depends, to some extent, on his assertion he was regularly playing football and other sports to account for the alleged assaults he claims were perpetrated on him by BR10 and others.

9.10 In paragraph 4 of his HIA statement (**RUB-426**) HIA18 alleges BR10 would also punch and kick pupils at school and hit him on various occasions. In page 42 at line 17 this allegation is put to HIA18 and the fact BR10 denied it. Inquiry Counsel goes on to say BR 10 said he was not strong enough to be in his group during football training and matches. However in line 24, HIA18 only comments on the issue over whether he was good or strong enough to play in the team and does specifically address the allegation that BR10 carried out assaults on various boys including himself at school. This is significant because all of the evidence to the Inquiry would indicate BR10 had no connection with the school and only worked in support of the House Parents in the Chalets.

⁹⁵ Day 65 page 108 at line 16

9.11 The Inquiry has heard evidence the school was regarded as separate from the Home and there is no other evidence BR10 was inside the school, assaulting boys or otherwise.

9.12 In page 43 at line 5, the incident concerning the alleged assault by DL149 and witnessed by BR10 is referred to again and it is put to HIA18 that he has given an inconsistent account about whether the alleged assault took place during a football match on the football pitch or at the side of the football pitch when he was allegedly pushed against a wire meshed fence. Rather than try to explain this discrepancy, his response is at page 44 line 4 “Well, it did happen”.

9.13 [REDACTED] Witness HIA 31 also gave evidence on Thursday 6th November 2014. Although we have not been furnished with HIA 31’s statement to the Inquiry and were not aware he had made any allegations against BR10, he referred to BR10 in page 82, line 15 of the transcript. He alleged BR10 was in the shower with a boy and was trying to sexually assault him. It is difficult to comment on this since no previous allegation of this nature had been made and HIA 31 commenced his oral evidence to the Inquiry by disputing the contents of his own HIA statement. In previous contacts with the police HIA 31 made no such allegation against BR10 and his evidence clearly lacked credibility.

9.14 The evidence of [REDACTED] HIA 25 was also given to the Inquiry on Thursday 6th November 2014 and his evidence commences at page 91 of the transcript. HIA25 made his statement to the HIA Inquiry on 31st March 2014 and BR10 responded to his allegations in paragraph 22 of his HIA statement. In page 117 at line 11, HIA 25 is referred to paragraph 39 of his HIA statement (RUB-854) and the incident in the chalet in the snooker room involving BR 10. Although it would appear from his HIA statement the allegations against BR10 were relatively minor, he goes on to state at line 23 “I have always hated most of the staff in there but BR10 stands out. At that age I knew what he was up to. I couldn’t prove it. I never seen it, but you knew what he was up to, and I hated him more than DL149.”⁹⁶ In page 118 at line 5 Inquiry Counsel asked HIA 25 what he meant when he said you knew what he was up to and his response at line 6 is that he was involved with a select group of children who got the name of fruits and that meant they were getting abused. He goes on to state in page 120 that BR10 had his own wee paedophile ring going on in there. These are allegations which had not been made before. They were not mentioned by HIA25

⁹⁶ Day 66 - page 118 at line 23.

in his police statements or Inquiry statement. In page 140 at line 11 onwards HIA25 confirmed he played in the De La Salle team and that he was the captain of most of the teams including badminton, basketball, Gaelic and soccer.

9.15 The clear impression of HIA25's evidence was that once he knew BR10 was disputing his account, he embarked on an angry tirade against the Brother accusing him of serious sexual abuse which had never featured in any previous account he had given about his experiences in Rubane. He also did not specifically comment on the allegation made by [REDACTED] (HIA 18) who alleged he was also on the football team and was assaulted after a football match in Magherafelt.

9.16 HIA25 was not asked if he would corroborate the allegation of assault as alleged by HIA18 on all three [REDACTED] were assaulted by BR10. He did not describe any such incident in any account to the police or to the HIA inquiry and it is noted from the police interview of BR 10 – **RUB-67591** that when approached by Detective Sergeant Singleton the two brothers of HIA 18 were approached and did not wish to make any complaint or statement to the police about any such incident.

9.17 [REDACTED] HIA 170 gave evidence on Tuesday 18th November 2014. At page 22 of his evidence at line 18 reference is made to BR10 and in particular to paragraph 12 of his HIA statement in which he described being in the minibus when BR10 came into the back and struck him with a punch in the head. At line 25 of page 23 and at the top of page 24 it is put to HIA 170 his brother gave an account of the same incident which suggested it was a more sustained assault. At line 18 he confirmed he just remembered him hitting him once. He went on to say in page 25 at line 9 that BR10 was “one of the better Brothers. He was vey popular, so he was, right up until he lifted his hand to me, but I can't you know, say anything else bad about him, so I can't”.⁹⁷ This allegation was put to BR10 on day 72 and the transcript appears in Page 106 at Line 10 when Inquiry Counsel refers to the allegation made by HIA170. It was described that BR10 would have driven HIA170 and [REDACTED] home at weekends to their house in Beechmount and in fact had a good relationship with him and his family.

⁹⁷ Day 68 page 25 line 9

Q. “You talked about having a good relationship with him and his family. You would have gone to his Grandmothers house and had a cup of tea before you went back to Rubane.

A. That’s right, yes.

Q. And you then would have picked them up. In fact, you would have gone – his brother was working in a shop in Smithfield and.....

Just off Smithfield, yes, his [REDACTED] [REDACTED] worked in a music shop. They were particularly proud of him and wanted to introduce me to him nearly every week”.⁹⁸

Later on Counsel asks “In relation to the incident that he alleges happened in the minibus, I know you deny it, but is there anything you want to say more than the denial in your statement?

A. I can’t understand. I have nothing more to add. I am flabbergasted at that, flabbergasted.”⁹⁹

9.18 It is difficult to reconcile these two conflicting accounts as generally HIA170 was favorably disposed to BR10 and it is clear BR10 was kind to HIA170, his brother and indeed other members of his family. The Inquiry will have noted from the evidence given by HIA170 he does not describe in any detail the nature of the alleged punch other than his claim that he was struck once on the head and there is no indication he sustained any actual injury. Apart from the fact BR10 emphatically denies it ever happened, even on the account given by HIA170 it was something entirely out of character and when reminded about BR10 calling to his granny’s house for a cup of tea, he responded “It’s a nice memory so it is. I forgot about that” – page 25 line 7.

9.19 The police outlined their case involving the allegations made against BR10 in their 1996 report which is referred to at **RUB-61956 to 61969**. This included a review of other allegations made against BR10 not involving HIA participants.

9.20 In relation to the single allegation of sexual abuse made by **DL 190** [REDACTED], the investigating police officer, Detective Sergeant Flannigan stated – **RUB-61960**, that he assessed **DL 190** [REDACTED] as a reasonable witness who may be seeking a claim.

9.21 He also noted he had a drug and alcohol abuse problem and a criminal record. He considered his credibility as a witness would be put in question if he was seeking a claim. His

⁹⁸ Day 72 Page 106 line 10.

⁹⁹ Day 72 Page 108 line 23.

supervising officer, Detective Inspector DG O'Sullivan stated – **RUB-61968** that in the various cases outlined in the file, only the allegations by **DL 190** relate to sexual abuse.

9.22 He stated there is simply no corroboration whatsoever and out of the 999 persons interviewed in connection with Rubane and other Homes to date, no other person made allegations of sexual abuse by BR10. He recommended no Prosecution in the case. It is not intended to refer in detail to the other comments made by the police officers in their summary of the case other than to state the police officers found no independent evidence to corroborate the various claims of physical assault which had been alleged.

9.23 BR10 gave evidence to the HIA Inquiry on his own behalf on Tuesday 25th November 2014. The transcript of his evidence commences at page 72 and continues on to page 132.

9.24 In his evidence at page 87 line 2 he confirmed his recollection HIA18 was unlikely to have been selected for his team because he lacked proper co-ordination and was not strong enough.

9.25 The allegations by HIA259 involving BR10 are commented upon in the transcript commencing at the bottom of page 95.

9.26 In page 98 at line 7 he dismissed the notion that there would only have been one member of staff left to supervise an event organised at night time. At page 104 when asked to comment on one of the versions given by HIA259 that he was sent to bed for missing a roll call, BR10 commented at line 4 that the roll call was only used when boys assembled for activities in a room at 4pm so he could have divided and assigned the different groups to the different centres where the activity would take place. At page 109 BR10 is referred to the allegations made against him by HIA 25 and in particular at page 110 commencing line 22 and continuing on page 111. BR10 is referred to the allegation BR10 had a select group of children running about him at all times. In response, at page 112 line 5 BR10 was not sure whether he is referring to the sports group he used to work with or the folk group which was for boys that expressed an interest in music.

9.27 BR10 also addressed the issue of whether he intervened when some boys were beating up another boy for allegedly interfering with a younger child. At page 117 line 17 BR10 confirmed he would occasionally have to break up fights but it was never relayed to him if a particular incident arose because of sexual activity having taken place. He stated that had that been done to him, he would have passed it to the House Parent and it may also have been referred to the manager. He stated anything of that serious nature would not have passed off.

9.28 The Inquiry has heard evidence from various HIA participants that BR10 was highly regarded and popular with the boys. An example of this is found in the transcript of the evidence given by HIA 41, HIA 41 on Monday 17th November 2014.

9.29 At page 69 of the transcript he was asked a question by a panel member about a type of behaviour generally known about within the Home, he responded by making positive comments about BR10 whom he described as friendly and that he wouldn't have been violent. He stated that anything good that they got in De La Salle Boys Home came from BR10.

9.30 The Panel will have noted from the transcript of BR10's evidence that Inquiry Counsel concluded by summarising BR10's response to some of the other allegations made against him by persons who had not come forward to the Inquiry. He stated as follows: page 120, line 10 – "Q. As I say you deal with all of those allegations in detail at paragraphs 23 through to 33 in your witness statement, RUB1980. Paragraph 25 there you say that: "During the police interviews I denied all the allegations made against me and this remains my position. I have never been charged with any criminal offence and I deny I was violent or used excessive force against any boy at Rubane." You then go on to comment from paragraphs 26 onwards about each individual allegation. I can assure you that the Inquiry Panel have had the opportunity of reading your statement, BR10. So I am not going to go into each of the details, but you make various points about why they should not believe those allegations and about the credibility of the boys concerned and about various things. If we can just scroll on down through those, please. Because I am not, you know, opening up each and every denial you make, I don't want you to think that we haven't got the fact that you are denying them and that they are there and can be read."¹⁰⁰

¹⁰⁰ Day 72 Page 120 – Line 10.

Conclusion

9.31 The reliable evidence confirms that BR10 is a man committed to the Religious Order, and devoted to music and sport. He spent 42 of his life dedicated to the education and care of children. He is not a violent or aggressive individual who engaged in the physical or sexual abuse of boys. The quiet and calm nature of this Brother was evident to all who witnessed his evidence and his enthusiasm for sport and the cultural enrichment of children was obvious to everyone. His responses to the allegations made against him were measured and reflective of his personality. Although he must have been both surprised and distressed by the vile allegation made for the first time by HIA25 when he gave evidence to the effect BR10 had a select group – a paedophile ring – his response was “I am not sure whether he is referring to the group that I used to work with, group A, but he was a member of that group, or is he referring maybe to the fact that I’d the folk group, and boys that expressed an interest in trying to become part of that, whether they were the target there. I don’t know, but I always - - that’s why when I had the practice in the home, I made sure it was open and we had it in the sitting room, and other boys were encouraged to come in, and a lot did, even with a view possibly at some stage to joining the group, and possibly --- he never approached me about music and possibly felt that he would have liked to have been involved with me, but he didn’t have the -- I don’t know. I only have good memories of HIA25, tremendous sports – tremendous sportsperson. I’d have no issues with him behaviour-wise. I can only speak highly of him.”¹⁰¹

9.32 This passage has been quoted in full so that the Panel can consider his magnanimous response to a particularly serious allegation raised for the first time by the individual who previously gave evidence to this Inquiry. No words we can use would better illustrate the true nature and disposition of this particular Brother.

HIA INQUIRY**Module 3 Rubane Boys Home**

Written submission on behalf of [REDACTED] (BR 3).

¹⁰¹ Day 72 page 112 line 5.

10.1 The Inquiry will be aware from medical evidence received BR 3 was unable to provide a statement or attend at the Inquiry hearings in connection with the allegations made against him. However a letter was sent on 14th October 2014 enclosing some relevant material including a sworn Affidavit of BR 3 dated 9th November 2011 which had been prepared in relation to civil Court proceedings.

10.2 The Inquiry has been provided with a copy of his CV by the De La Salle Order which confirms his date of birth is [REDACTED] December 1929 and he first went to Rubane Boys Home on 1st September 1960. He left for a year on 1st September 1969 to attend a training course as a special needs teacher and he returned to Rubane on 4th August 1970. During his initial period he taught in the school as a general teacher and on his return in 1970 he became a special needs teacher. He left this teaching position in 1976 when he was appointed principal at the school and he remained in this post until the end of August 1982 when he left Rubane to teach in St. Patrick's Boys Primary School in Downpatrick.

10.3 In paragraph 3 of his Affidavit he has averred that as a novice in the De La Salle Order he was given the name Serenus and he was known by this name until 1978 when he was able to revert to his family name. Thereafter he was known as BR 3 and most commonly as BR 3. However as stated in his Affidavit some of the boys continued to call him BR 3 after 1978. For the purpose of this submission it is proposed to refer to him by his current name, BR 3.

10.4 The Inquiry will be aware BR 3 was interviewed by the police on a number of occasions in relation to the allegations against him. The first police interview took place at Grosvenor Road police station on 4th August 1995 and a transcript of this interview can be found at **RUB-62455 to 62538**. He was asked questions about allegations made against him by DL 243, DL 124, DL 287, DL 120, DL 286, DL 229, DL 301, DL 69, HIA 41 and DL 93. A second police interview took place at Grosvenor Road station on 27th June 1996 and the transcript of this interview is at **RUB-62539 to 62573**.

10.5 During this interview BR 3 was questioned about allegations made against him by [REDACTED], DL 309 and DL 290.

10.6 BR 3 was then charged with a number of offences involving indecent assault and buggery involving **DL 243** and **HIA 26** and he was returned for Trial to Downpatrick Crown Court on 25th February 1997. Details are set out at **RUB-62375 to 62380**. Following an abuse of process application at Downpatrick Crown Court, Judge Gibson made a ruling on 3rd April 1998 to stay the proceedings against BR 3 who was therefore discharged without having to face Trial. Confirmation of this is at **RUB-62382**.

10.7 He was interviewed by the police again on 26th August 2009 in relation to allegations made by Gabriel McCormick and the transcript of that interview is found at **RUB-64799 to 64824**. Finally on 29th August 2012, BR 3 was interviewed again by police at Grosvenor Road station in relation to allegations by **HIA 41**, **HIA 128**, **HIA 152**, **DL 297**, **HIA 149** and **HIA 26**. The transcript of the series of interviews which took place on this date is included in the bundle of HIA papers and in some cases has been duplicated thereby creating some confusion. In total five separate interviews took place on this date commencing at 12.51 and concluded at 15.04 hours. To assist the Inquiry, we are going to refer to a single reference for each of the five interviews and these are as follows:-

1. **RUB-64599 to 64621**;
2. **RUB-65911 to 65923**;
3. **RUB-67907 to 67920**;
4. **RUB-66063 to 66071**;
5. **RUB-64622 to 64629**.

10.8 The Police Service of Northern Ireland provided an outline of the police investigation case against BR 3 in reports dated 11th September 2009 and 25th August 2012. The report in relation to the 2009 investigation involving the complainant **HIA 379** can be found at **RUB-64696 to 64698** and in summary the police officer concluded he would recommend no prosecution.

10.9 The second report dated 25th August 2012 was a review of the evidence in relation to the allegations made by Mr **HIA 149** and again the recommendation was not to prosecute – see **RUB-64691 to 64695**.

10.10 Following the police interviews in 2012 and a review of all the evidence the prosecutorial decision was taken on 30th January 2013 not to prosecute **BR 3**. When confirming this decision, the prosecution authorities referred to a number of inconsistencies inaccuracies and

omissions and also referred to the lack of any evidence capable of supporting the allegations – see **RUB-66718 to 66719**.

HIA INQUIRY

Specific allegations made by HIA Participants

██████████ (HIA 262) was scheduled to give evidence at the Inquiry on Day 59.

10.11 At page 79 Inquiry Counsel stated both HIA 262 and his ██████████ HIA 26 were unable to attend to give oral evidence due to medical difficulty. However with reference to HIA 262 Counsel proposed to review his witness statement and the other relevant material. The reliability of HIA 262’s account has already been questioned, particularly in relation to BR 2 against whom he has made a number of allegations. In paragraph 9 of his HIA statement – **RUB-827**, HIA 262 describes an assault involving three Brothers included BR 3 and the point is made by Inquiry Counsel – see page 83 line 22 that if this alleged assault took place the following day as punishment for the absconding that followed the sexual assault, BR 2 was not even in Rubane at that time. Therefore if he is mistaken about the involvement of BR 2, this questions the reliability of his account in relation to BR 3 as well.

10.12 At page 92 line 7, Inquiry Counsel refers to paragraph 39 of HIA 262’s statement – **RUB-836** in which he states the police tried to contact him years ago but he kept avoiding them. Inquiry Counsel went on to state:-

“So there is no police statement from HIA 262. He also has never taken a civil claim against the Order in respect of his time there, and some of that may be to do with these medical difficulties that the panel will be aware from his medical report”.¹⁰²

10.13 There is another reference to BR 3 in paragraph 10 of HIA 262’s statement in which he describes BR 3 grabbing boys by the hair and raising them up, before slapping them at the back of the neck. This description is set out in RUB-828. It is clearly implied BR 3 engaged in this type of behaviour with an number of boys but no-one else has come forward and made allegations of a similar nature.

¹⁰² Day 59, page 92 lines 15-19

10.14 In conclusion the allegations of HIA 262 are unsubstantiated and uncorroborated.

Evidence of [REDACTED] (HIA 26) scheduled to be given on Day 59.

10.15 At page 95 of the transcript Inquiry Counsel confirms HIA 26 was also unable to attend to give oral evidence and provided evidence as to why he was not in a position to attend. HIA 26 has given a number of accounts of his time in Rubane which are not consistent as far as BR 3 is concerned.

10.16 Commencing at page 97, line 9 (Day 59) Inquiry Counsel sets out a number of witness statements made to the police. The first is dated 27th September 1995 and can be found at **RUB-60467** to **60469** and in that statement he alleges sexual abuse by a number of Brothers but does not mention BR 3. A second police statement was made on 1st November 1996 and that can be found at **RUB-65239**. It doesn't contain any specific allegations. The third police statement is made on 11th November 1996 and can be found at **RUB-62662** through to 62665. It is only in this third police statement HIA 26 mentions BR 3 for the first time. However in paragraph 22 of his HIA statement – **RUB-460** HIA 26 asserts the sexual abuse by BR 3 was the worst. However if this is the case, then it begs the question why did he refer to sexual abuse by other Brothers in his first statement but not name the perpetrator of the worst alleged abuser – BR 3, until his third statement. In pages 99 and 100 of the transcript, Inquiry Counsel sets out other omissions involving other Brothers from various statements and this highlights the lack of consistency.

10.17 At page 116 from line 3 consideration is given to the evidence and allegations involving BR3. Following the third police statement of HIA 26 made on 1st November 1996 in which he makes allegations against BR3 for the first time the DPP considered that statement and on 15th November 1996 directed that BR3 should be interviewed again about these allegations. However by then the police had already conducted a review of other allegations made against BR3 – see the report at **RUB-62401** which is dated 10th September 1996. It is not clear whether BR3 had already appeared in Court having been charged with sexual offences involving **DL 243** before HIA 26 made his statement to the police on 11th November 1996.

10.18 It is not known when BR3 made his first Court appearance at the Magistrates' Court but it is confirmed the Preliminary Inquiry against him was held at Newtownards Magistrates' Court on 25th February 1997 and he was returned for Trial in respect of alleged criminal offences involving HIA 26 and another – see **RUB-62375**.

10.19 It is therefore not clear whether BR3 had already appeared in Court before HIA26 made his statement on 11th November 1996.

10.20 If this was the case, the question arises – did HIA26 only go to the police to make allegations against BR3 because he was aware BR3 had been named and was going to be prosecuted for other offences.

10.21 There are other matters relating to the credibility of HIA 26 which although not directly relevant to BR 3 would raise considerable concerns about his general credibility. In page 122, line 8 reference is made to paragraph 16 of HIA 26 Inquiry statement in which he alleges he was repeatedly sexually assaulted by BR1. At line 12 Counsel refers to paragraph 23 which details the allegation he was anally raped by BR1. However as Inquiry Counsel pointed out at the top of page 123 the De La Salle Order has provided a statement in which it is asserted BR1 was not in Rubane during the period of time described by HIA 26.

10.22 HIA 26 has also described in his statement at paragraph 26 being brought down to the Brothers' common room and being drugged, and things happening. He identifies BR 3 as one of the Brothers involved. Inquiry Counsel comments on this allegation as follows:

“Now I want to draw to the panel’s attention that this accusation is not mentioned in any of the police statements from 1995 and 1996. There are three statements made, two in 1995 and a third then in 1996, and this type of allegation of multiple Brothers and some form of drugging is not contained in those statements”.[□]

10.23 HIA 26 does describe this incident in his ABE interview in May 2012 – see **RUB-65360 to 65378**. At the conclusion of the police investigation which took into consideration this ABE interview, the recommendation was to not prosecute – see **RUB-66719**. The investigating officer concluded there was insufficient evidence and also stated that the ABE interview contained a number of inconsistencies, inaccuracies and omissions. He formed the opinion that the injured party was not a reliable witness and the officer in charge of the investigation concurred with this opinion.

[□] Day 59, page 129, lines 20-25.

Evidence of [REDACTED] (HIA 379) given on Day 60.

10.24 In page 5 of the transcript Inquiry Counsel refers to the allegations made by HIA 379 against BR 3 who swore an Affidavit on 9th November 2011 in respect of a civil claim brought by HIA 379 and in paragraphs 5 to 8 of that Affidavit he sets out his complete denial of the allegations made against him. In page 10 of the transcript the unreliability of HIA 379's account is evidenced by Counsel's remarks: -

Q. "Now, I'm going to pause there before describing what this Brother did to you. You have named this Brother as BR 15 in your statement to the Inquiry. But having spoken to me this morning, you want to change that; isn't that correct?"

A. Yes it was BR3"¹⁰³

10.25 This can only be described as a remarkable change in the testimony given by HIA 379, particularly as he had previously given accounts about his allegations in a ABE Interview to the police, to various lawyers/medical doctors in relation to his civil action against the De La Salle Order and also in his HIA statement which he signed on 3rd March 2014. He then arrives at the Inquiry on Day 60 to give evidence and decides he has made a mistake naming BR 15 when he meant to refer to BR 3.

10.26 In page 13 of the transcript his allegation of being buggered by BR 3 in one of the classrooms is considered. His allegation is set out in paragraph 8 of his statement. In page 13 from line 13 the contents of BR 3's Affidavit are put to him and reference is made to the windows on either side of the classroom which would make it open and visible from outside. His response is set out in page 14 line 7 of the transcript which does not appear to even make sense. He states:

A. "See from outside, the windows are – the windows are a wee bit higher than the classrooms, right? What he's trying to say is, you can't see through – you can see partly through the big windows outside. But there's no way you'll see through into the classrooms from the outside, it's impossible".

Q "What about the glass windows that are on the corridor? If someone were walking along the corridor, would they not be able to see into the classrooms?"

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A “Aye, but there was nobody – there was nobody in the school at that time, because everybody – everybody was out playing. You see, once – you see, once I was hit, he pulled me into the school and locked the doors behind him so as nobody could get in.”¹⁰⁴

10.27 In his Affidavit, BR 3 refers to the classroom as being at ground floor level and so it is difficult to understand why someone outside could not see in.

10.28 Continuing, Inquiry Counsel put it to him that when he spoke to the police he described BR 3 as having grey hair whereas in 1965 BR 3 said his hair was a mid-brown colour. His response to that question is:

“I was 12 then, it could have been a different colour, but it was grey to me”.¹⁰⁵

10.29 In page 19 of the transcript Inquiry Counsel referred to HIA 379 contacting the press about his allegations and at line 15 he confirmed he spoke to the Sunday World in 2000. The article itself which is at **RUB-5451 to 5452** was referred to and HIA 379 confirmed the photograph in the article is of him.¹⁰⁶ –.

10.30 At page 20 line 4 he is referred to the fact the article only mentions physical abuse at Rubane and his explanation for failing to mention sexual abuse is at line 10 of page 20. He stated he felt guilty, he felt dirty and he felt it was his fault but that he was scared of it getting into the papers and people reading it. However this does not explain why HIA 379 went to the newspaper in the first place if he was concerned about publicity. In line 21 of the same page reference is made to his civil claim and the letter sent by his solicitor which only referred to physical assaults. The solicitor’s letter is at **RUB-5453** and the solicitors are identified as Madden and Finucane. In line 5 HIA 379 confirms he went to Madden and Finucane and also another firm of solicitors and stated he told them what happened to him.

10.31 At the conclusion of this particular line of questioning, there is the following exchange:-

¹⁰⁴ Day 60, Page 14 lines 7-20

¹⁰⁵ Day 60, Page 15 lines 2-3

¹⁰⁶ Day 60 page 20, line 3

Q “In that letter, all they talk about is the physical abuse that you suffered; there’s no mention of the sexual abuse.”

A “I’m sorry for interrupting you, but I told them definitely about the sex abuse.”¹⁰⁷

10.32 The police review of the allegations made by HIA 379 is set out at pages **RUB-64696 to 64698**. In their assessment the police noted HIA 379 never mentioned the alleged abuse to anybody until he attended a psychiatrist in connection with his civil claim. In particular he did not mention the alleged abuse to his father, even though he stated his father came once a week to visit him while he was in Rubane. When asked about home visits, he confirmed his father visited every Sunday – see page 11, line 13.

10.33 The police also referred in their assessment of the evidence at **RUB-64697** to the newspaper article from the Sunday World dated 15th October 2000 in which HIA 379 made mention only of the physical abuse he had allegedly suffered. The police had in their possession a copy of the letter from Madden & Finucane solicitors who were in fact representing HIA 379 in the commencement of a civil claim on his behalf. The police also noted the allegations were without any independent witnesses; there was no early report of sexual assault and they noted third party issues abound with the victim who had a substantial criminal record.

10.34 The police gave an example that following broadcasts of the Ryan report, HIA 379 confronted an elderly nun in a local shop and verbally abused her to the extent the police were called to resolve the problem.

10.35 The police also referred to his medical records which contained an inconsistent account. There was a letter dated September 2006 which stated HIA 379 was “sodomised” by two priests as a child and the police pointed out this was different from the account which had been given to them.

10.36 The Inquiry is also referred to the letter dated 14th October 2014 which was sent on behalf of BR 3. The enclosures attached to that letter included, at paragraph 4, a letter dated 11th November 1965 from Belfast Welfare Committee and a report from B. McClay, social welfare officer. Mr McClay, the social worker interviewed HIA 379 on 10th November 1965 which was 10 days before his discharge from Rubane. According to HIA 379’s allegations he had already been bugged twice by BR 3 and physically assaulted on other occasions. There is no reference in the report to

¹⁰⁷ Day 60, Page 22 line 17-21

any complaints of either physical or sexual assaults, even though HIA 379 had stated his father was made aware by him that he had been physically assaulted.

10.37 HIA 379 is a totally unreliable witness and the Inquiry should disregard his allegations against BR3.

Evidence of [REDACTED] (HIA 152) given on Day 60.

10.38 His evidence commences at page 32 of the transcript and the specific allegation he makes against BR 3 is contained in page 44, line 24 of the transcript. He claimed he told BR 3 that he was being sexually abused by another boy. He claimed BR 3 told him he would do something about it and that he had other reports but nothing was ever done about it.

10.39 This allegation was put to BR 3 during his police interview on 29th August 2012. His response is seen at RUB-67910 and he said he could not recall being told this and at **RUB-67911** BR 3 stated he could not recall any of the children coming to him with an allegation they had been sexually abused. At page 52, line 2 HIA 152 accepts he did not tell anybody else he was going to report the abuse to BR 3. On the same page at line 7 HIA 152 is informed that DL 437 provided a statement to the Inquiry in which he states the alleged abuse didn't happen.

Evidence of [REDACTED] (HIA 19) given on Day 60.

10.40 The evidence of HIA 19 commences on page 66 of the transcript and at page 79 at line 25, he is referred to his HIA statement at paragraph 39 – **RUB-442** in which he alleged BR 3 hit him on the hand with a cane during his time at Rubane House. In page 80 at line 20, HIA 19 accepts it is fair to say the slaps were administered as corporal punishment.

The evidence of [REDACTED] (HIA 511) given on Day 64.

10.41 The evidence of this witness was given by videolink. He had submitted a personal statement to the HIA Inquiry which is dated 4 April 2014 – at **RUB 906**. In that statement he alleged he was assaulted in a room in the main house by four Brothers including BR 3. He alleged they all had large black belts and they set out kicking and punching him around the room. Although at **RUB –**

909 he alleges BR 3 was believed by him to be abusing younger boys in his care in Kircubbin, he states he was not one of his victims.

10.42 In his evidence to the Inquiry on day 64, at page 48 he confirms details of this assault and at page 59, line 22 he also confirms that BR 3 did not sexually abuse him. He then goes on to discuss other matters and alleged incidents which took place in Rubane unconnected to BR 3 and his account at times appeared to be incoherent and contradictory. Eventually Inquiry Counsel put it to HIA 511 that he was now telling the Inquiry different things from what was contained in his police statement and his personal statement which he had sent to the HIA Inquiry and this is set out at the beginning of page 80 of the transcript. The following exchange highlights the position:-

Q “I am just saying that in your police statement, HIA 511, you are basically saying different things to what you told us, and when you were asked about this, you said that the reason you didn’t – you didn’t want to say anything – through your solicitor you have told the Inquiry that you didn’t want to tell police about the abuse inside the Home because you didn’t want to say anything about the Catholic Church and you didn’t think that the police would believe you. You have told us earlier that you didn’t feel you could trust the RUC.”

A “To be honest with you, I have nothing but hatred for the RUC. That’s the bottom line. I wouldn’t trust them.”

Q “But I –

A - “And I wouldn’t – no, I wouldn’t tell them anything. I would lie to them more than anything. You know what I mean? But who is going to go against the Catholic Church, and, as I say, we had no time, no respect, no trust for the police back in them days.”

Q “The only – the only thing I would say HIA 511, is that you do make allegations in this police statement about abuse that was perpetrated on you.”

A “But those abuses is not rape.”¹⁰⁸

10.43 In its response to HIA 511’s allegations against BR 3, the De La Salle Order referred to the note of Mr Napier’s solicitor who met HIA 511 at HMP Frankland and recorded that HIA 511 agreed BR 3 did not abuse him but he believed that BR3 knew [REDACTED] was abusing him (RUB –

2190). However the De La Salle response to that suggestion was that it did not accept BR 3 knew Hamilton was abusing anybody. In respect of the alleged assault involving four brothers including BR 3, there is no other evidence to support this and the Inquiry is aware that BR 3 throughout his police interviews denied using excessive force on any boy.

10.44 When considering the evidence given by HIA 511 to this Inquiry as a whole, it is respectfully submitted he came across as an unreliable person and his allegations against BR 3 should not be accepted.

Evidence of [REDACTED] HIA 16 Scheduled to be given on Day 61

10.45 HIA 16 made a statement to the Inquiry which was signed on 18 February 2014 – **RUB-416**. He was scheduled to give oral evidence to the Inquiry on Wednesday 22 October 2014 – Day 61 and at the bottom of page 70 of the transcript Counsel informed the Panel that HIA 16 was medically unfit to give evidence and so Counsel proceeded to review the evidence in connection with his allegations.

10.46 In so far as BR 3 is concerned there is no allegation of sexual abuse but reference was made to HIA 16's statement to the police dated 4 May 2010 which can be found at **RUB –64959**. In that statement he refers to receiving “six of the best” on numerous occasions. He described that as being six strokes on his hand with a cane or stick if he was out of line and he identified a number of Brothers, including BR 3, who carried this out. This is the extent of his allegation against BR 3.

The Panel

however is referred to the police interviews with BR 3 in which he consistently stated that while he did administer corporal punishment, it was not excessive and was in accordance with the regulations at that time.

Evidence of [REDACTED] HIA 218 given on Day 65

10.47 HIA 218 provided a statement to the HIA Inquiry which is dated 25 March 2014 and can be found at **RUB –800**. While his statement contains a number of allegations there is only one

reference to BR 3 and that is contained in paragraph 6 of his HIA statement – **RUB 801**. In fact the reference to

BR 3 is uncertain in that he describes being slapped by a Brother while standing up in the bath and being washed. His comment in paragraph 6 is – “I am not sure about the name of this particular Brother but it may have been BR3 or BR1”.

10.48 When HIA 218 gave evidence on Day 65 of the Inquiry hearings, reference is made to this incident at page 158, line 13. However when Counsel refers to the incident at line 22 he specifically relates it to BR 1 and not BR 3. In his response to this, HIA 218 appears to agree it was BR 1.

10.49 This being the case there is in fact no specific allegation made against BR 3 by this particular witness.

HIA 21

Day 70

10.50 HIA 21 was a convincing and reliable witness who gave his evidence in a balanced and considered way. He provided the Inquiry of an account of a one off incident involving BR3 in which he described being slapped very hard - so hard that the blow lifted him off his feet. BR3 accepts that he struck HIA 21 in the manner described. However, HIA 21 indicated that he felt that BR3 was more hurt than him and ‘they got on like a house on fire after the incident.’¹⁰⁹

10.51 The witness indicated that he found BR3 to be friendly, approachable and gentle, he described him as a good listener and he spoke to him about news and sport. He indicated that he remains very good friends with BR3.¹¹⁰

10.52 The witness also confirmed that he was robust and challenging at times:

¹⁰⁹ Day 70 page 7 line 6.

¹¹⁰ Day 70 page 6 line 18-22.

“Of course. I wasn't always the best pupil. I mean, I~was robust at times and challenged them and therefore I would have been punished by being slapped on the hand with a strap. Yes, I would have seen other boys being punished, whether it be for stealing or mitching school or running away. That would have been normal practice.”¹¹¹

10.53 HIA21 also indicated that he vaguely remembered an incident in the yard near the railings, of corporal punishment being administered for absconding, he described it has caning on the backside and he indicated that it was designed as a warning to everyone:

“That was probably to reaffirm to us, you know, "Be very careful that you don't run away. This will happen to you", but other than that I didn't see any excessive force in intents and purposes what the Inquiry is trying to extrapolate, but I recall a very firm discipline code was placed.”¹¹²

10.54 This account is very similar to HIA 225's description, however it is significant that this witness does not indicate that BR2 administered the punishment.

10.55 In a harrowing and detailed account which was thoroughly convincing he provided the inquiry of being held down by two boys and brutally raped and sexually assaulted by Inquiry Witness and convicted sex offender HIA147. He gave evidence that HIA147 abused him for a period of 2 years in the home.¹¹³

10.56 HIA 21 indicated that he gave evidence on behalf of BR2 in the civil trial of Stephen Larkin, and that he holds him in the highest esteem.¹¹⁴

(HIA 18)

Thursday 6 November 2014 Day 66

10.57 HIA18 stated that not all the brothers used excessive force:

¹¹¹ DAY 70 Page 7 line 11-16.

¹¹² Day 70 page 8 line 1 -6.

¹¹³ Day 70 page 19 line 3 - page 22 line 11.

¹¹⁴ Day 70 page 44 line 1-6

Q. "Some of the Brothers, because the point you make is the likes of BR2, BR3, they were not engaged in this type of additional level

A. -- And nor was BR6."¹¹⁵

10.58 HIA18 made a statement to Police on 19 May 1980. This was more than a month after he had been discharged from the home. He stated that he had no complaints and during his time there no one had made homosexual advances towards him.

10.59 The main allegations against BR3 relate to failures to act, however the witness stated in the context of physical abuse by DL6 :

Q. "Most of the time. Did you ever feel able to say to at that stage it was BR3, "Look, this guy is throwing things at us"?

A. No

Q. But why did you feel unable to tell him what was happening?

A. I don't think the Christian Brothers would have listened.

Q. Why do you say -- because this applies to a number of matters that we will be back --

A. Yes."¹¹⁶

10.60 This is a significant portion of his evidence because what he has categorically stated is that matters of abuse by lay teachers would not have been reported. The Inquiry will be aware that this is contrary to what is contained in his second statement to police on 26 November 2010. On this occasion HIA 18 alleged that the assault by DL1 was reported to BR3 and nothing was done about it.

10.61 The second allegation that HIA18 made against BR3 related to the incident involving **DL 149** and BR3's failure to intervene and or address the issue.

10.62 The De La Salle Order have responded to this issue in paragraph 6 of their statement **RUB-2964**.

¹¹⁵ Day 66 page 53 line 19 -22

¹¹⁶ Day 66 page 17 line 24 - page 18 line 7

10.63 The Inquiry have now had the opportunity of assessing the credibility and reliability of both HIA 18 and DL149 and the Inquiry should have little difficulty in dismissing HIA18's allegation.

10.64 It is not accepted that the matters involving HIA18 occurred as stated or were brought to BR3's attention and that he failed to act in appropriate manner.


HIA 31

Day 64 6 November 2014

10.65 HIA arrived at the Inquiry in a distressed and agitated state and he was seen to be aggressive towards members of staff and his distress and agitation continued in the witness box when he was aggressive towards Inquiry Counsel and the Panel. The behaviour of the witness resulted in the Panel leaving the chamber for a short period of time.

10.66 After the short adjournment the questioning continued but the witness refused to allow his statement to be placed on the screen and he was instead invited to outline his experience of life in Rubane, what followed over the next 20 minutes could be accurately described as a disturbed rant.

10.67 The sexual allegations against DL149 were completely outrageous and have been described as quite pathetic by DL149, BR3's awareness of this issue is not accepted, it was evident to all present that HIA 31 had fabricated this account. Clearly he is not a reliable witness and his presentation suggests that he is extremely unwell.


Day 66

HIA 25

10.68 The Inquiry will be acutely aware of the particular circumstances of this witness and the fact that Nazareth Lodge were unable to cope with him or his brother which led to him being moved to Rubane on 30/08/74 when only seven years old, this fact alone provides the Inquiry with significant information on the difficulties that he presented with.

10.69 There seems little doubt that HIA25 was a talented sportsman. The Inquiry has received photographic evidence of his accomplishments and BR10 indicated that he was a talented footballer and important member of his teams, and the fact that he represented Linfield Youth has not been challenged.

10.70 HIA25 addressed the issue of HIA18 being assaulted by DL149 and alleged that BR3 witnessed the matter and warned DL149. There is clearly the very real danger that HIA25 is simply recounting a story that he has heard rather than has directly witnessed. It is not accepted that this event occurred in the manner described.

10.71 He made a series of allegations against BR10, which have been based upon what he perceived rather than what he witnessed. Indeed, this perception may have been influenced by the abuse that he allegedly suffered at the hands of DL417. In-addition, while there are aspects of his evidence that undoubtedly are truthful the Inquiry will have to exercise considerable circumspection in relation to each allegation that this witness makes, because often he is prone to exaggeration and fabrication. The account contained in paragraph 17, 18, and 19 **RUB-849** is clearly very distorted; as Rubane was certainly not like a prison camp and neither he or his brother were hidden away. Also his account of going around the town tapping people for loose change and stealing newspapers, but always bringing his granny cigarettes or ice cream, these claims further emphasise the distorted prism through which HIA21 now examines the past. It may be seen by the Inquiry as understandable given the difficulties that he has, a less favourable interpretation may be that this is a rather childish and transparent attempt at justifying criminal behaviour.

HIA 41

Day 67

17 November 2014

10.72 HIA 41 was not a convincing witness and he presents as implacably hostile towards some of the Brothers. However in relation to BR3 he stated:

“BR3 never was violent with any of the boys. I would put him down as being one of the better Brothers. He was jokey with the boys, BR3, which -- some things -- he called himself BR3, but he was more overtly friendly and jokingly with the boys. He certainly didn't dish out punishment. As others had said here, they went to him with complaints of DL149 last week, which is stated in here. So that's an absolute lie and it's a slur on BR3 himself.”¹¹⁷

10.73 In paragraph 34 of his statement at **RUB-501** HIA 41 outlined how he was attacked by DL6 with a hammer. “He hit me around the back of my shoulders and about my head.” HIA 41 alleged that this incident occurred in front of the whole class and was reported to BR3 who responded by moving him to an Art class. No corroboration has been received to support a violent and vicious attack of this nature and HIA 41 was a wholly unconvincing witness, it is submitted that this incident did not occur and was not reported to BR3.

10.74 In his statement to police in 1980 HIA41 claims he told BR3 about an assault by B77:

“I told **BR 3** about **BR 77** beating me up but no one else”¹¹⁸

10.75 This specific allegation was not contained in his HIA statement or addressed during his oral evidence, and it is respectfully submitted for the reasons outlined in our submissions that **HIA 41** is not a reliable witness and without corroboration it would be impossible to determine if BR3 was aware of this issue.

HIA 149

Day 67, 17 November 2014

10.76 He gave his evidence via video link from Wormwood Scrubs. His difficulties were manifest to all who witnessed him giving evidence and they appeared to be both psychiatric and physiological. The Inquiry will undoubtedly recall his frequent problems with the sound or as he described it the “frequency.”

¹¹⁷ Day 67 Page 31 line 8 -16

¹¹⁸ **RUB-62433**

10.77 He first spoke to the police in 1980 and he provided a statement which alleged that **DL 509** **DL 509** had sexually abused his brother DL56. This statement formed part of the evidence which resulted in **DL 509** being convicted of indecent assault on DL56.

10.78 It has been submitted by the De La Salle Order at **RUB- 3456** that they believed that HIA 149 was spoken to by the Gardai at the request of the RUC in 1995 and he had no complaints to make.

10.79 He did not provide any details of sexual abuse against himself until 26 January 2012, when he spoke to the police. He alleged that he was sexually abused by **DL 509**, BR1, BR3 and BR 77, in a particularly confused passage of his police interview at **RUB-64405**, HIA 149 states:

“**BR 3** was the main man, he was the one who bugged me, Brother **DL 509**, Brother not Brother **DL 509**, (inaudible), Brother eh, Brother **DL 509** that’s his name, he was the one that bugged me, he was the head man of the place, he was the one everybody feared the most, he was the one that everybody feared the most, his name was Brother **DL 509**.”

10.80 The allegations contained at paragraph 17 of his statement **RUB -893** are rejected in the strongest of terms by BR3. It is respectfully advanced that the Inquiry should reject the inconsistent and improbable accounts of an extremely unreliable witness.

DL 509
Day 67, 17 November 2014

HIA 56

10.81 The Inquiry will be aware that HIA 56 withdrew his allegations of abuse that occurred in Rubane in an affidavit signed in 1996. However he continued to allege abuse that occurred in Nazareth Lodge and provided interviews to the press.

10.82 HIA56 has admitted that he engaged in sexual activity with other boys in the home.

10.83 HIA56 has alleged that BR3 assaulted him because he suspected that he was sexually interfering with DL135. This issue was addressed in his HIA Statement at paragraph 37 **RUB-529** and in his oral evidence on day 67¹¹⁹. He has alleged that:

“BR3 grabbed me by the hair and said ‘he’s only in the place and you’re at him.’ I asked him what he was talking about and he grabbed me by the hair and brought me into his room and gave me the worst beating I ever had in Rubane. He punched and kicked me and left me lying on the floor in a heap of blood and he walked away.”

10.84 He also asserted that the pain was unbelievable and that he didn’t receive any medical treatment. This allegation is uncorroborated and should not be relied on. It is strenuously denied by BR3 that he would have assaulted a boy in this manner. It is accepted that HIA 56 could have received corporal punishment for smoking in the toilets.

HIA 519

Wednesday 19 November

Day 69

10.85 HIA 519 was a very damaged witness whose presentation was manic and accompanied by rapid delivery. He has made serious allegations of sexual abuse against BR3. We would direct the Inquiry’s attention to HIA 519’s Police statement of 05 February 1996 at **RUB-66722** made when the witness was a mature man, in which he states that he was sexually abused by Brothers but he can’t remember the names of these Brothers. “The only name that sticks out in my mind is BR 3. I can’t remember at this stage if he assaulted me or not.”

10.86 Given the detail that is contained in paragraph 6, 7 and 8 of his Inquiry statement **RUB- 923** and being sexually assaulted by BR3 on an almost daily basis it is inconceivable that HIA 519 could have forgotten BR3 and been uncertain of who abused him. The account that he provides of being sexually abused by 3 Brothers acting in concert stretches credibility, the fact that there is no record of brothers referred to namely Brother John and Brother Paul being in the home provides corroboration for the fact that this is the product of a fertile imagination.

¹¹⁹ Day 67 page 127 line 5 - page 128 line 1.

10.87 BR3 has been interviewed by the police on a number of occasions but there is no record of him being interviewed by police in relation to HIA 519's allegations.

10.88 HIA 519 also claims to have been abused by his housemaster, DL422 a social worker and DL423 a man he believed to be a social worker¹²⁰, and he also claims to have been taken to a house party by Jimmy Savile and his experiences at the party have been reported to police and he has been interviewed as part of Operation Yewtree.¹²¹

10.89 His account is improbable and inconsistent and his demeanour was unconvincing. He was not a reliable or credible witness.

Conclusion

10.90 The Inquiry may well conclude a number of the allegations lack any credibility whatsoever. It is useful to consider Inquiry Counsel's summary of the allegations in his review of BR3 in Day 76. He helpfully broke down the allegations made to the police into three sections. The first covered the period of the initial police investigation 1977-1980 and it should be remembered by then BR3 had taught in the school for a period of 20 years. From 1976 onwards he was principal and therefore had the added responsibility of administering corporal punishment. The police spoke to 124 out of 129 residents at that time and not one of these made allegations of a sexual or physical nature against BR 3, although three claimed they reported physical abuse by others to BR3. Indeed DL21, DL 21's complaint was considered by the Hughes Inquiry and it was unable to arrive at any firm conclusions as to whether an explicit approach had been made to BR3¹²². During the second police operation in 1995, 150 individuals were contacted by the police and all together 13 complaints were made related to BR 3. However for whatever reason, only one of those individuals, namely HIA41 has come forward to participate in this Inquiry and the credibility of his evidence has been in our opinion seriously undermined. Arising out of the police investigation during the 1990s BR3 was initially charged with offences involving DL 243 and during the latter stages of the investigations, additional charges were brought against him in relation to the allegations of HIA 26.

¹²⁰ RUB-925 paragraphs 11 and 12

¹²¹ RUB-925 paragraph 14

¹²² HIA-925 paragraph 10.32

10.91 The former was not a participant to the Inquiry and so it is difficult to assess his credibility but with regard to HIA 26 we would submit the panel should find it difficult to rely on his evidence. During the third police investigation known as Operation Charwell in 2010, Inquiry Counsel referred to eight individuals who made allegations against BR 3 and it would appear four of these have come forward to the HIA Inquiry. We have already commented on their allegations and we would refer the Panel back to our earlier comments in this submission concerning problems associated with the assessment of the reliability of specific accounts from individuals who were resident in Rubane House several decades ago. Furthermore, following the conclusion of the 2010 police investigation the recommendation not to prosecute BR 3 was confirmed by the Public Prosecution Service.

10.92 The panel will also have heard evidence and noted reference to positive comments made by former residents in relation to BR 3. Although the Inquiry has not had the opportunity to hear directly from BR3, his denials of the allegations are set out clearly in the material available to the Inquiry.

13 th December 2014