

ROYAL COMMISSION INTO INSTITUTIONAL
RESPONSES TO CHILD SEXUAL ABUSE

PUBLIC ROUNDTABLE

MULTI-DISCIPLINARY AND SPECIALIST POLICING RESPONSES

Hearing room 2
Level 17, Governor Macquarie Tower
Farrer Place, Sydney

On Wednesday, 15 June 2016 at 10am

Before: The Chair, Justice Peter McClellan AM
Justice Jennifer Ann Coate
Commissioner, Mr Robert Atkinson AO APM

1 THE CHAIR: Good morning, everyone. I think everyone has
2 a seat. Thank you all for coming.

3
4 I would firstly like to acknowledge the traditional
5 owners of the land upon which we meet today, the Gadigal
6 people of the Eora Nation, and pay my respects to their
7 elders, past and present.

8
9 Some of you have been with us before and some of you
10 haven't. Thank you again, all of you, for giving us your
11 time.

12
13 Today's discussion is part of the criminal justice
14 project which the Royal Commission is undertaking. An
15 important component of our terms of reference requires us
16 to look at justice for survivors which includes, of course,
17 civil issues and redress, which you probably know we
18 addressed in a report that was published last year, but
19 we're now in the middle of our work in relation to criminal
20 justice.

21
22 Leigh Sanderson, who many of you would now know, is
23 the officer within the Commission responsible for helping
24 the Commissioners in the preparation of our work.

25
26 Justice Coate, to my right, and Commissioner Atkinson,
27 to my left, and I are the three Commissioners who have been
28 asked to bring forward to the other three recommendations
29 in relation to the criminal justice system, so if your idea
30 wants to get through, it has to get through us before it
31 goes to them. But we are very keen to receive all ideas
32 that we can across the criminal justice spectrum.

33
34 The Royal Commission was set up, of course, three and
35 a half years ago now. We have to finally report by the end
36 of next year. We hope that the criminal justice work will
37 be the subject of a separate report, Leigh assures me, in
38 the middle of next year. We want to publish it as
39 a separate report because we see it as a very significant
40 part of our work and it would be better if it is identified
41 as such rather than being part of a very large document
42 which will be our final report.

43
44 The criminal justice work speaks to, of course, many
45 of the issues that arise in relation to the sexual
46 misconduct of adults, and for that matter children, with
47 children, and in the institutional context it has

1 a significant part to play.

2
3 It may be that in times past, when we had more
4 orphanages or residential facilities for children than we
5 have in a structured way today, the problems were greater,
6 but in the course of our work we have come across and, as
7 you know, we have discussed in public hearings, issues in
8 relation to how the criminal justice system should respond
9 to allegations that come from an institution where children
10 may allegedly have been abused.

11
12 We are asked to look at the justice issues in terms of
13 not only an immediate response to those who may have been
14 abused but also, of course, importantly, we are asked to
15 look at what the institutions should do better to protect
16 children into the future, and it's those issues, both past
17 and future, that we need your help with.

18
19 I think all of you have had some written material from
20 us that Leigh has prepared. That, I think, gives you
21 a pretty good idea of where we need to go to today, but can
22 I just remind you that in a public hearing we did look at
23 the New South Wales JIRT, in what is referred to as the
24 YMCA or Jonathan Lord case, which was one of our very early
25 public hearings - I think it was the second public hearing
26 that we did. In the course of that case study we made
27 plain that we would be, in the future, doing what we're
28 doing today, and that is seeking to understand how JIRTs
29 and other similar facilities operate in the different
30 States.

31
32 We're also keen to discuss with everyone the
33 interaction between police, the institution and the parents
34 of children in the institution, an issue which arose in the
35 YMCA case; it arose in a somewhat emotional context for
36 some people. It is a very significant issue and any of us
37 who are parents, of course, only have to pause for a moment
38 to realise why it would be such a serious issue for many
39 people.

40
41 So we need to reflect upon what happened in the
42 Jonathan Lord case, but also to contemplate what the
43 appropriate response of police and the institutions should
44 be to parents who may be parents of children where there is
45 an allegation in an institution.

46
47 This afternoon we want to look particularly to the

1 effectiveness of multi-disciplinary approaches to these
2 issues. I'm going to ask in a moment for each of the
3 States who have multi-disciplinary responses to talk about
4 their individual processes, but then this afternoon I want
5 to try to identify, for the benefit of everyone, what we
6 think might be the best way forward in relation to each of
7 the components of a response, so that not only can we
8 learn, but all of you might learn from each other about how
9 to be most effective in this space.

10
11 There are, of course, named persons at the table, but
12 I gather that in the second row - can I call it that? -
13 many of the second-rowers have a significant part to play
14 by way of input into today's discussions. The fact that
15 some of you have primary billing doesn't mean the others
16 are excluded. Please can we make sure that anyone who has
17 a significant contribution to make on any particular issue
18 finds their way forward so that we can all hear what you
19 have to say.

20
21 Today's proceedings are being transcribed by these
22 people up behind us here. A transcript will be taken out
23 and will be used by the Commissioners and the team that
24 Leigh leads in the preparation of the report on these
25 issues. But, also, I'm sure you are conscious that this is
26 a public roundtable today, so what you are saying can be seen
27 and heard by others. I can assure you that our experience
28 tells us that anything that we do in public has an
29 extraordinarily broad reach across Australia and, indeed,
30 beyond Australian boundaries. So when you speak today you
31 can assume that people outside this room will be listening
32 with great interest in what you have to say.

33
34 Now, I think what I would like to do now is to start
35 by having those who do have a joint investigation
36 response - I know they are called different things in
37 different places, but let's just call it a joint
38 investigation response - I would like each of those
39 jurisdictions who have such a response to just explain what
40 their response is and how it operates. I suppose the
41 logical thing to do is start in New South Wales. So who
42 would like to tell us about New South Wales?

43
44 D SUPT NEWBERY: Thank you, Commissioner. I'm
45 Greig Newbery from New South Wales. I'm the Commander of
46 the Child Abuse Squad.

47

1 In New South Wales we have a joint program called
2 JIRT, the Joint Investigation Response Team. In New South
3 Wales that starts - and we will probably expand on it a
4 little bit later - where matters are referred to for
5 investigation to police, community services and health
6 through the joint referral unit, which is a body that has
7 police, health and community service workers there triaging
8 matters that come from the Child Protection Helpline.
9 Those matters are then triaged and assessed, gathering
10 information from all three agencies, and after they are
11 assessed, if they are accepted, they are sent out to the
12 JIRT units for further investigation.

13
14 At those JIRT units we have police, health and FACS.
15 We have 22 sites operating across the State. Eleven of
16 those sites work in the same premises; 11 of those sites
17 work in close proximity but don't work from the same
18 office.

19
20 Each of the agencies then receives the information and
21 they undertake a local planning response where we provide
22 a joint coordinated response to that allegation of child
23 sexual assault. In saying that, there is a briefing where
24 the information from all three agencies is provided and
25 they work out the most appropriate response depending upon
26 the type of matter and the allegation, and we then go out
27 and provide the services that each of our agencies provide.
28 From a police perspective it is the criminal investigation;
29 from health and FACS it is providing their agencies'
30 responses in relation to care and welfare, protection, and
31 any health services and support that can be provided.

32
33 After that initial response the child is generally
34 interviewed and then we will come back and undertake
35 a debriefing where the information gathered from that
36 initial joint response is then examined and any further
37 actions required are undertaken and generally will go off
38 and then, from a police perspective, we will go and
39 undertake the criminal investigation and the other agencies
40 will undertake their roles as per their statutory
41 requirements.

42
43 THE CHAIR: And in terms of the number of units that you
44 have, is it believed by police that that is an adequate
45 coverage for the State?

46
47 D SUPT NEWBERY: We are just about to put a 23rd office in

1 place, one for the Far South Coast of New South Wales,
2 because we found that the distances being travelled by the
3 office that was looking after that area, Queanbeyan, were
4 too great. We weren't providing the service that we
5 thought was required and it wasn't fair on our staff having
6 to travel those great distances all the time.

7
8 In saying that, I think those 23 offices around the
9 State provide a good coverage to the whole of the State,
10 yes, but we've also, from a police perspective, increased
11 the number of staff that we have investigating these
12 matters. Just recently we received an additional 50 staff
13 from the Government. In saying that, 29 of those were
14 covering over-strength not to be deactivated positions that
15 we already held because of the need for more staff, but
16 come May 2017 we will have a workforce of approximately 215
17 investigators for the State, which is certainly an
18 increase. I think over the last five years we have had an
19 increase of about 60 staff, up until May 2017.

20
21 THE CHAIR: What about the other agencies, are they able
22 to meet the demand for staff as part of the joint teams?

23
24 MS CRAIG: In terms of the locations of the teams,
25 I absolutely agree with Greig that based on the data that
26 we have for numbers of reports in those areas, that's the
27 best coverage we can do of the State. Is it complete and
28 perfect? It's not, because Broken Hill is covered from
29 Dubbo and that's a long way. But based on the numbers,
30 that's probably the best arrangement, to do a flying
31 service from Dubbo.

32
33 I certainly agree that the Far South Coast was
34 difficult to manage from Queanbeyan, so we'd be looking at
35 increasing that. Our numbers are significantly less than
36 police. We've had an increase of about 10 over the last,
37 I guess, two or three years, so we have about 130.

38
39 THE CHAIR: Now, Victoria? I think they're called SOCITs,
40 is that right?

41
42 MS HABJAN: Yes, that's right. My name is Natasha Habjan.
43 I'm the Acting Manager for the Sexual Offences and Child
44 Abuse Team in Victoria. We have two distinct
45 multi-disciplinary responses: we have our SOCITs, which
46 are Sexual Offences and Child Abuse Investigation Teams,
47 within police; and we also have multi-disciplinary centres,

1 which actually co-locate our SOCIT teams with child
2 protection and with Centres Against Sexual Assault.
3
4 THE CHAIR: So is that the JIRT equivalent?
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6 MS HABJAN: The MDC is just a building that co-locates
7 three core agencies, so it's a bit different to the JIRT
8 response in that when we refer to MDCs, we refer to it as
9 the actual building rather than the response.
10
11 THE CHAIR: You had better tell us what happens inside the
12 building, I guess.
13
14 MS HABJAN: Yes. We have 28 SOCITs across the State of
15 Victoria. We have six MDCs in Victoria, soon to have seven
16 mid next year.
17
18 Our SOCITs are specialist teams of investigators.
19 They work exclusively both on child and adult sexual
20 offences and also on child physical abuse. They cover off
21 on all aspects of the investigation, including receiving
22 the initial allegation, preparing the brief of evidence and
23 participating in court proceedings as well.
24
25 Our members receive access to significant training in
26 the "whole story" framework, which I think you've been
27 briefed on previously, which aims to improve members'
28 knowledge and skills around sexual offending and also
29 ensure that our detectives have positive attitudes towards
30 victims.
31
32 In terms of the MDCs, as I said, they co-locate our
33 SOCITs alongside child protection and CASA counsellors. It
34 was introduced in 2007 - initially we had two - in response
35 to the VLRC report, which made some critical
36 recommendations around our policing response to these
37 victims.
38
39 It initially started off with just a small team of
40 police investigators co-located with CASA counsellors. It
41 has now grown. It includes child protection. It also
42 includes a holistic health nurse. It includes
43 state-of-the-art forensic medical suites, particularly in
44 three of our sites, and also some forensic medical officers
45 as well in one of our sites. We're also looking at
46 expanding the scope to also include a family violence
47 response as well.

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I'm not sure if now is the right time, but I just note in the report that was released around the systematic review of the efficacy of specialist police investigative units, the data that was in there was mainly pre-2010. We now have some additional data to show the improvements to the response since then. We've recently done an evaluation on the MDCs. That was completed late last year. There have also been some other reports since then that have highlighted the benefits of this new model.

THE CHAIR: Could you just explain to us a little how the co-location works? What actually happens in terms of the relationship between the different agencies?

MS HABJAN: Helen, do you want to talk to that?

MS BOLTON: Yes, certainly. Good morning, Commissioners. I'm Helen Bolton, CEO of Barwon CASA. We've been co-located in the Barwon MDC since 2012. Prior to moving into the MDC, we didn't really have a great relationship with police and child protection in terms of a lot of our victims wouldn't report. We would give them the details of the police and we knew that they would disengage from our services and not report.

Moving into the MDC in Barwon, we have 30 counsellor advocates, we have approximately 16 SOCIT detectives, two sergeants and a senior sergeant and we have seven child protection staff. They're all specialised in their field, so they just focus on sexual offences and serious child abuse.

The way that we work together is that if a victim presents to CASA - there are many entry points, but I will talk about the CASA entry point - we will do an assessment and ask them if they would like to report to police, or if they have. We will then literally walk down the hallway, knock on the SOCIT door and say, "Can you come and give an options talk?"

So a detective will come into the counselling room and talk to that person about, "These are the range of options that you have in reporting to police." If it's a child, we can immediately go to child protection and SOCIT. We've had a number of cases where we have said, "We've just had a disclosure of sexual abuse of a child. We need you now

1 to take action and investigate this." So we work very
2 closely together.

3
4 Information sharing sometimes can get in the way in
5 terms of the legislation and the principles. From a CASA
6 perspective, we always do it with consent. In our intake
7 process when we're doing that assessment, we describe the
8 model and we ask for consent to talk about their case with
9 child protection or SOCIT, should we need to, and we
10 re-approach them every time we need to do that.

11
12 THE CHAIR: If they say "no", what do you do?

13
14 MS BOLTON: We rarely get "no". Very, very rarely. We
15 explain to them that if there's a threat of harm to
16 themselves or someone else, we will override their consent.
17 So we work very much under the privacy principles.

18
19 Yes, we work closely together. Being in the one
20 building, proximity has been a great benefit, and also the
21 level of trust and understanding about the way that each
22 entity operates has been fundamental in improving victims'
23 access to the range of services that they deserve. The
24 model really wraps around the victim from that point of
25 first disclosure through to criminal prosecution.

26
27 THE CHAIR: You've no doubt talked to New South Wales. Do
28 you think, in reality, your process is different to
29 New South Wales?

30
31 MS BOLTON: I don't know. Tash, what would you say? I'm
32 not familiar more than what I've heard today about the
33 New South Wales model.

34
35 THE CHAIR: Oh, I see.

36
37 MS HABJAN: Our centres do cover off on adults as well, so
38 they're not just a child response.

39
40 MS MILLER: I think that the intake point sounds different
41 also, in that it seems that New South Wales has a combined
42 intake point, whereas, as Helen alluded to, we have a range
43 of intake points, which could be through police, child
44 protection or CASA, or, yes, any referral from other
45 agencies as well to any of those services.

46
47 THE CHAIR: Have you sat down and talked to each other

1 about how your systems do operate?

2

3 D SUPT NEWBERY: I haven't.

4

5 MS CRAIG: Early on we had some conversations with
6 Victoria, when they were first looking at establishing
7 something, but not recently.

8

9 THE CHAIR: Welcome to the discussion.

10

11 D SUPT NEWBERY: In saying that, your Honour, I think in
12 August - anyway, we've sent out invitations to each State
13 to attend a child abuse investigation forum in Sydney.
14 We're hosting it. We're happy to host it. We won't
15 travel. We will later. Anyway, it's a forum where we'll
16 discuss those issues from a police perspective.

17

18 THE CHAIR: Now, we've heard some things, but is there any
19 suggestion that the level of resource is inadequate in
20 Victoria?

21

22 MS MILLER: I think that resourcing is an ongoing issue,
23 particularly given the increase in reports of sexual
24 assault, and the raising of public awareness has certainly
25 led to increases in reports - certainly I can speak in
26 relation to child protection - which is a good thing.

27

28 Certainly in Victoria we have recently had the Royal
29 Commission into Family Violence and I think that the
30 relationship between sexual assault and family violence as
31 being one and the same has - I think that people's
32 knowledge and awareness of these issues has increased,
33 which has led to increased reporting.

34

35 As Natasha outlined, child protection operates in
36 24 areas and SOCITs in 28 areas, and, aside from the MDCs,
37 we have close and good working relationships at an
38 area-based level. Certainly in Victoria we have recently
39 been fortunate to have a significant increase in resourcing
40 to child protection in order to respond to the increased
41 demands of reports.

42

43 THE CHAIR: So the answer is you have enough resources?

44

45 MS MILLER: More is always welcome. Certainly the further
46 consideration of MDCs as a model, as Natasha outlined, in
47 relation to family violence off the back of the success,

1 I think, of the multi-disciplinary approaches and the
2 longer-term impacts for victim survivors is certainly
3 something Victoria is giving consideration to.
4
5 MS HABJAN: The evaluation report on the MDCs did indicate
6 that, at the MDC sites, there was an increased reporting to
7 police. From our perspective, definitely when we see
8 SOCITs operating out of MDCs, we see that --
9
10 THE CHAIR: The level of activity goes up?
11
12 MS HABJAN: Correct, yes.
13
14 THE CHAIR: Can you both tell me, in terms of allegations
15 in relation to the abuse of children, are police in the
16 various teams given special training in relation to
17 children?
18
19 MS HABJAN: I'll just swap with Patrick.
20
21 MR TIDMARSH: Good morning, Commissioners. My name is
22 Patrick Tidmarsh. I'm a subject matter expert and forensic
23 interview adviser with Victoria Police SOCIT and Family
24 Violence Command.
25
26 The answer to your question is, yes, they do. We've
27 had specialist training running for the last six years.
28 We've introduced a new investigative model and we have
29 trained 550 investigators in that model.
30
31 Before you ask, yes, we do talk to other States.
32 We've worked with, done some training with, New South
33 Wales. With the ACT, we have AFP members who attend our
34 courses. We also work in other areas of Vic Pol, because
35 our transit command has its own sexual offences squad.
36 Professional standards - we train them, too. So there's
37 a range, and we're going to Tasmania later in the year.
38 So, yes, we're connected to other police forces and other
39 training.
40
41 THE CHAIR: Greig, is that right as far as NSW Police is
42 concerned?
43
44 D SUPT NEWBERY: Yes, we have specialist training for each
45 of our officers. Initially there is specialist training -
46 when I say "specialist", to a limited degree, to all
47 detectives through the detectives education program, but

1 later all Child Abuse Squad officers undertake specialist
2 training in interviewing of children, yes.

3
4 THE CHAIR: Myra, you wanted to say something?

5
6 MS CRAIG: I was just going to say that for a number of
7 years we've had joint training with police, health and FACS
8 in, I guess, a two-week block where the three agencies work
9 together, understand each other's briefs, I guess, in the
10 combined environment. That has been in place for a number
11 of years.

12
13 MS McNAMARA: And just with that program, there are
14 pre-modules, online modules as well as modules following
15 the two-week face-to-face.

16
17 THE CHAIR: Do you have joint training in Victoria?

18
19 MR TIDMARSH: Do we have joint training?

20
21 THE CHAIR: Yes.

22
23 MR TIDMARSH: Yes. Could I make another comment about
24 specialism in that? It's interesting, and even in the
25 literature brought out by the Commission, there really
26 isn't a definition of what that specialist training should
27 be or even what a specialist investigator does. People are
28 mostly clustered because they do a particular type of work,
29 not because there is a defined specialism in this area. So
30 we've come to our own conclusions about what we think that
31 specialism is and what we're trying to achieve with that.

32
33 I don't know if now is the appropriate moment, but we
34 would certainly like to talk about that and try to get some
35 shared understanding of what that specialism might be
36 across the States.

37
38 THE CHAIR: We might find out about the other States and
39 then we'll come back to that. Queensland?

40
41 MR LUPI: Yes. Good morning, Commissioners.
42 Matthew Lupi, Department of Communities, Child Safety and
43 Disability Services. I'm going first, and then my
44 colleague will talk about the joint and specialist
45 investigations, because SCAN, the Suspected Child Abuse and
46 Neglect system in Queensland, is actually a component of
47 the Child Protection Act. It isn't an investigative or

1 multi-disciplinary response to all child sexual abuse or
2 all child sexual harm. So I wanted to put that into
3 context.
4

5 It is enlivened by the Child Protection Act as it
6 relates to familial child abuse. It operates with four
7 core members - health, police, child safety and education -
8 and co-opted members where it's relevant for indigenous
9 specialists from our recognised entities or other
10 specialist indigenous service providers.
11

12 It is essentially a multi-disciplinary or coordination
13 mechanism that serves to coordinate, between the key State
14 agencies, holistic responses, assessments and actions where
15 we have established a child is in need of protection under
16 the Child Protection Act, and so, as such, it has
17 a somewhat limited focus and role in the broader issue of
18 child sexual assault and child sexual abuse.
19

20 In fact, out of the 3,900 matters considered by our
21 SCAN system over the course of last year, only 6 per cent
22 of those related to sexual harm or sexual abuse. So it
23 takes a broader function around inter-agency planning and
24 inter-agency responses to better deliver services to
25 children where they are in need of protection as a result
26 of familial abuse.
27

28 My colleague might talk more broadly, then, about the
29 responses in Queensland to specialist and joint
30 investigations.
31

32 A/D SUPT WATTS: Thank you, Matthew. Garry Watts is my
33 name. Good morning, your Honours and Commissioner. I'm
34 representing the Queensland Police Service. I'm from the
35 Child Safety and Sexual Crime Group, part of the State
36 Crime Command.
37

38 Our specialist policing responses to offences
39 committed against children are undertaken primarily by our
40 Child Protection Investigation Units across the State. We
41 have 37 main offices and three satellite offices across the
42 State, across all the regions within the service. We have
43 575 CPIU officers that investigate these types of offences.
44

45 Those officers are specially trained in the
46 investigation of these offences. Like New South Wales,
47 they undergo the detective training program as part of

1 their core basic training, but they also undertake other
2 training as well, including the ICARE training and other
3 workshops and CAT programs, throughout their career to
4 enhance their investigative abilities in that respect.

5
6 THE CHAIR: ICARE being?

7
8 A/D SUPT WATTS: Sorry, your Honour. That's the
9 Interviewing Children and Recording Evidence training. All
10 our CPIU officers have to undergo that training as part of
11 their training to better interview children during the
12 course of their interactions.

13
14 As I said, the core function of our officers at the
15 CPIU is to investigate offences committed against children
16 in both the intrafamilial and the extrafamilial setting
17 along with offences committed by children as well. So
18 their core functions relate to that, but they also have
19 other functions across that spectrum in relation to
20 investigation of offences against children.

21
22 These responses include forensic interviewing of child
23 witnesses, investigations of general child protection
24 notifications, particularly sexual and physical abuse,
25 school-based investigations, but also, in a wider context,
26 child death investigations, child exploitation
27 investigations and other technologically facilitated
28 crimes, registration and ongoing management of registered
29 child sex offenders, SCAN team core member
30 responsibilities, which Matthew spoke about. Embedded
31 within our CPIU offices across the State are detective
32 senior sergeants and detective sergeants who are SCAN team
33 members, so they work with not only the department but also
34 health and education as core SCAN team members, but also
35 our CPIU officers, as well, during the investigation of
36 offences. There are also Blue Card investigations and
37 compliance activities and missing juvenile investigations.

38
39 THE CHAIR: Before we go to Western Australia, can I just
40 understand from the three of you, if an allegation comes
41 in, say a teacher has allegedly abused a child in a school,
42 and it may come through multiple doors, but it comes in,
43 not to police but to one of the other agencies. How does
44 it work in each of your organisations from that point and
45 who takes control, if anyone, of how everyone is going to
46 respond?

47

1 MS CRAIG: I'm happy to respond.

2

3 THE CHAIR: Yes.

4

5 MS CRAIG: All reports come through the Child Protection
6 Helpline. Some may go directly to police in the first
7 instance, but police will report to the Child Protection
8 Helpline. From there, there is an assessment of criteria,
9 a very superficial, I guess, assessment of criteria,
10 whether it meets the JIRT criteria.

11

12 It goes then to the JIRT Referral Unit, which is
13 a joint unit that Greig described, which has police, health
14 and FACS, and that is the first assessment. That looks at
15 each report and gathers information. So there are three
16 people sitting at a table all day making the decisions
17 about the cases that come in or the reports that come in.
18 There are staff from health, there's a number of police
19 officers and there's --

20

21 THE CHAIR: At that stage there's no further
22 investigation; they're just looking at the information that
23 you have. Is that the idea?

24

25 MS CRAIG: Looking at the information that we have and
26 then gathering further information, if required.

27

28 THE CHAIR: How? In what way?

29

30 MS CRAIG: I guess one of the big value-adds of the JIRT
31 Referral Unit is that they're able to share information
32 across the three agencies right there. Police will use
33 their database, COPS. FACS will use KiDS. And health will
34 actually ring - a lot of the reporters may be health
35 professionals, so they'll actually ring the health
36 professional and ask more detail, which will inform the
37 decision.

38

39 THE CHAIR: So it's all being done from that office?

40

41 MS CRAIG: All done from that office. If the reporter is
42 education, which is another common reporter group, the
43 caseworker often will ring the school and find out further
44 information, which will just clarify and make it easier to
45 actually provide more information to the JIRT and provide
46 a quicker response. And police, similarly, if they have an
47 opportunity to find out more - they'll actually have quite

1 a few holdings in some cases.

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An assessment is made as to whether that meets JIRT criteria. If it meets JIRT criteria, it goes directly to a JIRT. At the JIRT, the three agencies are again together and they do a local planning and response together about how the response will be made.

THE CHAIR: Who, if anyone, is in charge? Is there a structure for command of what's happening then?

MS CRAIG: The three agencies - there's a protocol, so they work together. Timing is, firstly, informed by the helpline. The helpline will make a call about the urgency of the response. The JRU can moderate that either way, say it's more urgent or less urgent, and sometimes police will inform the response in terms of timing. If there is forensic evidence that needs to be gathered or if there are forensic medicals that need to happen, that will influence the response as well.

But the planning process is a joint planning process. There's a briefing and then each agency looks at what they need to do next, so contacting the family, if it's a family, or going out to the school, for the interview to happen.

THE CHAIR: But presumably the police have a real interest in that interview or contact process?

MS CRAIG: Oh, yes, of course.

D SUPT NEWBERY: Certainly.

THE CHAIR: Would the police interest prevail?

D SUPT NEWBERY: It's joint decision making in relation to that, but certainly we're mindful of all the factors in relation to the criminal investigation, the immediate care and welfare of the child and any health concerns surrounding that.

The reason that the matters come to JIRT initially is because prima facie they're criminal offences. Certainly that's the reason that they're there and we're doing what we're doing at that stage. Outside of that, it would just follow normal channels.

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That response is inside business hours. Outside of business hours, we provide a 24/7 response to other matters.

THE CHAIR: Sure, but I can see as an outsider that there could be different interests between the police and the other agencies at the point of going back to the family, for example. How do you resolve those?

D SUPT NEWBERY: There are, and we each have a separate function, but the beauty of JIRT is that we're there sitting down at the one table where we resolve that. We talk about, "Well, from a police perspective, we need to do this because of these reasons." Family and community services might say, "Well, look, we need to do this because of these immediate care and protection concerns." How do we work together to ensure that we're meeting each other's needs? If we can't meet each other's needs, obviously the care and protection of the child has to be paramount.

There are times when certain aspects of a police investigation may not be able to be explored because we need to do certain things because of the immediate care and protection of that child.

THE CHAIR: Now, Victoria, does it work pretty much the same way or would it be different?

MS MILLER: In Victoria, largely the response would be led by police, and the police would consult with the other services as appropriate. It may not always necessarily be the case that Child Protection Victoria would be involved. A bit like the ACT, our Children, Youth and Families Act is primarily focused on familial abuse, and largely if we're able to ascertain and reach the threshold where we can assess that a parent is able and willing to protect the child, including from non-familial abuse, really that is the point at which the Child Protection Service in Victoria, other than to link up to other support services, would not necessarily have an ongoing role.

So there would be instances in such scenarios where child protection might not even be involved if there were no concerns around a parent's capacity to respond to the care needs of their child and act in a protective way. But certainly in that instance, it would be police and CASA

1 coming together to provide the immediate response.
2
3 THE CHAIR: But again I get the sense that it's the police
4 that lead it?
5
6 MS MILLER: Yes.
7
8 THE CHAIR: A little different to what I understand
9 New South Wales is doing?
10
11 MS MILLER: Yes, it sounds like they're a little bit
12 different, yes. In Victoria, if the concern was raised
13 with education, as part of their protocol they're required
14 to immediately report that to police.
15
16 THE CHAIR: Now, Queensland?
17
18 A/D SUPT WATTS: Your Honour, the information will come to
19 the police either through mandatory reporting or through
20 local arrangements, and that would go to the CPIU and we
21 would be the lead agency in that investigation. We would
22 then assess the particular needs of that complaint and
23 assess the needs of the child and then scale our response
24 depending on the circumstances of that complaint.
25
26 THE CHAIR: When you say "assess the needs of the child",
27 do you do that from a police perspective or how do you do
28 that?
29
30 A/D SUPT WATTS: It's initially from a police perspective
31 but also taking into account our SCAN referral method. If
32 it doesn't fit SCAN, then it will be our response to that
33 criminal complaint.
34
35 THE CHAIR: And if it fits SCAN, what happens?
36
37 A/D SUPT WATTS: It would then be referred to SCAN.
38 A SCAN representative, a detective senior sergeant, would
39 then represent the service in any ongoing decision-making
40 process around the needs of that child.
41
42 THE CHAIR: We've heard what New South Wales do, a little
43 different to Victoria. Is your decision-making process,
44 then, in SCAN similar to New South Wales?
45
46 A/D SUPT WATTS: I'll hand that to Matthew.
47

1 MR LUPI: Probably police investigations still have
2 a primacy to some extent, notwithstanding the immediate
3 needs and protection of a child. If it goes to SCAN, it
4 has already met a reporting threshold, so our agency would
5 have already been enlivened through a report, so we would
6 have been coordinating probably with police and education
7 at a point before it went to SCAN. It would go to SCAN so
8 that we can actually share relevant information, coordinate
9 and determine the best and most immediate response and who
10 has the primacy.

11
12 There may be different times where a health and
13 a child protection response does take primacy as police
14 kind of plan an investigation. In other circumstances, the
15 police investigation and the protection of evidence and
16 maintaining police primacy of investigation would prevail.

17
18 THE CHAIR: Western Australia?

19
20 DI TWAMLEY: Mark Twamley is my name, I'm from the
21 Sex Crime Division from WA Police.

22
23 Our model is based on a centralised child abuse unit
24 located in Perth. I guess different to my colleagues on
25 the Eastern Seaboard our city is relatively small, so
26 a centralised office, up to this point in time, has handled
27 the needs of child sexual abuse investigation in the city

28
29 THE CHAIR: The State is very large, though

30
31 DI TWAMLEY: The State is very, very large and provides
32 a number of other challenges in other areas that other
33 States might not enjoy.

34
35 However, very similar to the New South Wales JIRT
36 model, we are collocated with Child Protection and Family
37 Services within our centre in Perth. So, again, upon
38 receipt of any complaint of child abuse, we have what is
39 called a strat meeting, or a strategy meeting, where we sit
40 at the same table as our friends from CPFS and devolve the
41 needs of the child in terms of welfare and also the
42 operational needs of the police investigation. At that
43 strat meeting decisions are made on how best to move the
44 matter forward.

45
46 Since 2015 we have had a trial of what we call "MIST",
47 the Multi-agency Investigation Support Team, which is

1 a centre located in Armadale, in the outer suburbs of
2 Perth. MIST is a co-location of one of my teams from the
3 Child Abuse Squad, CPFS and police child interviewers.
4 These interviewers, there is one from each agency, have
5 gone through the same training program and are both
6 qualified to conduct child forensic interviews. There is
7 a CPFS social worker located at the centre, as well as
8 child and family advocates and, possibly different from
9 other centres on the Eastern Seaboard, we also have a range
10 of therapeutic services available to both the victim and
11 the families of the victim available at the Armadale
12 centre.

13
14 I'm not best placed to speak about those, but I would
15 like to hand over now to Basil Hanna, who is from the
16 George Jones Child Advocacy Centre. He might be able to
17 give you an overview of those services that are available
18 at George Jones.

19
20 MR HANNA: Your Honours and Commissioner, I'm the chief
21 executive officer of Parkerville Children and Youth Care,
22 which is a not for profit organisation across Western
23 Australia of about 200 staff.

24
25 THE CHAIR: Are you funded by Government?

26
27 MR HANNA: We are funded about 70 per cent by Government
28 and about 30 per cent by philanthropy.

29
30 Our organisation embarked on this researching of a
31 methodology called child advocacy centres that emanated in
32 America and throughout Scandinavia. One of our staff
33 members did a Churchill Fellowship on this and provided
34 a report. We then went and researched and looked at this
35 model.

36
37 The board decided that this was a model that we would
38 like to engage with Government - predominantly the
39 Department of Child Protection, as it was then, and the
40 police - to see if we could work together, both
41 non-government and Government, to provide a more holistic
42 service for children and families. That was our intention.

43
44 We opened up a purpose-built building, about
45 \$4.5 million, 680 square metres, in March of 2011. Along
46 the way we met with significant challenges, because change
47 is very difficult for everybody, to actually bring

1 non-government and Government together.
2

3 We had the police who would come and do forensic
4 interviews and children would come through the centre on an
5 ad hoc basis. After a few years of negotiating we finally
6 got this agreement to do the MIST service on a trial. We
7 embarked on a research project with the University of South
8 Australia, a three-year research project, which concludes
9 in March 2017, to evaluate what we were doing and looking
10 at the difference between a traditional model and a more
11 multi-agency model.
12

13 Over that time the services that are provided within
14 the child advocacy centre have significantly evolved to not
15 only include tertiary but secondary and primary. Thereby
16 we think we are giving a more holistic service to the child
17 and family.
18

19 The interim report from the research was released only
20 two weeks ago. That report speaks of far more positives
21 than challenges and we're very enthusiastic about that.
22 The final report will be issued in March to April of next
23 year. We are hoping that we can continue this relationship
24 with the police.
25

26 Fundamentally, what a not for profit provides that is
27 different is the child and family advocates, who are very
28 much the linchpin between what we do as professionals, as
29 police or DCP, to talk the family who are in a terrible
30 state, really lack a lot of volition, don't know what's
31 going on, and to be able to guide them through the process
32 so they know what's happening when the police are
33 interviewing their child and they know what the next steps
34 are. We take this family right through from that tertiary,
35 high acuity element, right through into secondary, until
36 they are ready to be discharged.
37

38 To have immediate access to a psychologist - we have
39 19 psychologists that work with us, so the child can be
40 referred to a psychologist who, once again, provides
41 services until they are not needed any more. We think
42 that's a great model for the child and the family.
43

44 So we are still in the process of working on this
45 partnership with police and Child Protection and Family
46 Services. We are optimistic that we can convince people
47 that this is a model that is good for children and

1 families, and that's our involvement with this since 2011.

2

3 THE CHAIR: A couple of questions. Firstly, if this is
4 located in Perth, how do you manage the problems in the
5 vast area of Western Australia?

6

7 DI TWAMLEY: At the current time, investigations into
8 child abuse matters are handled by regional detectives,
9 which you might call your traditional model, out in
10 regional areas. They also work with our friends from CPFS
11 again on the strategy meeting. They do come together and
12 discuss what the report is, what intelligence we have, what
13 the next steps are, dealing with not only the needs of the
14 police in the investigative matter but also the
15 requirements of the victim and what their needs are as
16 well.

17

18 THE CHAIR: Are these police trained in this?

19

20 DI TWAMLEY: They are trained detectives. They have had
21 no specialist training in child abuse investigation, but we
22 do train interviewers in regional areas. So the contact
23 with the child and the forensic interview of the child is
24 conducted by trained police and CPFS interviewers.

25

26 THE CHAIR: So if you are in a remote town and there is
27 a report of abuse, it comes to the police?

28

29 DI TWAMLEY: Yes.

30

31 THE CHAIR: There is a local detective who will take
32 control?

33

34 DI TWAMLEY: The local detective will have carriage of the
35 investigation.

36

37 THE CHAIR: But when it comes to interviewing the child
38 what happens?

39

40 DI TWAMLEY: Within the district they will have a list of
41 who the qualified interviewers are within their district.
42 They could be conducting other duties across that area -
43 they could be stationed at a police station, they could be
44 on traffic duties, wherever they might be - and they will
45 locate one of those interviewers that is available and
46 contact CPFS and bring those people together to conduct the
47 forensic interview of the child, you would like to think in

1 a timely manner on most occasions.

2

3 THE CHAIR: There is a qualification there, I gather.

4

5 DI TWAMLEY: Well, in the Kimberley, when you are talking
6 about thousands of kilometres between police stations, it
7 can be a challenge.

8

9 THE CHAIR: Obviously there will be circumstances where
10 the child and the parents will be in great distress because
11 of what has happened. How are the two needs met? Police
12 obviously have a need to protect the integrity of their
13 investigation. What about the child?

14

15 DI TWAMLEY: Absolutely. And that, again, is where our
16 relationship with local CPFS comes into play, in that CPFS
17 are responsible for the welfare needs of the child and
18 probably the extended family as well.

19

20 So in remote regional areas it would be our CPFS
21 colleagues who work on the welfare of the victim and their
22 family, while the police get on with the investigation.
23 Again, sometimes, where those two collide, then you rely on
24 the professionalism of the individuals involved to get
25 together, sit around the table and devolve a solution that
26 keeps both parties happy.

27

28 THE CHAIR: Well, who has the priority?

29

30 DI TWAMLEY: Because of a criminal investigation the
31 police obviously have a need to conclude that investigation
32 in a satisfactory manner, compliant with all our
33 legislative requirements. But, of course, the needs of the
34 child always take a priority as well. I would like to
35 think that in 99.9 per cent of cases there is a solution
36 where the needs of the victim are taken care of and the
37 police investigation can also be concluded in a
38 satisfactory manner.

39

40 THE CHAIR: Now, who trains the interviewers?

41

42 DI TWAMLEY: We train them in Perth. They have an
43 eight-week training course, which is a spaced learning
44 course, so it is not a full eight weeks. They do webinars
45 from remote locations and then we bring them down to Perth
46 at the end of that course and they do a week's internment
47 in our child interview unit where they are monitored and

1 the quality of their interviews is assessed.

2
3 Once they are certified as competent they will return
4 back to the regional areas and then, during the 12-month
5 period, their interviews are sent back down to Perth -
6 because they are recorded - for further assessment and
7 feedback on their performance.

8
9 THE CHAIR: Now, having heard what happens in each of the
10 other three States, what do you see as the differences, if
11 any, between what you are doing and what the others are
12 doing?

13
14 DI TWAMLEY: At the MIST centre I don't think there is
15 a great deal of difference in terms of the police process,
16 and the interim report that has just been released into the
17 George Jones Centre certainly supports your own report
18 from March of this year which reviewed the multi-agency
19 centres, so that is quite encouraging for us.

20
21 THE CHAIR: Meaning that you think you are on the right
22 track?

23
24 DI TWAMLEY: I think we're definitely on the right track.
25 Certainly part of my role in the next 12 months is to
26 present this information to our police executive and
27 consider the question on whether we increase the number of
28 MIST centres across metropolitan Perth, and then, of
29 course, we have to tackle the issue of what happens in
30 places like the Kimberley and the Pilbara where the tyranny
31 of distance comes into play. It might not be wise to have
32 a bricks and mortar response to issues in the Kimberley,
33 but more a mobile response.

34
35 My colleagues based in Broome currently have what is
36 called the Kimberley response team, which is a group of
37 detectives and child interviewers who, whilst centred in
38 Broome, operate throughout the Kimberley and visit our
39 indigenous centres and our indigenous communities
40 throughout the Kimberley, West Kimberley and East
41 Kimberley, and they provide, to the best of their ability,
42 the level of service that we try to provide down in Perth
43 at our centralised office. Of course, one of the
44 challenges for them is to try to harness the abilities of
45 family and child advocates, psychologists and other health
46 services to go along with them.

1 THE CHAIR: That is very polite language. Are you saying
2 there is a lack of resource?

3
4 DI TWAMLEY: I think we still have a journey to travel in
5 how to engage these resources in places like the Kimberley.
6 It's a lot easier in a metropolitan area where you can
7 partner with people like Basil and he says, "Well, I can
8 bring these people in, let's get it all together and make
9 this work in a suburban environment." In a regional
10 environment, that's a lot more challenging.

11
12 THE CHAIR: So what happens, then, in the regional
13 environment, does it fall down?

14
15 DI TWAMLEY: I would suggest that issues are a lot more
16 complex when we talk about regional environments. When we
17 are talking about particularly indigenous communities, they
18 have a whole heap of more complex issues that you don't
19 find in the metropolitan area, so you have to be a lot more
20 creative with your solutions. You also have to try to find
21 an indigenous component to your solution as well, because
22 it is pointless, a coach load of white Australians turning
23 up to solve problems within indigenous communities.

24
25 So we had Operation Reset, which has operated for the
26 last three or four years, where teams of child abuse
27 investigators, interviewers, have gone into these local
28 communities to try to establish relationships with
29 community elders. Because I think in indigenous
30 communities - and I'm certainly no expert in indigenous
31 affairs - unless you engage the elders of the communities -
32 they are the ones more likely to start the healing journey
33 for the victims and assist with the protective behaviours
34 for victims within those communities, a little bit
35 different to a model that you might use in a suburban
36 setting.

37
38 THE CHAIR: We heard a little bit about that process
39 yesterday. The sense we had from yesterday's discussion
40 was that there had been real problems in effective
41 engagement with police and local communities; is that
42 right?

43
44 DI TWAMLEY: Many challenges in those areas, absolutely,
45 yes.

46
47 THE CHAIR: But that program has been effective, although

1 presently of limited geographical area; is that right?
2
3 DI TWAMLEY: Yes, that would be correct, yes.
4
5 THE CHAIR: So what's the proposal to increase the spread
6 of that sort of work?
7
8 DI TWAMLEY: Well, Operation Reset from the Kimberley has
9 now been withdrawn and handed over to my local colleagues
10 based in the Kimberley, and hence the Kimberley response
11 team. Based on the success of the Kimberley response team,
12 I have no doubt that that program will be considered in
13 other rural and remote areas of Western Australia, such as
14 the Pilbara and the Goldfields.
15
16 THE CHAIR: For everyone's benefit, as we understand it,
17 what has happened is you have invested significant
18 resources in creating a relationship between the Aboriginal
19 elders and police, so that you can build on that
20 relationship to work with these problems; is that right?
21
22 DI TWAMLEY: That's correct, yes.
23
24 THE CHAIR: And does it involve people like Basil's
25 organisation?
26
27 DI TWAMLEY: At this point in time, no. At this point in
28 time, it has been a relationship between WA police and
29 CPFS.
30
31 THE CHAIR: Queensland must have some similar problems?
32
33 A/D SUPT WATTS: Your Honour, we do. We do have the
34 remoteness of some of the areas there and the distance
35 issues as well, but in relation to our specialist policing
36 response, we do have CPIU officers in Aurukun,
37 Thursday Island and Woorabinda, and we also have, as
38 I said, officers spread throughout the five regions, so
39 depending upon the issue at hand they are able to provide
40 a response from the regional policing hub, so to speak.
41
42 THE CHAIR: Have you talked to Western Australia about the
43 work they have done in the Kimberley?
44
45 A/D SUPT WATTS: I haven't, no.
46
47 THE CHAIR: Perhaps you might like to have a chat. Have

1 you done any structured work to bring a relationship,
2 a strong relationship, between the elders and the police in
3 different parts of the State?
4

5 A/D SUPT WATTS: Anecdotally, I can say yes that has
6 happened on a local basis, but personally I'm not in a
7 position to comment on that.
8

9 THE CHAIR: Has there been a structured program like we
10 understand Western Australia has had?
11

12 A/D SUPT WATTS: I would have to make some inquiries in
13 relation to that, your Honour.
14

15 MR LUPI: Commissioner, if I may just add, we do, through
16 the child protection system, have a very structured
17 approach with our recognised entities to engage the
18 indigenous staff and indigenous organisations in decision
19 making as it affects child protection in indigenous
20 communities. We're currently implementing a number of
21 recommendations from our Commission of Inquiry from 2012
22 that is also looking at increasing the primacy and the
23 models for indigenous communities around Aboriginal-led
24 decision making and the role of justice groups and elders
25 and other institutional type arrangements or local
26 customary arrangements for decision making and kind of law
27 and norm setting, if you like, in many of those
28 communities. So we are in the midst of that and we are
29 obviously working with our colleagues around some issues,
30 particularly in West Cairns, Aurukun and the Cape, to look
31 at different models for engaging the elders.
32

33 THE CHAIR: What about Victoria or New South Wales in
34 relation to indigenous issues - do they play a particular
35 or special part in any of your structures?
36

37 D SUPT NEWBERY: Yes, for New South Wales, well, I suppose
38 initially in our JRU we have an Aboriginal enhancement
39 policy where we look at matters, I suppose, not as closely
40 to the criteria for Aboriginal matters, where they may not
41 meet the criteria but we feel that there is a need for
42 response, particularly for children between 16 and 18.
43

44 Also, in relation to the remote communities we have
45 joint engagement programs where we do a number of
46 engagement programs where each agency goes to the community
47 and talks about their role and tries to engage with those

1 communities and the elders in those communities to
2 encourage reporting and build an awareness in those
3 communities.
4

5 We have worked with the Ombudsman's office in relation
6 to Aboriginal out-of-home care at forums, to work with them
7 in relation to reporting and what is required. But
8 I suppose the important thing for us, and what I encourage
9 all my staff to do in the remote areas, is to get out into
10 those communities and not just go there when you need to go
11 and arrest somebody or do something like that; you need to
12 go into those communities and show that you have a real
13 buy-in to it, I suppose, not just someone that has come in
14 there to do a job. I basically say you need to go in there
15 and build a relationship with the people to ensure that --
16

17 THE CHAIR: Someone illustrated it to us yesterday by
18 saying that there is a significant difference between
19 a policeman who turns up in uniform and a policeman who
20 turns up in a pair of tight jeans and a T-shirt to engage
21 with a local indigenous community. The message was pretty
22 clear. What about Victoria?
23

24 MS MILLER: Your Honour, in Victoria, in our Children,
25 Youth and Families Act we have enshrined particular
26 requirements for mandatory consultation, from the point of
27 report for any Aboriginal child, with the Victorian
28 Aboriginal Child Care Agency, and then a range of
29 mechanisms that occur depending on the further infiltration
30 of statutory intervention from that point. So really at
31 any critical decision-making point we are required to
32 consult and engage the Victorian Aboriginal Child Care
33 Agency in that.
34

35 At the point of substantiation of abuse or neglect, at
36 that 28-day point, we have a requirement to have Aboriginal
37 family led decision making at that point for Aboriginal
38 children, which is gathering the family and community
39 around decision making for a particular child or children,
40 involving a child protection convener, an Aboriginal
41 co-convener and an elder and members of the child's family
42 and community to be engaged in critical decision making for
43 that child. And if an Aboriginal child is placed in care,
44 whether that is with kinship or in foster care or
45 residential care, we are required now under legislation to
46 develop a cultural support plan in conjunction with an
47 Aboriginal organisation.

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Enshrined in our legislation is also a pathway towards self-determination, and we are trialling in Victoria, once again through the Victorian Aboriginal Child Care Agency, the handing over of the administrative responsibilities of the secretary to VACCA, an Aboriginal controlled organisation, in respect to all decision-making and care for particular children of particular orders, as part of that pathway and progression.

THE CHAIR: The impression I have is that each of you in the different States believes that what you are doing is on the right track; is that right?

MS MILLER: I think this is a difficult and challenging issue right across the land, really, and there is a long way to go in terms of what approach works best for what region and what area. I think we are all on that learning pathway. It is continuous.

THE CHAIR: What I want to do now is try to work out, if we can, what might be the most effective elements of what you are each doing. I'm going to ask Judy Cashmore and Jane Goodman-Delahunty to say something about what they think. They, as I understand it, have both had a look at some of these organisations in their work.

So, a question: can you help us? What is good, what is bad, and where should people be looking to improve?

PROF GOODMAN-DELAHUNTY: I will start. I'm Jane Goodman-Delahunty and I'm an academic and researcher at Charles Sturt University.

I thought that some of the fascinating themes that seemed to cut across a lot of what people have shared today really resonated for me with a lot of theory that has been very popular, especially in the policing arena, but also in other organisational studies as well. So it seems to me apt that it does draw some of these together across the multi-disciplinary agencies that we have heard about, and they are the elements of procedural justice that many of you have been talking about that I think make such a difference to the families and the victims at the end of the day. Those are the four elements of neutrality, trustworthiness, respectfulness and voice.

1 So, for example, that most recent discussion about
2 going into some of the indigenous communities dressed not
3 in the garb of authority but looking like the people that
4 you are going to engage with is really a way to demonstrate
5 not only neutrality, because you are not going in with
6 a voice of authority, but to engage with people, and it
7 encourages developing respect, because you are showing at
8 that point, with that sort of interaction, that you really
9 do value those individuals in a special way that conveys
10 their value and their community as well.

11
12 Then, in terms of trustworthiness, the
13 operationalisation of that, we would say, is that you have
14 to really demonstrate that you have the genuine concerns
15 and interests of those families and victims at heart, and
16 obviously to give them a voice to really allow them to
17 speak and engage and listen and not just be telling them
18 what they should do but taking those concerns about
19 explaining the process.

20
21 I think this arena is very much analogous to some of
22 the things that are going on in the engagement of police
23 and courts and the criminal justice system as well with
24 issues to do with families of missing persons, where they
25 are also traumatised and very profoundly affected and
26 somehow have not always been picked up in a sensitive way
27 to be informed about what the process is. So this
28 interface that I think is coming through the
29 multi-disciplinary interaction is really, I think, through
30 those four elements - that's one way to look at it - but
31 I think that that's what it does, it fills this gap that
32 you have all identified. So I think there's a great deal
33 to be encouraged about from what I heard.

34
35 PROF CASHMORE: I'm Judy Cashmore from the Sydney Law
36 School. Look, yes, it was fascinating to hear the various
37 approaches. There are a couple of things that I would like
38 to pick up on. One is the issue about training.

39
40 I was interested to hear that you go back and you look
41 at the interviews over a 12-month period, because if we
42 look at some of the research in this area, and some that
43 Martine Powell has done, for example, it shows that the
44 training in block training lasts for a short period, and
45 you really need to have ongoing pick-ups and ongoing
46 evaluation over time, a bit more like the clinical
47 supervision that other professions have. So I think that

1 would be a valuable thing to discuss at some point.

2

3 The other is I totally agree with Jane that the issue
4 that we hear about from children and families is that they
5 need to know what they are dealing with and to be fully
6 informed. That is one of the most stressful aspects - not
7 knowing. You have given them this information, you have
8 got yourself into a process, and where it goes from there -
9 there is a feeling of a lack of control over where that
10 goes.

11

12 As part of that, what I would be interested to know a
13 little bit more about - and we have heard some - is what
14 happens, for example, in the JIRTs where you don't meet the
15 criteria for a criminal prosecution. I know from some of
16 the evaluations that some of the concern has been what
17 happens to those cases that don't meet it and how do they
18 get back into the child protection stream and are they
19 properly picked up through that process?

20

21 Just lastly, the other concern that we know is coming
22 through in some of the Royal Commission's work is the
23 child on child or the peer allegations, and particularly
24 how you deal with those. Because it appears that a lot of
25 those - very appropriately, probably - don't go forward,
26 and the age difference issue would be one of those aspects.
27 But I think that is something that we know very little
28 about as to how those cases are dealt with and how they are
29 labelled and how they get into diversionary processes and
30 what happens to the child victims in those matters.

31

32 THE CHAIR: Now, Steve Kinmond, I think you have had
33 a look at JIRT; is that right?

34

35 MR KINMOND: Yes.

36

37 THE CHAIR: What can you tell us about what you found?
38 And, by the way, for anyone who can't see, Steve is the
39 Deputy Ombudsman in New South Wales.

40

41 MR KINMOND: We had a cause to look at JIRT both from the
42 productivity point of view and from a resourcing
43 perspective by looking at the plan to respond to Aboriginal
44 child sexual assault, the New South Wales interagency plan.

45

46 In that context we identified that there were
47 resourcing problems. There was inadequate resourcing in

1 part due to the success of the joint referral unit, which
2 is the centralised intake unit, which increased the number
3 of matters being accepted for referral to the JIRT team by
4 25 per cent, but there was no corresponding increase in the
5 number of resources. That, of course, had problems not
6 only for police but also Family and Community Services and
7 for health.

8
9 But we also looked at productivity. So we looked
10 across various JIRTs, we looked at the rate of report that
11 is made to a JIRT to interview rate and the rate of report
12 to JIRT to a charge rate. We saw that across the various
13 JIRTs there was significant variation in terms of those
14 figures, and some of the busiest JIRTs - in fact, the
15 busiest JIRT that we had identified - had some of the best
16 report to interview rate and report to investigation rates,
17 so you couldn't simply say that the only issue in play was
18 whether people can deal with the resourcing challenges.

19
20 So we recommended to Government the need for the
21 increased resources, and Greig has referred to that.
22 Initially there were 30 extra resources, but we made it
23 very clear that what also needed to be tracked was the
24 issue of productivity, particularly at the child abuse
25 level.

26
27 In terms of response - I won't go into all the
28 details, I'm happy to provide a statement later - you can
29 see, for example, and to be fair to the police, that the
30 commander at the time, Maria Rustja, had already identified
31 and had taken action to improve productivity.

32
33 It's interesting, in terms of the increased staffing
34 of 30 staff, the number of interviews conducted by CAS in
35 2014 was more than 50 per cent higher - 50 per cent
36 higher - than those conducted in 2012. By 3 December 2014
37 the Child Abuse Squad had made 733 arrests during the
38 calendar year compared to 455 in 2012, an increase of more
39 than 60 per cent.

40
41 I think the point has been made that the Government
42 saw the success of that with the further investment in
43 additional policing resources. That no doubt has an impact
44 on family and community services. Myra, I might be
45 inaccurate, but what was the number - 12, 10 extra staff?

46
47 MS CRAIG: Mmm.

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MR KINMOND: That does raise a question as to whether that constitutes an adequate response. Health has increased its resources, but obviously the critical issue is the need for counselling services to be provided with the increased workload and, quite frankly, the increased positive results that are being achieved across JIRT.

We also play a very important role in terms of JIRT matters. Your Honour, you referred to the matter involving a teacher suspected of abuse. In connection with a matter of that type, we would look at, for example - because we are notified of those matters under the reportable conduct scheme - was the matter identified as suspected child abuse by a teacher; was the matter identified early; was it reported early to the helpline; was it reported early to the police; has it been referred to the JRU?

We'll look at police holdings. We'll look at the child protection holdings. We'll look at our own holdings and the information provided by the agency. Very often what one will see is that the action that has been taken, whilst it can be justified on one level, may not identify, for example, immediate risks that are in play for perhaps children other than the child who may have been specifically identified in connection with the matter. So we're regularly in communication with community services and with police concerning whether a response can be provided other than the response that was determined at the time when we assessed the matter.

It's interesting in New South Wales because in the reportable conduct area, I would argue that you have another player who can work collaboratively with police and with the institutions involved. It's critical that the institutions are involved and are briefed on what's taking place and that of course consideration is also given, on certain occasions, when the parents ought to be advised and the nature of that advice.

We would argue that we play a role in that sphere and we're very appreciative of the approach taken by community services and police and health and the institutions in terms of working collaboratively with us.

THE CHAIR: Steve, in terms of your evaluation, did you identify anything in the model that's being used in

1 New South Wales which was inappropriate or could be
2 improved?

3
4 MR KINMOND: I have to say it was interesting doing some
5 reading, your Honour, for today's hearing, and the point
6 made from the Parkerville centre in terms of the issue of
7 advocacy for the child and their family - I think that is
8 an interesting area. Community services has a statutory
9 child protection role, and its brief is to look at the
10 question of safety issues for children.

11
12 The police have the responsibility, in this context,
13 to pursue criminal investigations. Police, as with health,
14 when you have the resources, have the professional
15 counselling side.

16
17 MS CRAIG: And the medical forensic.

18
19 MR KINMOND: And the medical forensic. But there is the
20 aspect that needs to be examined as to whether, in some of
21 these matters, some of these matters, the child and their
22 family somehow or other gets lost in terms of the need to
23 have a very strong focus on the support that needs to be
24 provided. So I have to say I'm very interested in what was
25 said in the context of the program in Western Australia.

26
27 THE CHAIR: Now, Victoria, I think you have had a look at
28 evaluating your operations down there. Who can tell us
29 about that?

30
31 MS MILLER: Could I just point out, in the Victorian
32 model, CASA played a role of the counsellor advocate, so
33 that advocacy component is built in right from the planning
34 process, including how to engage the parents, because
35 that's considered the best long-term recovery response in
36 relation to that particular child as well. That is a key
37 component of the model.

38
39 MS HABJAN: In terms of the evaluation that was
40 particularly on the MDCs, so the six MDCs that were
41 operating at the time, the key findings from the evaluation
42 were around the importance of the twin elements of
43 co-location and collaboration. The co-location, I guess -
44 whilst collaboration can still occur outside of an MDC
45 environment, the twin elements together really improve the
46 outcomes for victims as well as the specialist skills of
47 all the MDC staff.

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We found that the clients were receiving more timely and accurate information through being co-located with all the relevant agencies. The evaluation found that there were increased levels of trust amongst the various agencies and therefore a better understanding of each other's roles and responsibilities.

They also found that the knowledge about working with victims of sexual offences had changed due to being located in an MDC, which flowed through to improved work practices as well. And, as I said earlier, the evaluation did find that there was an increase in reporting at the MDC sites - a larger increase in reporting, I guess, than at other sites around Victoria.

THE CHAIR: Patrick, you've had some involvement in training.

MR TIDMARSH: Yes.

THE CHAIR: But you probably have a perspective on the effectiveness of the operation, too?

MR TIDMARSH: We do.

THE CHAIR: Well, let's hear what that is.

MR TIDMARSH: Okay, thank you. We've spent a lot of time trying to define what the specialism is that we're working in. We came out of a Law Reform Commission that said that policing had cultures of disbelief and put false reporting rates at 40 per cent to 50 per cent higher in country regions. They also said that we had no specialism, so there was no understanding of sex offending itself and no squad that determined that.

So we've been working on knowledge acquisition, the appropriate attitudes and the skill set. What we can show so far from our own evaluations is that we've had a significant impact on the ability of our investigators to understand what sex offending is, to understand the behaviour of offenders, to not be fooled by myth and misconception, to not follow counter-intuitive behaviour, to listen and deal more appropriately with victims.

We've had some troubles with the skill set and - the

1 point that Judy raised earlier on - we came out of an
2 organisation that put an enormous amount of time and effort
3 in. The Law Reform Commission suggested that we put one
4 detective into each of the SOCIT sites. Instead of that
5 28, we now have 400 trained detectives who are also
6 specialist trained in each of those sites.
7

8 To a certain extent, we're a victim of our own success
9 in that first phase, because to follow up the skills
10 component of the training that we're doing is actually at
11 the moment the area that needs the most work. Block
12 training works quite well for the development of knowledge
13 and attitudes and culture development, but it's not so good
14 with skills, as Martine Powell has actually been pointing
15 out for about a decade now. But policing likes block
16 training and they don't like to retrain people. With only
17 three of us in our team, and there are 400 people who are
18 trained --
19

20 THE CHAIR: Why don't they like retraining?
21

22 MR TIDMARSH: Well, because it's expensive, it's time
23 consuming, and most policing is waiting for the next
24 challenge. Once they've met one, they want to be ready for
25 the next one. In the culture that we've been working with,
26 there is a tendency to go back to business as usual as
27 quickly as possible and to see reform as a relatively
28 short-term process.
29

30 Most policing challenges are relatively short term.
31 This one isn't. So when we tried to say, actually, we
32 should be talking in a 20-year to 30-year process in order
33 to change this culture, that was met with, "Well, we're in
34 a transition. Let's just finish the transition and see
35 where we are."
36

37 We now know from Martine's work - and my area is
38 suspect interviewing, and I've done pre and post and
39 12-month follow-up on all the suspect interviewing as well,
40 and you get exactly the same phenomenon. Interestingly,
41 though, their knowledge is still there. Their interview
42 planning is actually better in the field. It's the skill
43 component that degrades most quickly over time.
44

45 We think we're also caught up in - there are no
46 national standards. There's no definition of what
47 a specialism is. There's no definition of the skill set or

1 what attitudes would be most appropriate. So we've been
2 evaluating our own people to determine what we think the
3 most appropriate skills and attitude set is. They were
4 absolutely clear, and we'll publish on this later in the
5 year, the top five elements of someone working in this
6 field: they need empathy, good communication skills, good
7 investigative skills, patience and open mindedness.

8
9 With the greatest will in the world, that is not every
10 police officer. So we're trying to recruit the right
11 people, we're trying to train them in the most appropriate
12 way and we're trying to maintain them over time. We think
13 that we've made significant inroads with that, particularly
14 with knowledge and attitudes, and we have a way to go with
15 skill.

16
17 The final thing I'd like to say on that is that there
18 is quite a degree of developing literature suggesting that
19 policing shouldn't be judged just on brief authorisation
20 and conviction rates. We think our next challenges
21 actually are there. They are in finishing the skills
22 component and improving our brief authorisation rates and
23 conviction rates.

24
25 But we also agree with the literature that suggests
26 that policing should be judged on a variety of criteria,
27 most particularly the way victims perceive the service that
28 they get, given that most people who come to a police
29 station still will not have their day in court. Their
30 story will finish at some point in the investigative
31 process and it will not be heard by a court.

32
33 THE CHAIR: Well, there's a challenge. What is the
34 response? Do you accept that training of detectives in
35 this space could be improved - Queensland?

36
37 A/D SUPT WATTS: We've had CPIUs for quite some time,
38 your Honour, and, as I outlined, we do quite a variety of
39 training for them as part of their entry and then
40 maintenance within the investigation.

41
42 THE CHAIR: What's the nature of the maintenance -
43 education?

44
45 A/D SUPT WATTS: Part of their detective training program,
46 which takes three to four years, is training.

47

1 THE CHAIR: Yes, but what about after that? What Patrick
2 is saying is that you just can't teach these skills and
3 then leave the police officers on the assumption that they
4 will actually continue to be able to use them. You have to
5 go back and refresh.

6
7 MR TIDMARSH: Actually, what I'm saying is that we've all
8 been making that mistake for a long time. The literature
9 and what Martine has been saying has been out there for
10 quite some time and across a number of countries.

11
12 A/D SUPT WATTS: Yes, I take that on board, your Honour.
13 We don't have continuing training for detectives. They
14 become detectives. Once they've had the training and prior
15 to coming into the CPIU, they have to undergo psychometric
16 testing to see if they're the good fit for that particular
17 role. So we believe they have those skills when they come
18 in, and they can develop those skills, but we are also
19 looking at a refresher course for the ICARE training, which
20 is a prerequisite for joining the CPIU.

21
22 THE CHAIR: A great many professions now mandate
23 continuing education. What about New South Wales?

24
25 D SUPT NEWBERY: We have our initial training, but that's
26 something we have recognised particularly where you have -
27 and you're a hundred per cent right, you put them through
28 a block piece of training and then send them out. What
29 needs to be done, then, is review of how they're going
30 through periods of time, because, for whatever reason,
31 sometimes they don't continue on with the skills that
32 they're provided or the training they're provided, and
33 sometimes bad habits come in. So you need to continue to
34 monitor those.

35
36 We recognise that, so we're reviewing interviews, but
37 we're also developing a further course outside of that
38 study for child abuse investigation, which again looks at
39 the interviewing side but also other aspects of child abuse
40 investigation, because we see it as a specialist field of
41 investigation.

42
43 THE CHAIR: What about the issue that Patrick also touched
44 upon, which is police scepticism in this space? Is that an
45 issue in New South Wales?

46
47 D SUPT NEWBERY: I really don't think there's a - there

1 probably is an element of scepticism out there, but
2 certainly I think the people that come in to child abuse
3 work are people that put their hand up to go there.
4 They're not generally people that are seconded to go there.
5 They're people who want to work in that space because they
6 have a passion for it. Whether that continues over time is
7 another thing, but certainly they come into it wanting to
8 do the best they can in that field.

9
10 THE CHAIR: It's an interesting observation because
11 although, as we know, there are multiple reasons why
12 prosecutions may not go ahead or may fail, the sense that
13 we have from all the work that we're doing is that the
14 number of false reports is actually very small.

15
16 MR TIDMARSH: About 5 per cent is the recognised figure.
17 I don't think police are any different from anybody else:
18 they're subject to the same myths and misconceptions as the
19 rest of the community.

20
21 THE CHAIR: I was going to say, speaking just of my
22 profession, there would probably be some who would be quite
23 sceptical. But, as I say, the work that we're doing
24 suggests that that scepticism, if it exists, is misplaced.

25
26 MR TIDMARSH: Indeed.

27
28 THE CHAIR: What about Western Australia, how do you go
29 about training and retraining?

30
31 DI TWAMLEY: As I've said before, our interviewers are
32 very well trained and the assessment of their skills is
33 ongoing through the life cycle as they operate as
34 interviewers.

35
36 THE CHAIR: In the sense that they are given a refresher
37 course, or what's done?

38
39 DI TWAMLEY: In terms of the quality of their work is
40 assessed on a regular basis. As I said before, their
41 interviews are recorded. Those recordings are sent down to
42 Perth, where they're reviewed by a training sergeant, who
43 makes sure that they're still completing the interviews as
44 per the manual and the quality of their interviews is
45 sufficient for evidentiary purposes.

46
47 THE CHAIR: What special skills does that sergeant have?

1
2 DI TWAMLEY: They've been there a long time.
3
4 THE CHAIR: Mmm. There might be some who suggest that
5 that mightn't be the only necessary qualification.
6
7 MR TIDMARSH: It's one of the things about trying to find
8 the right person as early as possible. I'll try to say
9 this as tactfully as I can. Mostly we're untraining people
10 before we train them, before we try to maintain them,
11 because experience has come from a methodology that
12 pre-dates, and interviewing has changed a lot in this
13 field, not just with children. Suspect interviewing has
14 changed a lot.
15
16 THE CHAIR: We're about to have morning tea. You and Mark
17 might like to have a bit of a chat. It is time for a short
18 break. Refreshments are available outside. We might break
19 for a quarter of an hour, 20 minutes. Thanks.
20
21 SHORT ADJOURNMENT
22
23 THE CHAIR: Thank you. We're going to turn our attention
24 now to institutions, but I should indicate that we don't
25 have any parents with us today. As you know, we've spoken
26 to parents in the course of our work, but given that this
27 was a public session, we believed it would be too difficult
28 for parents to speak in this forum because inevitably that
29 would mean discussing their own children, so that's just
30 too difficult to do. It's for that reason that we're
31 looking at institutions rather than parents today and what
32 institutions want in this space.
33
34 Now, we have Beth Blackwood here from the Independent
35 Schools of Australia. When we're talking about your
36 organisation, what's the category of school that you're
37 involved with?
38
39 MS BLACKWOOD: Independent schools, schools that are
40 basically stand-alone schools with autonomous leaders.
41
42 THE CHAIR: So not those connected to the church --
43
44 MS BLACKWOOD: There are sectors, so there may be
45 a Catholic sector or there may be an Anglican. Ours is an
46 association for the heads of those schools that have
47 autonomy in their schools.

1
2 THE CHAIR: Right, okay. And then Paul Davis is next to
3 you. Paul, your role, just tell us?
4
5 MR DAVIS: My role is Director of the Office of
6 Safeguarding and Professional Standards in the Diocese of
7 Parramatta. We have oversight of approximately 70 Catholic
8 schools in that diocese in relation to their investigation
9 of allegations of reportable conduct within the reportable
10 conduct regime in New South Wales.
11
12 THE CHAIR: Right. Then Luke Geary, Salvation Army?
13
14 MR GEARY: Yes, your Honour. I'm not sure, for this part
15 of the discussion, how helpful I or my friends will be.
16 Certainly within the Salvation Army, we want to maybe
17 participate in the discussion on risk management of
18 offenders and investigation protocols, which may be later
19 in the day. Dealing with parents perhaps --
20
21 THE CHAIR: We're not so much dealing with parents. We'd
22 like to know what you, as the institution, want from the
23 police and other agencies. So hopefully you're in our
24 space now.
25
26 MR GEARY: Yes, absolutely in that regard.
27
28 THE CHAIR: Then Trisha from NSW Education, what's your
29 role?
30
31 MS LADOGNA: I am the Director of the Child Wellbeing Unit
32 for Education, and I sit within the Learning and Wellbeing
33 Directorate, which has responsibility for our child
34 protection policies in our public schools.
35
36 THE CHAIR: And Carol Lockey, finally, you're Barnardos?
37
38 MS LOCKEY: I'm a senior manager from Barnardos. We have
39 a wide range of services in New South Wales - out-of-home
40 care, childcare, family support programs, youth programs,
41 accommodation programs.
42
43 THE CHAIR: Right. Now, when each of you speak, you might
44 just make sure the microphone is close enough because it's
45 not only this room but it's many people out there who will
46 want to hear what you have to say.
47

1 What we'd like to know is what you as, if you like,
2 people at the head of institutional structures see as the
3 relationship you would want to have with each of the
4 investigating and joint service arrangements that exist in
5 each of the States.

6
7 Obviously the role that the institution has when there
8 is a complaint from within that institution is very
9 significant because you have a trust both for any child
10 allegedly abused but also, of course, for all the other
11 children who may be participating in the institution's
12 activities, be it a whole-of-day institution or one which
13 just cares for children on a limited basis or limited days
14 per week. It's clear that each of you will have a very
15 significant concern about how you're interacting with the
16 investigating and caring bodies.

17
18 Now, Beth, from your perspective, what is it that your
19 schools, if you like, would be looking for, and do they
20 find it presently in any or all or some of the responses
21 that are occurring in different States?

22
23 MS BLACKWOOD: In discussions with our members, there is
24 significant praise for the Ombudsman approach within
25 New South Wales, and the strength that is seen there is
26 a contact with an agency that gives immediate response and
27 can provide advice for the school on a range of matters or
28 at least a referral process on a range of matters.

29
30 Other States didn't feel that they had that same
31 access to advice, whether it would be advice on HR-related
32 matters or advice on advocacy for the child, whatever the
33 issue was. They felt that in New South Wales there was one
34 point of contact that they had nothing but positive
35 comments about.

36
37 I think for schools generally across the States, the
38 desire is to be kept well informed throughout the process,
39 and there is a feeling often that not all are kept well
40 informed, neither the school nor the parents that they are
41 supporting. So that's the main area of concern, of being
42 kept well informed.

43
44 THE CHAIR: Well informed about what?

45
46 MS BLACKWOOD: Often the schools will feel that they have
47 reported a concern and it goes into a black hole and it's

1 the school that's being proactive to try to find what the
2 status of that complaint is.
3
4 THE CHAIR: So the school reports to a Government agency
5 or --
6
7 MS BLACKWOOD: And it will be a different agency in
8 different States.
9
10 THE CHAIR: That's right, and then there's a breakdown in
11 effective communication?
12
13 MS BLACKWOOD: Yes. Not always, but the most common
14 concern is being kept informed.
15
16 THE CHAIR: Can you tell us whether any State does worst
17 on this report card?
18
19 MS BLACKWOOD: No. I can only tell you the State that
20 seems to do the best, and that's New South Wales.
21
22 THE CHAIR: That's, again, because of Steve Kinmond's
23 organisation?
24
25 MS BLACKWOOD: Yes. The multi-agency approach certainly
26 seems to work well. Most of our schools have counsellors
27 or psychologists. The ideal situation is for those
28 counsellors to be involved in the actual process itself,
29 because often within a school it is the school counsellor
30 that is supporting both the family and potentially the
31 victim. A common element here is that those counsellors
32 would like to be kept more informed. I know there are
33 privacy issues that are difficult, but it would be a desire
34 for the counsellors to even be in on the discussions and
35 the actual processes.
36
37 THE CHAIR: So the counsellors would like to know what's
38 happening - because?
39
40 MS BLACKWOOD: In order to support either the child or the
41 parents within the school community.
42
43 THE CHAIR: Right. So there is a perceived need for
44 support beyond what the Government agency involved in any
45 joint response might be --
46
47 MS BLACKWOOD: Or at least a perceived need to know what

1 they are providing sometimes.

2

3 THE CHAIR: As an assurance that enough is being done?

4

5 MS BLACKWOOD: Mmm.

6

7 THE CHAIR: We'll accumulate the good and the bad and I'll
8 come back to everyone from the relevant States to respond
9 in due course. Is there anything else that you would give
10 us at this stage?

11

12 MS BLACKWOOD: I think one of the positives about the
13 Ombudsman system is providing advice around HR issues. So
14 if you have a member of staff against whom there have been
15 allegations, but not proven allegations, what are the
16 processes there and being able to provide some advice, and
17 particularly advice if the investigations do not lead to
18 charges. That's still a vague area for some schools.

19

20 Advice on HR I think is important, and also advice on
21 management of media, because often information - not often,
22 but there are times when information reaches the media
23 before the school has actually had an opportunity to inform
24 their wider community. So it's having advice on at what
25 point you let your other stakeholders know that there is an
26 issue within your organisation that might not directly
27 impact on their child but will impact on the institution's
28 reputation or an individual's reputation.

29

30 THE CHAIR: Paul, you're in one sense in quite a different
31 space but not in another sense. What's your perspective on
32 what you need and what you're getting?

33

34 MR DAVIS: Your Honour, what we're getting is a positive
35 and constructive relationship with NSW Police and community
36 services as a result of regular interaction with them and
37 also I think the benefit of the NSW Ombudsman's Office
38 playing a role as a facilitator of exchange of information
39 at times and a source of advice and a monitoring function
40 that ensures that we comply with obligations on reportable
41 conduct but also that we look creatively at ways that
42 information might be exchanged to support the child and to
43 support or facilitate the execution of investigation
44 processes, whether that's conducted by JIRT or by the
45 police or by our own personnel.

46

47 Certainly what we would like to see is, I guess,

1 greater involvement in institutions playing a role in the
2 JIRT process. I am confident that our organisations - and
3 I guess I would be thinking the same would apply to other
4 non-government organisations - would hold information that
5 would be valuable about the broader context within which
6 potential criminal conduct has occurred, so information
7 about siblings, information about the family, all of that
8 broader information may be accessed, and, in an ideal
9 world, it would be accessed to inform investigation
10 processes.

11
12 I was interested particularly in the voice of the
13 child and looking at its place in current practice.
14 I think that there is probably some way to go in terms of
15 the way that, say, interviews might be convened for
16 children, particularly in school settings, to ensure that
17 perhaps there was the presence of a person who had
18 undertaken appropriate training to support the child and
19 the child's family and look at ways that that interview
20 process, if it's happening within a school environment,
21 might achieve the best results.

22
23 I think that the reality would be that many of our
24 matters don't meet the threshold of JIRT and, therefore,
25 they are managed outside of that frame.

26
27 THE CHAIR: Why is it that many don't?

28
29 MR DAVIS: Simply because of the nature of the
30 allegations, that they may not meet that threshold and,
31 therefore, JIRT aren't always involved in each and every
32 case.

33
34 THE CHAIR: Are you saying that you would like JIRT to be
35 more involved?

36
37 MR DAVIS: Absolutely. I think a multi-agency
38 multi-disciplinary approach to any of these matters would
39 be very helpful. I think that would make great sense.

40
41 I think that the other aspect is the review and
42 development of protocols around how processes relating to
43 the management of JIRT-related matters might be developed
44 and involve non-government organisations in that
45 consultation process, so that that voice is heard in the
46 development of such protocols.

47

1 THE CHAIR: There is a challenge for JIRT. Do you
2 understand what is being said about your threshold?
3
4 D SUPT NEWBERY: I certainly do, your Honour.
5
6 THE CHAIR: What is it?
7
8 D SUPT NEWBERY: What do I understand or what is the
9 threshold?
10
11 THE CHAIR: What is the threshold and then do you accept
12 that it is too low?
13
14 D SUPT NEWBERY: We have a threshold for both physical and
15 sexual abuse. I might have brought it with me. Rather
16 than me talking off the top of my head, in general terms,
17 disclosures and/or evidence of sexual assault; any reports
18 of sexual abuse of a child under the age of 16 where the
19 alleged offender is over the age of criminal
20 responsibility, 10 years; presentation of physical
21 indicators consistent with sexual abuse - venereal
22 diseases, pregnancy, unexplained bruising, bleeding from
23 genitals, all of those. Then for physical abuse - severe
24 or serious injury to a child under the age of 16 that is
25 unexplained and consistent - there is a number of other
26 categories, but generally that's, in broad terms, our
27 criteria.
28
29 For sexual abuse, really, I am loath to think of any
30 matters of sexual abuse that wouldn't meet our criteria.
31 It's more along the lines of the physical abuse. But some
32 maybe non-contact offences and those types of issues may
33 not meet it, but generally we investigate those matters
34 that do meet our criteria. Most sexual offences do meet
35 our criteria, certainly.
36
37 But, in saying that, we get roughly between 4,500 and
38 5,000 matters referred to us for investigation each year.
39 There are 8,000 matters - actually, this year I think it
40 will be closer to 9,000 matters - that will be assessed at
41 the JRU for referral to those currently 22 locations. It's
42 a significant workload.
43
44 We have spoken about this ourselves as the agencies
45 involved in JIRT. We put a lot of people in to investigate
46 certain matters and at some point in time the amount of
47 people available to investigate those matters is going to

1 run out, and where you look at criteria and expanding
2 criteria into other areas - certainly there needs to be
3 a response, but probably from our agencies outside of the
4 JIRT response.

5
6 THE CHAIR: Paul?

7
8 MR DAVIS: It's probably matters that might be regarded as
9 being closest to the sexual misconduct end but still
10 criminal conduct. So it could be grooming behaviours, it
11 could be other sexual offences, allegedly, where there may
12 be an absence of good quality evidence, or it might be
13 explained in some other way such as some consensual kind of
14 relationship in a care relationship or other matters that
15 perhaps have been dismissed as warranting a JIRT response
16 that might be the subject, say, of an internal
17 investigation as opposed to a police matter.

18
19 MR KINMOND: Your Honour, just to assist, historical
20 allegations, for example, which can be extremely difficult
21 to deal with, don't fall within the business of JIRT. So
22 I think that is a challenge very often for institutions to
23 have to deal with those matters. So that is one
24 illustration.

25
26 THE CHAIR: Trisha?

27
28 MS LADOGNA: Hi, I think in looking at this from the
29 New South Wales perspective in public education, we had
30 a good look at the local protocol with JIRT, which we
31 helped develop, is my understanding, and in looking at that
32 there were a few things that came up for us with that.

33
34 Again, it's about the information sharing and that
35 it's consistent and ongoing, so that that doesn't stop,
36 per se, when the main case management perhaps has stopped
37 with the local protocol; that we continue to support those
38 families because we have those long-term relationships with
39 them and that we are working closely with our colleagues
40 around that.

41
42 THE CHAIR: How does it work now? If there is an
43 allegation and it meets the criteria, an investigation is
44 instituted. In terms of information back to the department
45 or the school, do your people report a consistent capacity
46 to find out what is going on?

47

1 MS LADOGNA: Generally, yes, and I think that is probably
2 because of the size of our organisation and the fact that
3 we have an employee performance and conduct unit that works
4 quite closely with the Ombudsman and quite closely with our
5 colleagues, plus we have a child wellbeing unit that works
6 in partnership --

7
8 THE CHAIR: So where do you go to mostly - the Ombudsman?

9
10 MS LADOGNA: It would depend on who the allegation is
11 against. If it is an employee then, absolutely, the
12 Ombudsman and our employee performance and conduct unit
13 would liaise. If it is not in relation to an employee but
14 involves one of our students, per se, in a family
15 situation, we would work closely with FACS, the child
16 wellbeing units, health and potential local area
17 command/JIRT --

18
19 THE CHAIR: So the Ombudsman would not be in that
20 information loop at that stage?

21
22 MS LADOGNA: Not if it is not involving reportable conduct
23 allegations against an employee.

24
25 THE CHAIR: Right. What happens if the police then come
26 to the view that there won't be a prosecution, for whatever
27 reason. What happens to information then and relevant care
28 for the family and the child?

29
30 MS LADOGNA: For example, where there is no criminal
31 investigation and it is a reportable conduct matter against
32 our employee, then our employee performance and conduct
33 unit would commence an investigation in relation to the
34 conduct of that employee within the workforce and work with
35 the Ombudsman about what would happen in relation to
36 substantiating or not substantiating those allegations.

37
38 We would obviously rely on information that may have
39 been discovered through the criminal investigation, if that
40 was available to us. We would conduct interviews if we
41 needed to, but hopefully not again, putting people through
42 those processes again if we don't need to, and then make
43 a decision about their employment, including, within
44 New South Wales - which I think is really important - the
45 probity Working With Children Check scheme that we have in
46 New South Wales. So, for example, if there is not
47 a criminal investigation but we find that a teacher or an

1 employee of the department has abused a child, through our
2 investigations, we would then make the report to have them
3 risk assessed for any future employment with children, and
4 that is another prong of the system that would assist us --
5

6 THE CHAIR: When you say your investigation, is that
7 something that you would institute after the police have
8 said, "We're not going to pursue this?"
9

10 MS LADOGNA: We work in conjunction with them during that,
11 but absolutely we would stand back while the statutory
12 investigations are undertaken - whether they be by FACS,
13 JIRT or police. We work closely with them to make sure
14 that we are not impeding on any criminal or statutory
15 investigation that needs to happen.
16

17 THE CHAIR: What problems are there for you in this space
18 at the moment?
19

20 MS LADOGNA: There are lots of challenges in this space.
21 It is not an easy world when you are talking about child
22 protection.
23

24 I think in relation to public education we find that
25 the local coordination point, those protocols, work really
26 well when people are aware of them. So one of the things
27 that would be really imperative for us is that our schools
28 are aware of those protocols, that that information is
29 getting out and we're following those as they go forward.
30

31 The other issue for us that sometimes comes up is many
32 times the school is responsible for putting together the
33 communication that might go out to the broader community or
34 to the parents about allegations that occur within the
35 school setting, in conjunction with police, where they
36 review it and tell us, "Yes, that's okay", or we do that
37 communication together. But ideally it would be useful for
38 us if police or the statutory body created that
39 communication and signed it off from their perspective and
40 we then distributed it as, "Here, the statutory body has
41 provided us this information to give to our school
42 community". So that might be a change we would like to see
43 in the future or discuss more.
44

45 The ongoing support, then, is also something that we
46 need to consider in the duty of care for all of our
47 students, as you raised.

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Very different, I suppose, from the Association of Independent Schools, our school counsellors are not in any way in their job description equipped to provide sexual abuse counselling to children or families. So we do need to get those supports from the specialists in the field to provide those supports. So we need enough information also to coordinate the service provision that needs to happen for those families and the other children in the school, and sometimes that service coordination part is among the aspects of the information sharing that don't flow as quickly or as timely.

THE CHAIR: Carol?

MS LOCKEY: I suppose, just supporting a number of things that have been talked about, for us it's sometimes around that timely communication between our services and what is happening with JIRT. Obviously our services are involved with the child and family on a day-to-day basis quite often, similar to schools, and so I suppose for us sometimes it's the timeliness of the information that comes from the processes.

I suppose sometimes it is the communication of the outcomes as well, because obviously from the police, the JIRT point of view, they will have concluded, and we may not have been necessarily party to that decision-making process, so it's then kind of what happens after that.

The other thing is obviously we do support very much the role of the Ombudsman in New South Wales and, likewise, we find the advice and support we receive from that office very, very helpful, particularly in relation to reportable conduct issues in relation to staff or carers.

When there's an ongoing police investigation, we obviously will have already communicated our concerns to the Ombudsman as well, but there's often a very long time delay, particularly in relation to historical matters, which I know aren't part of JIRT, but that, for us, can present some challenges. Obviously if we have children in placement we will have undertaken a risk assessment, and community services, too, would have been working with us with that, but whilst we can understand sometimes the reason for the delay - and obviously our numbers are probably quite small, within our organisation, so it's

1 a bit anecdotal, but it does seem that sometimes these
2 processes take quite a long time.

3
4 THE CHAIR: Luke?

5
6 MR GEARY: Thank you. The Salvation Army is in every
7 State and Territory, and so I think we've had an experience
8 with a range of people around the table here.

9
10 Our comments probably come more towards what Steve
11 identified as the historical matters, because I think from
12 the Salvation Army's experience, the victim engagement
13 doesn't involve the Salvation Army so much when the
14 agencies around the table here intervene - essentially, the
15 police and FACS and other institutions run with that part
16 of the situation; it's the organisation that is left with
17 how to manage the offender and the rest of the community in
18 which the offender will participate or not participate,
19 depending on our own risk assessment processes.

20
21 I guess the comments that we wanted to share, and to
22 see if there could be consideration of, are about within
23 a faith-based organisation, such as the Salvation Army,
24 sometimes when somebody is identified as being a person of
25 interest there may be movement between either congregations
26 within a church or into another church. We have
27 experienced some challenges where there has not been
28 a conviction or a concluded investigation, in terms of
29 comfortably sharing relevant information to ensure that
30 other institutions are aware of the need for risk
31 assessments for a person who may be entering their
32 congregation. So that is one matter.

33
34 The others are around what I think some of my
35 colleagues on this side of the table have referred to:
36 where an investigation doesn't result in a conviction or
37 isn't otherwise the subject of a finding at a criminal
38 standard, the investigators appointed by the institutions
39 still have to make findings to their own standards
40 determining whether or not a volunteer or an employee will
41 continue to be able to function in their capacity.

42
43 Within the Salvation Army there is the layer of, for
44 example, a soldier of the Salvation Army. That's a full
45 member of the church. They wear a uniform and so they are
46 very visibly identifiable within the community, and with
47 that comes a degree of trust. So if there is an incident

1 that the Salvation Army needs to manage with a soldier,
2 I guess the decision to remove them from the ability to
3 wear a uniform and participate freely is one that can't be
4 made lightly.

5
6 Where we have a complainant or a victim, particularly
7 in an historical matter, who is not in a position to
8 participate in an investigation, the investigation can be
9 limited, and so the findings are probably often
10 unsupported.

11
12 So I guess from the organisation's perspective, we
13 would be grateful, within the New South Wales JIRT
14 protocol, of being informed about conclusions of
15 investigations and having explained to an organisation why
16 that might happen. That's, I guess, with the contemporary
17 matters. If there was any ability for that type of
18 information to be shared with the institutions for the more
19 historical matters, that might inform their risk management
20 processes. Does that make sense?

21
22 THE CHAIR: It does.

23
24 MR GEARY: The other matters, I guess, are in how we might
25 manage a person of interest where the police are conducting
26 a covert operation. I share Carol's comments about varying
27 degrees of time with which those operations might perhaps
28 need to take place, depending on a range of factors, and so
29 if we have someone who is participating in a church or in a
30 social service within the Salvation Army, from time to time
31 we are instructed not to change the status quo because it
32 might tip the person off, it might affect or contaminate
33 the investigation. I guess we're kind of in a catch 22
34 situation there where our ability to manage that risk is
35 hampered to a degree when, otherwise, if we were managing
36 it freely, we would suspend the person, stand them down,
37 instruct them to not wear uniform, for example, or to go on
38 leave without pay or with pay while a matter is formally
39 investigated. So we see there is a gap there. Obviously
40 we can't control and wouldn't want to interfere with the
41 order of the time within which the police might conduct an
42 investigation, but we're just in that no man's land.

43
44 The last issue that I wanted to flag is really around
45 the Ombudsman of New South Wales. We have had some great
46 dialogue with the Ombudsman in working out and stepping
47 through some of the jurisdictional issues since we have had

1 some discussions over the last couple of years and we have
2 generated a joint protocol with which matters are within
3 and which matters are without those sorts of jurisdictional
4 issues determining whether a person is a volunteer, an
5 employee, a minister of religion or otherwise.
6

7 I guess from discussions we have had with other
8 institutions, particularly smaller ones, if that type of
9 arrangement was able to be more broadly instituted it might
10 be helpful and perhaps demystifying for some of those
11 smaller institutions who have spoken and consulted with the
12 Salvation Army on these issues, to help them properly
13 manage individuals in their contexts. So those are the
14 matters that I think we wanted to share today.
15

16 THE CHAIR: Thank you. We don't have police from
17 South Australia, but Michael O'Connell is the next best
18 thing. Michael, you might just explain your current role
19 and where you have come from. Can you give us your
20 perspective on what institutions might need in this space?
21

22 MR O'CONNELL: I am appointed by the Governor of South
23 Australia as an independent statutory official who can
24 investigate any public official who doesn't treat a victim
25 with respect and in accord with the declaration that
26 governs the way victims should be treated in our
27 jurisdiction, which does give rise to, by way of an
28 example, the first point, that victims across the whole of
29 Australia, as well as in international law, have
30 a provision that there should be no unnecessary intrusion
31 into their privacy, and that should be a governing feature
32 of any of the protocols that exist across every
33 jurisdiction and within any multi-agency organisation.
34

35 In my jurisdiction, if there was a complaint about
36 that, then it could come to my office to consult and
37 inquire into, and I could recommend that an apology be made
38 to the victim or report the matter to the parliament for
39 the purpose of the parliament inquiring further into the
40 way that the executive arm of Government has behaved.
41

42 I also provide - and a point was made this morning
43 about it - advocacy. So I do provide some legal counsel to
44 assist. On at least four occasions in my jurisdiction
45 I have funded lawyers to represent children in relation to
46 matters where either the parents were disputing what should
47 be the way that a matter should go forward, where a public

1 agency has questioned the competency and compellability of
2 a child to give evidence in court, where a child is
3 a witness, and I've even gone to the District Court to
4 fight an issue over the privacy of a child where the
5 police, DPP and others were willing to hand over to the
6 defence in discovery information that I believed was
7 inappropriate, and we were able to obtain an independent
8 order that saw the privacy of the child protected.
9

10 In terms of the point that was made here, one of the
11 issues that arose in South Australia around education - or
12 two, actually - one was around protected communications and
13 the extent to which a school social worker's communication
14 with someone for whom they are providing therapy or
15 assistance is protected, and the Supreme Court in South
16 Australia, in a Full Court decision, set down some quite
17 firm guidelines about when the social worker is operating
18 within the terms of a protected communication dealing with
19 a child and when they are not. I think that is an
20 important issue to bear in mind when one is exchanging
21 information and raising expectations about what social
22 workers in schools are capable of doing and what the
23 predicament is that we sometimes put them in by giving them
24 information that could, in fact, see them subpoenaed by the
25 defence to be a witness against the person they are
26 supposed to be providing therapy to. I think that is an
27 important consideration and one that has been a challenge.
28

29 THE CHAIR: I'm not familiar with that decision, but is it
30 accepted as a good, workable decision?
31

32 MR O'CONNELL: Essentially - I have to say yes, because it
33 suits my point of view. Basically, it says that so long as
34 the school counsellor is operating in a therapeutic
35 context, then any communication between the child as
36 a student and that person is protected and, therefore, not
37 discoverable. But my question is what happens then when
38 you start giving that person additional information that is
39 acquired in a non-therapeutic context? To what extent then
40 can that person be subpoenaed or cross-examined?
41

42 To give you an idea, I've been subpoenaed four times,
43 twice by organised criminal gangs, to provide information
44 that I've acquired from police and others. So in order to
45 avoid that situation we have some unwritten rules about how
46 communications will occur between us, but they are also
47 governed by information sharing guidelines, and I think the

1 Ombudsmen of Australia have developed a reasonable
2 portfolio of those.

3
4 The other issue, if I may, is another point that was
5 raised here. In South Australia there was an inquiry
6 called the Debelle Inquiry, and that related to an incident
7 in a school where a school worker was actually perpetrating
8 offences against children, around the extent to which the
9 school had then an obligation to advise the broader
10 community that there was an ongoing investigation.

11
12 The Debelle Royal Commission actually came up with
13 a number of recommendations, and one of those now has
14 resulted in the head of the State Education Department
15 having to correspond with all people who attend that school
16 within certain contexts, and for the purpose of determining
17 the appropriateness of that correspondence there is
18 a specialist multi-agency committee that has been appointed
19 that advises on the content of the letter, what sort of
20 information, and that committee includes an advocate from
21 the sexual assault sector, the education sector, the police
22 and others. I think it would be something worthwhile just
23 considering in the context of what has been raised by the
24 different people here.

25
26 My final point, if I may, sir, is to just point out
27 that from all of the things that came out of this morning's
28 conversation - and I think it is an important lesson for
29 the education and other sectors - to quote a lady called
30 Dorothy Bracey, the inoculation model of training and
31 educating and raising skills just doesn't work, so there
32 has to be a constant investment in their sector as well as
33 the policing sector, in both areas.

34
35 THE CHAIR: It is not hard to see that there may be
36 a difference between the needs of the institution for
37 information and knowledge as to how to respond and the
38 needs of the child or the family of the child who may be
39 the subject of the allegation.

40
41 MR O'CONNELL: Yes.

42
43 THE CHAIR: Do you see those as being necessarily
44 different?

45
46 MR O'CONNELL: They certainly can be. In policing in the
47 United Kingdom - and the Australian Federal Police here is

1 an alternative example, and in the victim contact officer
2 program in South Australia - the police investigators are
3 complemented in terms of their responses by either family
4 liaison officers or victim contact officers, and often
5 those people, who are trained police, don't have an
6 intimate knowledge of the investigation but, rather, a more
7 intimate knowledge of how they assist someone in navigating
8 the processes and getting a voice and those sorts of
9 things. To a certain extent, evaluations of those types of
10 programs suggest that there is some merit in having
11 a separation in terms of the functions that are provided.
12

13 Now, you may be able to complement that by having
14 a multi-agency response where someone takes on
15 responsibilities, but I just put that on the table.
16

17 From my point of view, the most important part is when
18 you have a clash of rights or a clash of needs, the
19 processes within which you settle that - and those of us
20 with a bit of a psychology background will know that if you
21 give someone who is aggrieved a good strong voice and you
22 indicate very actively that you have listened to them, then
23 they are more accepting of an adverse outcome. The trap is
24 that we make decisions about what we are going to tell
25 people. As a consequence of that, when things are
26 discovered later it impacts on the trust that they have
27 extended towards us, and so on. They really come to people
28 such as police asking for help. They realise that there is
29 going to be a temporary intrusion into their life and they
30 want to come out of that experience not feeling any worse
31 as a result of it, and I would suggest it would be the same
32 in the education sector as well.
33

34 THE CHAIR: For those people who can't see, you have the
35 initials "APM" after your name.
36

37 MR O'CONNELL: Yes. That's because in the 1970s and 1980s
38 I was a police officer and, in fact - I was listening to
39 the conversation this morning - I used to be the
40 administration officer for the Police Commissioners' Policy
41 Advisory Group. It's quite interesting for me that in the
42 mid 1980s there was a pledge that police would adopt
43 a standard practice of approaching all victims, no matter
44 whether children or not, and saying three fundamental
45 things: "You are safe now", "We are here to help", and "We
46 believe in what you are telling us." That was reiterated
47 10 years later with the development of some national

1 standards around training in policing, and so, to a certain
2 extent, I'm sitting here with a sense of déjà vu about some
3 of the points of discussion that we are having now,
4 compared to then, and Mr Atkinson used to sit on that
5 committee.

6
7 THE CHAIR: Judy and Jane, do you have anything from your
8 work to contribute to what children, parents or
9 institutions need from these investigative and caring
10 bodies?

11
12 PROF CASHMORE: Reiterating a little of what has already
13 been said, I think procedural justice issues are really
14 important, and we do know from the procedural justice
15 research that children and families are prepared to accept
16 decisions even when they don't go in the direction that
17 they want, as long as they feel as though they've been
18 involved and informed about how those decisions are made.

19
20 I guess the real tension in this comes to the issue
21 when you have JIRT decisions and so on, and a lot of the
22 cases where they don't proceed are because either the child
23 or the family decides to withdraw or to not make
24 a statement and you're then left with a really difficult
25 situation in that you may well strongly suspect that an
26 offence has occurred, but you can't do anything further.

27
28 I was just thinking of going back to the advocacy
29 process and whether or not the Western Australian situation
30 actually reduces the number of cases in which you have the
31 child or the family refusing or not being willing to
32 proceed further.

33
34 MR HANNA: Anecdotally we would like to think so.
35 Hopefully when the research is finished next year, we'll be
36 able to provide some evidence of whether that's actually
37 true, but our observations are that, yes, we think that's
38 true.

39
40 THE CHAIR: That's because they feel supported and --

41
42 MR HANNA: Well, because they feel supported, safe; they
43 feel that there's someone on their side, so to speak. We
44 know that the police aren't off their side, but they come
45 with such a real sense of anxiety and pain that to have an
46 individual that's there that's guiding them all the way
47 through gives them that sense of reassurance. Yes, I think

1 that's what helps them.

2

3 THE CHAIR: We do know, you would all know, of concerns in
4 different contexts, not necessarily institutional, of
5 hesitation in engaging with police and for families in
6 engaging with DoCS and other similar organisations. I'm
7 sure you all understand that, and that's probably what
8 you're identifying, Judy, I suppose?

9

10 PROF CASHMORE: Mmm.

11

12 THE CHAIR: That hesitation isn't overcome by the
13 conventional bodies being nice. It needs someone else in
14 the space. Is that what --

15

16 PROF CASHMORE: I think that's right, but there is the
17 trust issue, and of course we've talked about that in terms
18 of indigenous communities, where it must be so much more
19 challenging.

20

21 THE CHAIR: Yes. The biggest, but in many manifestations,
22 issue that comes out of that discussion is information,
23 just what is communicated. We know from the work that
24 we've done that parents in particular, but institutions,
25 will become very concerned if they know of an allegation
26 but they don't actually know what's happening, what's being
27 investigated.

28

29 Indeed, of course, the greatest concern for a parent
30 of other children will be, "Has my child been interfered
31 with as well?", to which I'm sure all of us would respond
32 by saying that would be an horrific concern to live with
33 until you knew the answer.

34

35 In terms of each of your joint response organisations,
36 and maybe we should start with Western Australia this time,
37 what can you provide to parents and institutions? What
38 information are you able to provide and how is that process
39 structured?

40

41 DI TWAMLEY: Maybe, to begin with, from a police-only
42 perspective, obviously we're governed by investigative
43 practices, protocols and of course the rules of evidence.
44 Privacy of information that we know about not only the
45 victim but also the perpetrator has that right to certain
46 amounts of privacy before they have their ability to go
47 before a court and are judged.

1
2 We also have the issue of disclosure - I'm sure that's
3 shared across the country - where defence counsel for any
4 accused person has the ability to access any record,
5 electronic or otherwise, that touches on the matters that
6 their clients face before the court.
7

8 So when it comes to devolving strategies of
9 communication with victims, victims' families, other
10 parents and the broader community, we have to be very
11 careful on what we can and can't say. And even within the
12 context of our own offices when we are looking at
13 investigative strategies, we are also cautious on what we
14 record on any document, whether it be an email or any
15 official document, on what we might hypothesise may have
16 occurred in these matters and when certain decisions are
17 made in terms of accessing search warrants or the decision
18 is made to charge people after assessment of the evidence.
19

20 I guess that is a nice segue into the abilities of the
21 family advocates to be able to take that role, who possibly
22 aren't aware of all the information that we have but are
23 unencumbered by those legislative restrictions in how they
24 can work with the families and work with other potential
25 victims to guide them through the problem and ease their
26 concerns. Maybe Amanda can touch on that.
27

28 MS PATON: My name is Amanda Paton. I'm the Director of
29 Therapeutic and Advocacy Services for Parkerville Children
30 and Youth Care. My role is to work with the MIST team and
31 at the George Jones Child Advocacy Centre. I suppose the
32 key role of the child and family advocate starts as soon as
33 the case comes into our centre for a forensic interview.
34 So the police play their role and child protection play
35 theirs, and health if there's a medical response required.
36

37 What the advocate can do is they're an impartial,
38 independent person that really gets to meet with the family
39 and meet with the child and with other siblings and other
40 people around the family, which is really crucial.
41 Families will divulge and will really sit down and talk
42 with the advocates and the therapists involved in the team,
43 whereas they might not share that information with child
44 protection and with police.
45

46 What happens is we're able to work with the family
47 afterwards and ongoingly. So if the family wants to come

1 back to the centre after their forensic response and after
2 they have had their interviews and been assessed by child
3 protection, the information sharing then continues
4 ongoingly. We often have lengthy conversations with police
5 and child protection, and the MIST team can feed back and
6 give it in plain kind of language and spend the time with
7 the families explaining it.

8
9 We're talking about those adverse responses and
10 adverse outcomes, and if the family and the children are
11 given the time to actually understand it, they're much more
12 accepting of it. We find in some cases they'll make
13 further disclosures to the advocates. Or if maybe the
14 initial disclosures didn't meet the threshold for police
15 investigation, they'll be sent to the advocates and we'll
16 be able to do some ongoing therapeutic work with them,
17 psychoeducation and protective behaviours, and then if
18 there is a further disclosure, it goes straight back in to
19 the MIST team. So it's kept within the same team that's
20 familiar with the child and the family at the centre.

21
22 So that information sharing is really crucial right
23 through to when it's handed to the DPP and goes to court
24 and engaged with the Child Witness Service as well, so we
25 can keep that communication open with the families and that
26 information sharing, which is crucial, which maybe is more
27 than what police and child protection are able to do under
28 their restrictions.

29
30 THE CHAIR: Would it be more than police are able to do in
31 Western Australia?

32
33 DI TWAMLEY: Absolutely. I think there's another factor
34 involved, too, and that is the power of social media in
35 these issues. When there's an allegation made,
36 particularly in a school, where a child may have disclosed
37 and investigations are under way and very early, it doesn't
38 take long for the local community to suddenly have a mass
39 hysteria type effect through social media.

40
41 I know that we, as police, and our partners at CPFS,
42 and I'm sure replicated across the country, spend a lot of
43 energy trying to manage that misinformation that manages to
44 articulate its way around a local community. I think it's
45 a modern issue --

46
47 THE CHAIR: How do you do that?

1
2 DI TWAMLEY: By trying to communicate directly with the
3 parents of those who are affected, trying to dampen the
4 hysteria, trying to dispel some of the myths. But it's not
5 easy and it's not always successful.
6
7 THE CHAIR: Do you tell them what you're actually doing?
8 How do you communicate?
9
10 DI TWAMLEY: You can only tell them what you're
11 legislatively able to tell them. "We are conducting
12 inquiries. At this point in time, we have a victim who
13 we're caring for and talking to. There may be other
14 victims. If we know of other victims and if you are
15 connected with that victim, we will come and communicate
16 with you." Now, I guess as a parent, and as a parent
17 myself, that's not always completely satisfactory --
18
19 THE CHAIR: No.
20
21 DI TWAMLEY: -- because you have a lot of emotion going
22 on. But unfortunately, as law enforcement, that's all the
23 comfort that we can provide, whereas our partners at
24 George Jones, through their therapeutic services, can maybe
25 go that one little step further.
26
27 THE CHAIR: One of the things that parents will,
28 I suspect, need is the ability, skill, capacity - whatever
29 word you like to use - to be able to talk to their own
30 child about the issue. Is that what you help them to do?
31
32 MS PATON: Absolutely. It's one of the things --
33
34 THE CHAIR: How do you do that for, say, a whole school?
35
36 MS PATON: A whole school. We have a whole range of
37 different programs attached to the George Jones Child
38 Advocacy Centre in local schools in Armadale and the
39 south-east metro corridor of WA, where we have social
40 workers in the schools, who run a range of protective
41 behaviours programs, drop-in centres and things like that
42 for parents and for children.
43
44 The City of Armadale is particularly proactive and
45 partners with Parkerville in a joint funding kind of model
46 to provide local day cares and local schools with training
47 to their staff and educators as well as direct instruction

1 to the children and also workshops for parents. So that's
2 running right throughout that corridor.

3
4 THE CHAIR: Let's assume you have an allegation, the
5 police have commenced an investigation, but then there are
6 multiple, multiple parents who are saying, "Gee, what has
7 happened to my child?"

8
9 MS PATON: Yes.

10
11 THE CHAIR: How do you communicate with that group of
12 parents?

13
14 MS PATON: First of all, there's the preventive aspect in
15 terms of it should be out there, and it is out there
16 definitely in the Armadale area, preventive knowledge of
17 child safety, child wellbeing, child protection --

18
19 THE CHAIR: Sure, but this is an event that is actually
20 now the subject of an allegation and the parents of other
21 children don't know whether their child may have been
22 abused or not.

23
24 MS PATON: Yes.

25
26 THE CHAIR: What do you do?

27
28 MS PATON: How we manage it in the MIST project at the
29 moment is that we would go out and speak to the schools and
30 speak to the families and hold forums. So it's provided by
31 an independent person, such as the child and family
32 advocate, probably accompanied by one of our therapists who
33 specialises in child sexual abuse and protective
34 behaviours, to give that psychoeducation and understanding
35 around what is normal.

36
37 A lot of parents get fearful then and they read
38 everything into their child's behaviour if there has been
39 an allegation in the local community. So it's really about
40 talking to them about what's normal sexualised behaviour,
41 what's something that you may want to seek a bit of extra
42 advice on, or how to talk to your children about safety and
43 about secrets and about body parts and private parts and
44 all those types of things, and the philosophy --

45
46 THE CHAIR: Do you help them to be able to say to their
47 child, "Have you been abused?" That's a question that we

1 know they want to ask.

2

3 MS PATON: That's a tricky question, I think. You want to
4 provide the parents with enough information without causing
5 hysteria and panic in parents. It's very easy for parents
6 to run home and kind of shake their child and tug them and
7 say, "Has so-and-so touched you and what has gone on?"
8 I think by providing parents with the space, time,
9 psychoeducation and information about child abuse and what
10 might be appropriate conversations to have with children
11 without causing panic, without putting words into
12 children's mouths and those types of things, that's
13 important.

14

15 Having a space and a service that families can come
16 back to, making sure that local school communities and the
17 counsellors, the psychologists and the chaplains within
18 school communities are well aware of that information
19 I think is the key.

20

21 THE CHAIR: But the cases that we have are parents
22 tonight. There's an allegation today. Parents tonight are
23 saying to themselves, "What about my child? How do I talk
24 to my child?" How do we help those parents?

25

26 DI TWAMLEY: It's very difficult from an investigative
27 perspective because, at the end of the day, we don't know,
28 so I can't give a parent a level of comfort and say, "No
29 need to worry about it, sir", because I might be knocking
30 on his door two days later to say, "We need to interview
31 your child."

32

33 THE CHAIR: But how does anyone help the parent to speak
34 to the child in that frame?

35

36 MS PATON: I think the Child Advocacy Centre model and
37 a framework of protective behaviours, which I think is
38 a child friendly language about how to talk about safety
39 and how to talk about body awareness and things like that,
40 is the best framework. I come from a background of
41 clinical psychology and working with children --

42

43 THE CHAIR: Let me interrupt you, though. But you have
44 a parent today who hasn't been to any of your sessions and
45 has none of your literature. What do you do?

46

47 MS PATON: I think that's where police and child

1 protection services need to partner with NGOs. They need
2 to partner with other people in the community that might
3 have those services. They need to partner with schools,
4 who might have that knowledge to provide that information
5 to the parents.

6
7 THE CHAIR: To do what?

8
9 MS PATON: To talk to them, to allay their fears, to talk
10 to them about how to talk to their children when they get
11 home.

12
13 THE CHAIR: So what do you do? Do you broadcast to the
14 school the next day, "There will be a meeting tonight. All
15 parents are welcome. We're going to talk to you about
16 these issues"? What do you do?

17
18 DI TWAMLEY: Again, time, place and circumstance. In the
19 past, we've done things like set up telephone hotlines
20 within our office so that concerned parents can call
21 through and speak to an experienced detective on what might
22 or might not have happened and also to talk about some of
23 the issues in terms of how to speak to their child and what
24 they may have observed of their child's behaviour in the
25 past or into the future.

26
27 On other occasions, we have run a forum at the school
28 and sent people, as Amanda says, therapists and
29 educationalists as well as police, out to a school site.

30
31 THE CHAIR: This is while you're still investigating the
32 primary allegation?

33
34 DI TWAMLEY: Absolutely.

35
36 THE CHAIR: Yes, okay. That's the issue that arose in the
37 YMCA. That's the Jonathan Lord problem. If you didn't
38 catch the evidence in that case, multiple, multiple parents
39 were very, very concerned as to how to manage the issue
40 with their child that night and the next day.

41
42 DI TWAMLEY: Part of our investigative process in Western
43 Australia is that if we receive an allegation of child
44 abuse where there's potential for it to become more
45 compound and complex due to multiple victims or multiple
46 offenders or a combination of both, then we'll appoint an
47 SIO, senior investigating officer, to the investigation,

1 who, whilst also overseeing the mechanics of the
2 investigation itself, also then has to consider the issues
3 of communication, liaison with families, liaison with
4 media, which is another component of this, et cetera,
5 et cetera.

6
7 THE CHAIR: Yes. It has gone 1 o'clock, which means it's
8 lunchtime, but I want to tax each of you on this issue.
9 You're burning to say something, are you?

10
11 D SUPT NEWBERY: No, I'm not burning. One of the points
12 you talked about there, talking about the New South Wales
13 local contact protocol - the letters that we send out, as
14 part of the template for that, we put a sentence in there,
15 "If you have observed or are aware of any concerning
16 behaviours by your children or you would like some
17 assistance in having a conversation with your child", we
18 have a point there that you can contact to ask questions
19 about that.

20
21 THE CHAIR: I'm going to come to your documents after
22 lunch as well.

23
24 D SUPT NEWBERY: I was just trying to help out Western
25 Australia.

26
27 THE CHAIR: Well, at the end of the day, I hope that we
28 can contribute to everyone's effectiveness in this space.
29 I don't think anyone can claim, I suspect, to be perfect,
30 but hopefully you can all benefit from the discussion. But
31 it is lunchtime. There are sandwiches and a cup of tea or
32 coffee. We'll be back at 2 o'clock.

33
34 LUNCHEON ADJOURNMENT

35
36 THE CHAIR: Back to what you can tell institutions and
37 parents, what's the Queensland position?

38
39 A/D SUPT WATTS: Your Honour, similar to Western
40 Australia, we are limited during an investigation on what
41 information we can release.

42
43 THE CHAIR: Limited by statute or?

44
45 A/D SUPT WATTS: Both legislatively and also policy driven
46 from the service in as much as we balance the needs of the
47 investigation as to the protection needs of the children,

1 and paramount is the protection needs of the children or
2 the children victims in relation to that, but concurrent to
3 that is then the progression of the investigation
4 forensically for us.

5
6 We restrict the information that we release, so we do
7 not jeopardise any future proceedings against any person as
8 a result of our investigation. That puts us in a difficult
9 position of then explaining to the parents what we can and
10 cannot tell them. So that really depends on a case-by-case
11 basis.

12
13 THE CHAIR: How do you go about handling the situation
14 I put to Western Australia?

15
16 A/D SUPT WATTS: With the multiple victims and the
17 parents?

18
19 THE CHAIR: Well, potentially multiple victims, but one
20 comes forward in a school or similar situation. Our case
21 study involved a YMCA daycare centre. One comes forward,
22 but word spreads very quickly that that's out there, and
23 every parent of every other child in that class or daycare
24 centre says, "Good heavens, what about my child?", and
25 desperately wants information.

26
27 A/D SUPT WATTS: Understanding that and then how we
28 respond is dependent, again, on that investigation, but it
29 would be driven by, number one, allaying their fears. Now,
30 whether we coordinate a public forum for the teachers, if
31 that was required --

32
33 THE CHAIR: What about the parents?

34
35 A/D SUPT WATTS: Sorry, the parents, I mean, not the
36 teachers. For the parents. Or if it was a one-on-one
37 dealing with the parents from an investigator's point of
38 view --

39
40 THE CHAIR: What would you tell them?

41
42 A/D SUPT WATTS: Pretty much what I'm saying now: not to
43 jeopardise an investigation, we cannot release information,
44 and then instruct them - and, again, it depends on the age
45 of the children - on what we'd ask they don't discuss with
46 their child as well, because we do not want to jeopardise
47 any forensic interview.

1
2 THE CHAIR: What would you ask a parent not to discuss
3 with their child?
4
5 A/D SUPT WATTS: It depends on, if we're looking at that
6 child as a victim and we haven't done a --
7
8 THE CHAIR: Let's say you don't know.
9
10 A/D SUPT WATTS: We don't know, okay.
11
12 THE CHAIR: What happened in the YMCA case was that one
13 came forward. There was then enormous concern - you can
14 understand it - amongst all the parents, "Has my child been
15 impacted by this?" All the parents would have known, or
16 many of them would have known, of potential contact between
17 the offender and their children. Particularly in a daycare
18 centre, that's something that's very likely and so they
19 have a heightened level of concern about their own child.
20 What do you tell the parent in that circumstance?
21
22 A/D SUPT WATTS: That we cannot tell them much as the
23 investigation unfolds, and we'd ask that they don't speak
24 to their child about the crime.
25
26 THE CHAIR: It's very hard to do that when you're
27 a parent, isn't it?
28
29 A/D SUPT WATTS: That's correct, but that's from the
30 perspective of an investigating police officer. That's
31 our - not expectation, but that's our response to that.
32
33 THE CHAIR: Having had that meeting let's say the night
34 after or two nights after the event arose, how do you then
35 maintain your contact with all of those parents? Do you go
36 back to them again in a meeting? What do you do?
37
38 A/D SUPT WATTS: Again, it depends on the circumstances
39 and it depends on the number of investigating officers we
40 do have, but we do have a variety of referral systems that
41 we can implement in Queensland. It started off as CRYPAR,
42 but it's now known as Police Referrals. So if there are
43 specific referrals or specific support that the parents may
44 need, we're able to refer the parents to those.
45
46 With the CPIU officers, we certainly like to involve
47 them with the liaison with the parents on an ongoing basis.

1 Once we've made an arrest or a charge has been made, we can
2 then bring in another organisation called PACT, which is
3 Protect All Children Today, and they take over and assist
4 child victims and child witnesses through the court
5 processes.

6
7 THE CHAIR: When do you tell the parents of the children
8 who haven't brought forward a complaint that they can ask
9 their child about the circumstances?

10
11 A/D SUPT WATTS: That would be once we have completed our
12 inquiries with all of the children that we suspect have
13 been victims or witnesses.

14
15 THE CHAIR: So that might be months?

16
17 A/D SUPT WATTS: Depending on the circumstances. Again,
18 it really depends on the circumstances. If it's a fresh
19 complaint, you would try to obviously do that as quickly as
20 possible, bearing in mind the concerns of the parents. So
21 I wouldn't think it would be that long at all.

22
23 THE CHAIR: Victoria, what's the situation there?

24
25 DSS GYE: Similar to Western Australia, similar to
26 Queensland and everywhere else. The approach we would take
27 in terms of what the parents could tell the children would
28 be along the lines of, "If you want to have a conversation
29 with your child, then keep it as simple as you possibly
30 can. If there's any suspicion of a disclosure, stop there
31 and either contact the police or contact the counselling
32 service, CASA."

33
34 We had a situation arise in Victoria not that long
35 ago. It didn't involve a school, but it involved
36 a sporting club. There were allegations that a person
37 involved in the sporting club had interfered with children.
38 Word got out very quickly, as it does. There was
39 a community meeting called. So we went to the community
40 meeting, but we took with us CASA and some other
41 representatives. At that community meeting, our sole focus
42 was to allay the fears of the parents as much as we could.
43 CASA were able to talk about their services and the best
44 methods to perhaps discuss with the children what had
45 happened.

46
47 It wasn't ideal, but it actually worked out okay for

1 us. In an ideal world, if we had the opportunity to plan,
2 I think to have CASA or one of our partners within the MDC
3 do some work around protective behaviours with the children
4 would take some of the responsibility away from the
5 parents, I guess. It would give the parents some comfort
6 that children were being spoken to and that, if they had
7 been sexually abused, the likelihood is that they would
8 disclose in those circumstances.

9
10 THE CHAIR: I'm not quite sure I understand that. In
11 relation to adults, of course, early disclosure can be
12 a significant evidentiary benefit.

13
14 DSS GYE: It can, but --

15
16 THE CHAIR: What is the issue in relation to children?

17
18 DSS GYE: There's no issue in terms of early disclosure.
19 The issue that arises with schools - if it's a teacher, say
20 for example, that's involved, word gets out very quickly
21 and we need to be able to contain that, if we can, so that
22 the evidence-gathering phase of the investigation isn't
23 contaminated by people talking about certain aspects of it.
24 There's very limited information, as you've heard, that we
25 can give to people.

26
27 THE CHAIR: But you say that if a parent suspects a child
28 is about to disclose, they're to stop and not get the
29 disclosure. Why is that --

30
31 DSS GYE: Well, if they suspected that a disclosure was
32 about to be made and they were to bring them to us, then we
33 could conduct the disclosure interview or a professional
34 counsellor could conduct the disclosure interview. That
35 way, you don't have a situation arising where children are
36 being asked leading questions and, as I think was stated
37 before, maybe having words put in their mouth. That would
38 be the ideal way to do it.

39
40 MS BOLTON: Yes, and from a CASA perspective, I think it's
41 really important to work with the parents around the trauma
42 impact on the child, so what are the behaviours that the
43 child is displaying and how do we need to work with those
44 and support the child and ensure that they have good
45 attachment and bonds to their parents and that they have
46 that stable environment. I think that trauma impact for
47 the child and the symptoms that they're displaying are

1 what's really important to support.

2

3 THE CHAIR: We're talking about behaviour as against
4 a child saying something, aren't we?

5

6 MS BOLTON: Yes.

7

8 MS MILLER: I think one of the really important
9 developments in Victoria has been the introduction this
10 year of the childsafe standards for, largely, agencies and
11 organisations that work with children primarily. That has
12 been consecutively rolled out. An important component of
13 that is an organisation having defined systems and
14 processes in place to deal with these sorts of things so
15 that we're not waiting for something to happen and then
16 trying to work out what we do.

17

18 The Department of Education and Training in Victoria
19 has very clear guidelines and we have protocols with them,
20 and police, in relation to how we would respond to
21 disclosures of sexual abuse in the school community,
22 whether that's within the child's family or an allegation
23 about a teacher. There are really clear, defined roles and
24 responsibilities and time frames.

25

26 There is also good guidance material by way of
27 templates in terms of things for consideration, including
28 alerting the school community, the parents. There are
29 templates of letters of what those things might say which
30 don't go to compromising a police investigation, and also
31 some predetermined tip sheets of how to speak to children,
32 what you might see, and, critically, information about who
33 to contact if you have worries about your child or you're
34 concerned that they might be either displaying some of
35 those behaviours or talking to you about some of those
36 things, and even about how you might engage the child in
37 a conversation.

38

39 I think that that really is a very helpful process for
40 both the coordinated and timely response but ensuring that
41 we capture all the sorts of things that we need to give
42 consideration to. It would be great if that sort of
43 process was rolled out quite broadly, including to sporting
44 clubs and really all sorts of environments where children
45 attend.

46

47 THE CHAIR: Again, the circumstance that I'm testing you

1 all with is one where an allegation comes forward and it
2 goes like wildfire right through the school, and all the
3 parents are at home talking to each other, saying, "How do
4 I know my child hasn't been abused?" How do you work in
5 that space?

6
7 MS MILLER: Yes, so if the school becomes aware of that,
8 they're required to immediately report that to police.

9
10 THE CHAIR: The school is aware of it and the police are
11 aware of it, and the police are now investigating, but the
12 parents, within 24 hours, through all the mechanisms we now
13 have, all know and they're all looking at their own
14 children.

15
16 MS MILLER: Yes, and the guidelines talk about a response
17 within that 24-hour period and there are defined people
18 within both the Department of Education and police who come
19 together to craft that information, but it is a requirement
20 that that's distributed, if that's the decision that's made
21 by the regional director, within the first 24 hours.

22
23 THE CHAIR: The information that will be distributed will
24 tell the parents how to respond and interact with their own
25 child?

26
27 MS MILLER: Yes.

28
29 THE CHAIR: And does it tell them not to - to stop the
30 child if the child is about to disclose?

31
32 MS MILLER: I don't believe that it actually says that,
33 but I think that it does say to largely alert police at the
34 earliest opportunity to that, with the information and
35 contact name of the relevant police officer.

36
37 THE CHAIR: New South Wales?

38
39 D SUPT NEWBERY: I suppose the first question is what do
40 we tell the parents of the victim? Non-offending parents,
41 we give them as much information as we can without
42 compromising the criminal investigation. We're going to
43 have that investigation from cradle to grave, we're going
44 to have it for a number of years, so we have to build
45 a relationship that's going to last with that family, so
46 you need to ensure that their needs are met.

47

1 THE CHAIR: The parent will want to know, "What has my
2 child told you?" You've had that question many times.
3
4 D SUPT NEWBERY: Yes, and we can give them some basic
5 information, depending on the circumstances. It's
6 a case-by-case basis, depending on who the offending person
7 is, maybe, but --
8
9 THE CHAIR: Well, let's test it. If the child has
10 reported to you that they've been fondled, do you tell the
11 parent that the child has said they've been fondled by
12 a teacher or someone in the school?
13
14 D SUPT NEWBERY: We would give them that information, yes.
15
16 THE CHAIR: And if the child is a nine-year-old and the
17 child has been raped, would you tell the parents?
18
19 D SUPT NEWBERY: By a teacher?
20
21 THE CHAIR: Yes, by a teacher, yes.
22
23 D SUPT NEWBERY: We'd give them information, enough to
24 tell them that a sexual assault had occurred, yes. We
25 probably wouldn't go into the details of the specific
26 instance at that time, but we would give them sufficient
27 information to let them know in basic terms what had
28 happened to the child.
29
30 THE CHAIR: If you were to tell me my child has been
31 sexually assaulted, the first thing I would think of is
32 that they have been raped.
33
34 D SUPT NEWBERY: Yes, yes.
35
36 THE CHAIR: So I would come back to you and say,
37 "Mr Police, or Ms Police, are you saying my child has been
38 raped?" What would you then say to that person?
39
40 D SUPT NEWBERY: If that's the terms of it, yes.
41
42 THE CHAIR: So if the question is asked of you, you would
43 answer it?
44
45 D SUPT NEWBERY: Yes. I think from a parent - you look at
46 the alternative. If there's no reason to protect that
47 information for the criminal investigation, realistically,

1 you look at the alternative. You are not telling them
2 anything so they are going to go away and be questioning
3 the child, they are going to be doing all those things that
4 are probably detrimental to the child and to the
5 investigation. So you have to give them some information.
6 You can't keep them in a vacuum, because they are
7 a secondary victim of the offence that has occurred to
8 their child. So you need to do something to assist them.

9
10 THE CHAIR: What about the school and the other parents?

11
12 D SUPT NEWBERY: With the school, we have put in place the
13 Local Contact Point Protocol after lessons learnt from case
14 study 2 here.

15
16 THE CHAIR: We will come to those, Greig, in a little
17 while. But generally?

18
19 D SUPT NEWBERY: In general terms, what would we tell the
20 parents in a circumstance where it is a school or
21 institution and there is some thought that there may be
22 further victims or some immediate concern? We provide them
23 with information that an investigation is under way. In
24 the letter we give them information that the school is
25 taking steps to ensure that the children are being made
26 safe.

27
28 THE CHAIR: What about the parents who say, "What about my
29 child?" What is the message to them?

30
31 D SUPT NEWBERY: The message that we provide in our
32 communication with them is we say, "If you have observed
33 behaviour that is concerning or you need some assistance in
34 having a conversation with your child about those concerns,
35 you can contact a number and receive advice and guidance,
36 you can also receive some education packages or other
37 information that will help you in dealing with that; speak
38 to a person who can assist you in that regard."

39
40 THE CHAIR: Leaving each of the four of you without this
41 question having been asked, I want to turn attention to the
42 privacy aspects of this - and, Elizabeth, you are my
43 target. How does the privacy concern speak in this space
44 as to the information that can be given to the school or to
45 parents with respect to an allegation that has been made
46 against, let's assume, a teacher in a school?

47

1 DR COOMBS: I think there are a number of considerations
2 which need to be taken into account here, and if you are
3 asking me for a quick black and white answer, I'm unable to
4 do that. As Privacy Commissioners - and with my
5 representative here from the Federal Privacy Commission -
6 we are concerned with personal information or health
7 information, and that is information which may be
8 information or it may be an opinion which can reasonably
9 identify an individual or individuals.

10
11 So, for us, we are very focused on those issues of is
12 this personal information or are there exemptions which
13 apply? Because privacy legislation is based upon
14 principles. There is no way that it can foresee all
15 circumstances, and so it tries its very best to provide
16 both clear guidance and also sufficient flexibility when
17 those principles need to be modified.

18
19 So anticipating that you would be asking that question
20 and working through what can be shared between agencies -
21 and my jurisdiction is largely, but not limited to, the
22 New South Wales public sector, which is Government
23 departments, councils and universities, but I also have
24 jurisdiction in the area of health service providers, be
25 they public or private - inside the Act you have under
26 Division 3 of the PPIP Act specific exemptions of
27 principles. Just one example there is that agencies can
28 disregard the principles if they are collecting, using or
29 sharing information which is related to law enforcement
30 activity, and there are also other exemptions which relate
31 to investigative agencies, such as the New South Wales
32 Ombudsman, where they can actually provide an update on
33 progress of an investigation or an outcome of an
34 investigation to the complainant.

35
36 There are some other exemptions which concern, such as
37 underneath 18C, where it's not a disclosure if you believe
38 or have reasonable grounds that disclosure is necessary to
39 prevent or lessen a serious and imminent threat to the life
40 or health of the individual concerned or another person.

41
42 The Act does not cover individuals - what a parent
43 might say to another parent.

44
45 THE CHAIR: Does it cover, though, what a policeman might
46 say to a parent?
47

1 DR COOMBS: There are very broad exemptions under
2 New South Wales privacy for law enforcement activities, as
3 my colleague from the NSW Police was previously outlining.
4

5 The point that I am trying to make here is that
6 communication from the school to the media or communication
7 to parents who are affected or who might be affected, if
8 it's information which is not personal information, is not
9 something where I, as Privacy Commissioner, have a large
10 part to play. It's where it concerns the identification of
11 individuals, and we are very concerned, as other people
12 around the table have said, about the issue of young
13 children and their information becoming publicly known and
14 spoken about.
15

16 I noticed that Helen was talking about consent and the
17 power of consent and how, if you put the time into it, you
18 can use that communication strategy as a way to make people
19 feel very comfortable. Because the thing that we are very
20 conscious of is if you don't respect and gain that trust
21 from the parents and the broader community, you can
22 actually lose the willingness to address these issues.
23

24 THE CHAIR: Can I just test that? What will happen, and
25 did happen, is the teacher will probably be suspended.
26 Now, that immediately raises in everyone's minds, "Why is
27 he being suspended?" Does privacy operate in the space of
28 telling people why it is that Mr X or Ms X has been
29 suspended?
30

31 DR COOMBS: I think this is where it gets very difficult
32 and where judgment needs to apply, and it is upon the
33 circumstances of the particular matter. It's not personal
34 information if it is information which is contained in a
35 publicly available publication, and so I don't want to be
36 put in the position where I say either "Yes" or "No",
37 because it does depend a lot on the circumstances of the
38 matter. I can see that you have a question there.
39

40 THE CHAIR: I always get questions from the right. I also
41 get admonitions. But the question that Leigh has is, well,
42 we understand that the police will have well-defined
43 protocols in whatever form - there will be defined
44 protocols - but what about the institution? What is the
45 position of the headmaster of the school? And maybe,
46 Trisha, this is something that I can ask you, too. When I,
47 the parent of a child who is not the subject of the primary

1 complaints, come knocking on the headmaster's door saying,
2 "Why has Mr X been suspended?", what is the position of the
3 headmaster? Can the headmaster say anything and, if so,
4 what?

5
6 DR COOMBS: I think that goes back to some of the points
7 I was making earlier. If it is early in the matters - and
8 I understand from listening to the ones we tend to be
9 talking about here that it is early in the event - when it
10 is likely that it is protected information, ie it is not
11 publicly available or those other exemptions apply, there
12 might be, and I don't know about the Commonwealth side, we
13 can have mechanisms which modify the application of the
14 principle. So you can have a public interest direction
15 which the Privacy Commissioner can make with the approval
16 of the attorney, or you can have a code of practice which
17 is an ongoing piece of instrument which allows information
18 to be collected, used or disclosed.

19
20 THE CHAIR: All of those things may be useful, but you
21 have the parent knocking on the headmaster's door tonight.

22
23 DR COOMBS: And if you are asking me do we have that
24 information out there at the moment to provide guidance to
25 agencies specifically on this, no, we don't.

26
27 THE CHAIR: So your headmaster or headmistress is left in
28 a position, "Well, I have to make a judgment call myself,
29 guided by only my own instincts"; is that right?

30
31 DR COOMBS: I will qualify that by saying I'm talking
32 about the information that is available from my office.
33 I'm not talking about information that might be available,
34 say, from the Department of Education, NSW Health or
35 police.

36
37 THE CHAIR: Trisha, I will come to you in a moment, but,
38 Jacob, do you have a perspective on this issue of privacy
39 as it operates in this space?

40
41 MR SUIDGEEST: Our office has coverage of the private
42 sector and Federal agencies. I think there are a lot of
43 different exceptions in the Federal - and it is principles
44 based so it does depend on the circumstances. I think if
45 you are talking about an individual institution, in most
46 cases it is going to be personal information if you release
47 a media release or something, because you will know which

1 child is missing or which offender has been suspended, or
2 whatever. So in most cases, if the release is about
3 a particular school or childcare centre, people would
4 reasonably be able to identify the individual. So I would
5 say that, firstly.

6
7 But I think there were some examples around
8 notifications by the police for an area or a suburb - that
9 might be different, they could just notify and that
10 wouldn't reveal who the person is, or the child.

11
12 I think there are exceptions out there and I can go
13 through all of them if you want. I think it is just about
14 really knowing what your purpose is. So is this to assist
15 the police to get information? Is it to assist children
16 that might be affected? There probably would be exceptions
17 there.

18
19 I guess if it is because parents want to know, kind of
20 thing, that might bring more challenges in terms of
21 disclosing that, but, having said that, if they already
22 know something - I mean, there is an exception, for
23 example, that you can disclose information for a secondary
24 purpose if it's within the reasonable expectations of
25 a reasonable individual. Now, if everyone already knows,
26 because it's already out, then the school has to respond in
27 some way, we would say.

28
29 THE CHAIR: If everyone knows something has happened which
30 is likely to be a teacher misbehaving with children, but --

31
32 MR SUIDGEEST: So what is reasonable might be different
33 than if no-one knows in the community at all what has
34 occurred. But if it gets out on Facebook or with the
35 parents, you know, or around the media, then obviously what
36 is reasonable in terms of what the school could disclose
37 changes, and they might have to respond in some way. But
38 I think you do have to take into consideration the rights
39 of the individual, and I think if you are going to have
40 a public meeting or media release or whatever, then
41 obviously letting them know or seeking their consent,
42 ideally, for the child - obviously the age is an issue as
43 well, but if they are very young, their parents or
44 whatever.

45
46 There are exceptions - I think it's a little bit
47 similar to the New South Wales exceptions - if there is

1 a serious risk to health, safety. So in the Lord case,
2 arguably that exception could have applied, that if they
3 knew that he did babysitting, then there is a serious risk
4 to the health of other children and they could have relied
5 on that exception.

6
7 Now, obviously if you know who he babysits then you
8 can keep that narrow, rather than an article in the paper,
9 so trying to be as sensitive as possible to the privacy
10 considerations of the alleged victim and the alleged
11 perpetrator, I guess, in some circumstances. If you can
12 get consent, particularly of the victim, that's ideal.
13 I mean, it's a blanket exception in the Privacy Act --

14
15 THE CHAIR: Of course there are privacy concerns at this
16 point of the process with both the victim and the offender.

17
18 MR SUIDGEEST: Yes, that's true.

19
20 THE CHAIR: It would be a bit hard to get consent from the
21 offender, I would think.

22
23 MR SUIDGEEST: No, that's right, but an exception might
24 apply to one and not the other. Like it might be
25 reasonable to disclose in relation to the offender, but if
26 it's a child and things like that, then you might want to
27 get consent from them. Particularly in relation to police
28 matters, and even your own investigation, there is an
29 exception there around using and disclosing for your own
30 investigation or to inform law enforcement. So I couldn't
31 imagine it, but if a school or private school or childcare
32 centre needed to do something to assist the police, then
33 there is that exception there as well.

34
35 THE CHAIR: Trisha, can you help us?

36
37 MS LADOGNA: I can try. Within the public school system
38 we work in these investigations around procedural fairness.
39 We work very strongly in that space about making sure that
40 we balance the rights of the employee when allegations are
41 against them and they have not yet been investigated or
42 substantiated, and the rights of parents and our duty of
43 care not only to the student, the other students, our staff
44 and our school community.

45
46 THE CHAIR: Let's run through an actual circumstance, say.
47 Primary school.

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MS LADOGNA: Yes.

THE CHAIR: An allegation that a male teacher has abused a 10-year-old girl. What then would be the steps that would be taken?

MS LADOGNA: The school in the first aspect would report that to community services under a reportable allegation. They would also then contact our employee performance and conduct unit who would assist them with making sure that the notification to the Ombudsman was taken care of, and also be our liaison point with JIRT and FACS around the statutory investigation.

We would take advice from those statutory bodies around who to tell what, when, noting that our legal services would provide us some support around the decision that the school will make in those circumstances. So we take advice, but if we determine that the duty of care or the risks to those students or our parent committee is paramount, then we will make some decisions and have some robust conversations with everyone about what we feel our view on that is, but we are lucky in New South Wales that we have those processes and an ability to get some advice.

THE CHAIR: That teacher, the next week, is about to take a group of kids away for a camp.

MS LADOGNA: That's very unlikely to happen, in that we would step that person down depending upon the seriousness of the allegation.

THE CHAIR: That's what I was after - you would stand them down?

MS LADOGNA: Yes. So EPAC would do an initial assessment internally about what disciplinary action, if any, we are going to take in relation to that staff member, and it's determined based on the level of allegation that has been made and the opportunity of that person to have further access to children.

THE CHAIR: And what do you tell the parents of the individual child and what do you tell other parents?

MS LADOGNA: That's where we need to talk to our

1 colleagues, because if there is a statutory investigation
2 it will determine what we tell and when, based on the
3 criminal investigation. We also need to take into account
4 the procedural fairness for that employee. So they have
5 the right to respond to those allegations when it comes
6 time for us to put those forward.

7
8 We generally try to balance that as much as we can in
9 protecting everyone's privacy, but at the end of the day,
10 if someone needs to know something so that we can protect
11 children, that's what we will do with our colleagues' and
12 the Ombudsman's support around that.

13
14 THE CHAIR: What about the very troubled parent who
15 doesn't know and is very worried because last week this
16 teacher took a bunch of kids on a camp. What do you do in
17 that situation?

18
19 MS LADOGNA: It is really challenging, isn't it? So
20 depending on the relationship that they have with the
21 school and depending on the relationship we have locally
22 with the support services in there, we would gear them
23 towards that information that we've been provided by the
24 statutory bodies around having those difficult
25 conversations with their children, where they can go to get
26 support around that - health support, counselling support,
27 getting those referrals in place to specialist services -
28 and maintaining our duty of care to them in making sure we
29 are there throughout, coordinating that service provision.

30
31 So we still need to provide a relevant response to the
32 alleged victim, to the families that are there and to the
33 impact that comes across the school.

34
35 In small communities this can have a significant
36 impact on the entire community, where the school may be the
37 one hub or place in that community where children go and
38 parents feel that their children are safe in that space.
39 It can be a very difficult thing for a community. Schools
40 have long-term relationships with those families and
41 children, so once the statutory bodies come in and go out
42 we still have to provide that service provision.

43
44 So it is not an easy answer and it would depend on the
45 individual circumstances of the geography, the allocation,
46 the context of that school, the parent community, the
47 cultural aspects that are involved there, but we would do

1 our best to do that in a sensitive way that supports
2 everyone involved.

3
4 We're not going to be able to tell the parent
5 everything that they want to know straightaway. We might
6 not be able to tell the parent ever if we terminate that
7 employee, depending on what happens in that whole process
8 around the actual reasons for that termination. It will
9 depend on a number of things that come out of that,
10 including IRC decisions.

11
12 THE CHAIR: Can I test, then, a few propositions. I think
13 we have provided you with some scenarios in the written
14 materials but I want to test a few propositions.

15
16 The Facebook pages or Twitter or whatever are working
17 overtime, so the message is circulating in the local
18 community and the press get hold of the smell of a story.
19 As far as the police are concerned, what happens if the
20 press ring you up and say, "I'm hearing about this"? What
21 do police say?

22
23 DSS GYE: We would go to our media unit. We would alert
24 them straightaway and say, hands up, "We need a bit of
25 a hand here." They would prepare a release that contained
26 any of the information that we could get. It would be run
27 past all the sanitisers that need to sanitise it. That's
28 how we would do it. We wouldn't tell them anything.

29
30 MS MILLER: With the protocol with education, that is one
31 of the things for consideration in that first 12 hours
32 around media management. I think that really should be
33 a component of all good child safe standards, considering
34 those elements, because they are very real.

35
36 A/D SUPT WATTS: Depending on the investigation, again, we
37 may make no comment or we may make very limited comment, as
38 long as it didn't compromise the investigation.

39
40 D SUPT NEWBERY: In New South Wales we do fairly often
41 have a holding statement available if it is thought that it
42 may make the media. Certainly in New South Wales,
43 particularly around Sydney, there is a high probability of
44 things getting out into the media, so we have a holding
45 statement that provides very basic details, generally that
46 investigations are currently being conducted by police and
47 agencies. That's about it. We don't say very much.

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THE CHAIR: Sometimes in this space the police deliberately put out information to get information back. Is that ever done in relation to sexual abuse of children or would that not happen?

DSS GYE: It would depend upon the context in which we did it. If someone had been charged, then we may make a very brief media release to say that a person has been charged with whatever. It can be a bit of a vexed proposition to try to utilise the media to gain more complainants.

DI TWAMLEY: It would be rare that we would go out and fish for victims, but once an investigation is complete and we push a media release out to say that we are charging someone with offences in a certain area of a particular type, that can certainly be the forum, then, for further victims to come in to us.

THE CHAIR: Frequently we hear from people, when they talk to us, that they didn't initially go to police until they found that others had gone to police about the same abuser.

DI TWAMLEY: I think it is fair to say no-one wants to be first but they are happy to join in once others have come forward.

THE CHAIR: That's right, but you would wait until you have completed the original investigation before you said anything about it?

DI TWAMLEY: Again, time, place and circumstance, but it would be an irregular practice for us to issue media statements that are only there to fish for further victims

D SUPT NEWBERY: From the New South Wales perspective, we do put out media releases at times. If it is a stranger allegation in relation to a child sexual assault we will certainly put out a media release. We try to put out media releases where we can. It is very difficult in New South Wales because of the problems with identification, particularly of the child, the victim. I think the more that gets into the public the better, because the public needs to know the extent of what is going out there in the greater community. But we will put out a media release, as well, at times when we have charged people, and sometimes that has the effect of having further victims come forward.

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We had a recent matter here in New South Wales where we had a maths tutor who had access to a significant number of victims, and there were victims that were identified post charging. That fellow I think was charged about five or six times over a period. So I think that does have an effect.

THE CHAIR: We have seen that ourselves.

Now, tell me, in this space, in terms of what you tell parents and what you tell the community, does it make any difference whether the victim is a young person as opposed to a teenager - say an under-10 compared with a 15-year-old?

MS MILLER: In child protection in Victoria we have different information sheets where there is a concern about sexual abuse of a young person, and some of that information is geared for younger children, some for older children, then for parents and other broader professionals around the child, so there is some tailoring in information and approach depending upon the age of the child.

D SUPT NEWBERY: Yes, say a circumstance as we had it before with a 16-year-old girl who has been sexually assaulted, raped, I think you have to take the wishes of that girl into account in relation to who she wants to know about what happened to her as well - take that into account certainly when you are informing people about the extent of things. I think certainly that needs to be taken into account.

THE CHAIR: I'm being besieged from the right but I was waiting to get to this, but it seems that they are impatient. I've been talking to you, of course, in the context of a member of the school being the abuser. What if we go across to child on child?

Now, we know, and Judy has helped us to know, that it's likely that this is an increasing problem in an institutional context. All of us know, of course, of the lowering, probably, of the age of sexual activity amongst kids in our community compared with - looking around the room I am trying to see whether anyone is older than me, but probably not, but compared with my generation, anyway. A lot has changed in that space.

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However, of course, we also know that there will be offending, there can be offending, amongst very young children in child on child offending, where there will be a background to the offending and so on. We all understand all of those issues.

Now, in terms of how you deal with the problem, say, in a school setting or in some other institutional setting - but I want to leave it for the moment when we get to foster care and kinship care, because that's a particular but significant issue in this space - would you handle the information made available to parents or the public differently if it's a child on child allegation as opposed to a teacher on child allegation? Queensland?

A/D SUPT WATTS: It depends on the age of the children involved and it depends on what action we would foresee being taken against the offending child - so whether they are criminally responsible for their matters or if it is something that will never progress to charging. If it is going to run the normal course of an investigation we would treat that very similar to any other investigation where we would limit the amount of information.

THE CHAIR: So if the alleged offender was of an age where they could end up with a charge, you would treat that in the same way as you would treat any other conventional allegation?

A/D SUPT WATTS: Sort of, depending on the outcome we foresee for the offending child, whether that person is able to be cautioned, for that matter, for that particular offence. That removes it from the criminal justice system, as such. So we don't have to progress a normal investigation.

Whereas if the child has previous convictions for similar types of offences or there are multiple victims for that, that would be the normal course of an investigation, so we would run it with those restrictions that we have in place.

THE CHAIR: Victoria?

DSS GYE: Much the same. It would depend. If it was two young people that were living perhaps in a DHHS residential

1 care unit, we would be consulting pretty closely with DHHS
2 about our response.

3
4 Generally speaking, it wouldn't be much different,
5 what we would do. We'd investigate the same. There are
6 therapeutic treatment orders available in Victoria for
7 offenders under 15. There's a number of different ways we
8 can approach that, to get the person under a therapeutic
9 treatment order, whether we interview them and look to
10 prepare a brief or whether it's done directly by DHHS.

11
12 So there's a whole number of things that we would need
13 to consider in terms of how we approach that, and that
14 would determine the level of comment we made about it.

15
16 THE CHAIR: Do you approach the issue differently if the
17 allegation is that it was non-consensual but between, say,
18 two 15-year-olds as opposed to a consensual event between
19 two 15-year-olds?

20
21 DSS GYE: We would still investigate it. We wouldn't
22 approach it very much differently other than there's
23 built-in defences in Victoria when there's not more than
24 two years' age difference. If it was consensual and
25 clearly consensual, then the likelihood is that we wouldn't
26 be charging anybody. If it's non-consensual, then there's
27 a reasonable chance that we would either be charging
28 someone or making a recommendation for a therapeutic
29 treatment order. That would, again, depend on the level of
30 the offending.

31
32 THE CHAIR: So, again, we have the circumstance where it's
33 known that the police are investigating a non-consensual,
34 say, allegation and that goes like wildfire, you can
35 imagine, amongst all the kids --

36
37 DSS GYE: Yes.

38
39 THE CHAIR: -- if not the parents as well. How do you
40 manage the information in relation to that issue - in the
41 same way as you would if it was a teacher?

42
43 DSS GYE: Pretty much, yes.

44
45 MS MILLER: That's what the protocol outlines, so the same
46 consultation processes and the same time frames need to
47 occur.

1
2 As Craig outlined, child protection can receive
3 reports where there are concerns around sexually abusive
4 behaviours for children between the ages of 10 and 15, and
5 that's particularly with a view also around trying to
6 understand what might have happened for them in their own
7 family context as well. But, yes, the same considerations
8 and decision-making processes would need to be considered,
9 albeit that I think that with respect to privacy
10 principles, given that they are children, the impact of
11 further trauma of them being identified through any
12 communication within the school community would be a very
13 careful consideration to make.

14
15 MS BOLTON: I think it's an interesting question and I was
16 thinking from our perspective as a CASA, the difference for
17 us is that we become involved in teacher training around
18 recognising and responding to disclosures, so when it's
19 student to student, they tend to call us in to do that.
20 When it's teacher to student, for some reason we don't do
21 that.

22
23 THE CHAIR: Western Australia must have experience in the
24 child-on-child space.

25
26 DI TWAMLEY: We do. I guess the first thing to say from
27 our perspective is that in any matter there's a public
28 interest assessment. When there's an incident where the
29 alleged perpetrator is a person in authority, like
30 a teacher, then there's obviously a high public interest in
31 those sorts of matters, so we would devolve a communication
32 plan relevant to that level of interest.

33
34 When it comes down to juvenile-on-juvenile,
35 peer-on-peer, in a consensual environment obviously there's
36 very little public interest in that, and so our
37 communication on it would be very limited, if at all,
38 certainly communication with the school and within the
39 school environment, because there are obviously educational
40 and welfare impacts that need to be considered.

41
42 But certainly where there are elements of
43 non-consensual sexual behaviour and elements of violence,
44 then that ups the ante again and we would develop a further
45 communication plan that may involve the broader school
46 community, if the perpetrator was unknown. If the
47 perpetrator was known, well, then obviously the level of

1 communication would probably be lesser.

2
3 We do have prosecution guidelines in regard to
4 peer-on-peer sexual offences. One of the most obvious ones
5 is in the sexting space, and I think we're all familiar
6 with sexting matters. We have guidelines that where the
7 perpetrators are under 16 and it's a consensual transfer of
8 sexualised images, then our prosecution policy would say
9 that it's not a matter for police; it's more an educational
10 issue, and we would communicate with the school, the
11 Education Department, et cetera.

12
13 But if there were elements of bullying or threats that
14 accompanied that transfer of images, then we would make it
15 a police matter and deal with it appropriately.

16
17 THE CHAIR: And if you have younger children and you may
18 not contemplate a criminal charge, how do you manage the
19 information in relation to that allegation?

20
21 DI TWAMLEY: Again, I guess there's no general broad
22 statement I can give. It's all sort of time, place,
23 circumstance. Certainly at our strat meetings, strategy
24 meetings that we have with our partners at CPFS, and in
25 a school environment it would involve the Department of
26 Education, together around the table we would devolve
27 a communication plan that was appropriate for the
28 circumstances of the incident that had occurred.

29
30 THE CHAIR: New South Wales?

31
32 D SUPT NEWBERY: At JIRT or the Child Abuse Squad, we
33 don't investigate adolescent peer sex now. Those matters
34 are sent to the local area commands to look at, because
35 generally nobody is charged where it's consensual sex
36 between two children that are within an age range, usually
37 two years.

38
39 Where you have child-on-child non-consensual sex, we
40 investigate that, certainly. We get a significant number
41 of matters of child-on-child sexual assault. Sometimes
42 that's in a school context. You have to look at each
43 matter.

44
45 Certainly from our Local Contact Point Protocol,
46 that's generally used for people over the age of 18 where
47 they're working or they're in some capacity at the - but

1 it's something we probably need to look at for
2 child-on-child sexual assault, where it meets the criteria
3 that you may believe there are further children that are at
4 risk. We don't see it very often, but sometimes that can
5 occur.

6
7 So the parents are going to be in a similar need for
8 a level of information - where there's a number of children
9 that have been sexually assaulted by another child at
10 a school, you still have a number of children that have
11 been sexually assaulted by a person, so it doesn't get away
12 from the need to provide information and do what needs to
13 be done to ensure that those people, the victims and the
14 parents, are provided with information to assist them in
15 that regard.

16
17 Yes, that's something that we probably need to look
18 at. We do have scope to do it, but I can't think of an
19 example at this stage when we've done it for child-on-child
20 sexual assault.

21
22 THE CHAIR: A big issue for us, and I often think of it as
23 being the corollary of closing many of the residential
24 facilities that the Salvation Army had and many others had,
25 is of course our current out-of-home care arrangements,
26 including foster care arrangements. We've taken children
27 out of large groups and put them into smaller units.

28
29 Now, is it right to think that, in that space, police
30 approach allegations in much the same way as you would in
31 relation to an allegation that comes from a domestic or
32 familial situation?

33
34 D SUPT NEWBERY: From a police perspective, yes, where you
35 have a relationship and a child is in a situation there, we
36 would certainly treat that in a similar fashion to the way
37 we would with a family. But, again, it's a criminal
38 offence. We need to investigate it.

39
40 THE CHAIR: It's within JIRT's purview if it's a child?

41
42 D SUPT NEWBERY: Yes, yes.

43
44 THE CHAIR: So all of the JIRT capacity is engaged?

45
46 MS CRAIG: Yes, all of the JIRT capacity would be engaged.
47 Plus from a family and community services perspective, we

1 would look at the children who had previously been in that
2 foster care placement, if it was a foster carer that was
3 the person of interest. We would then go back and track
4 through, and, if the children were still in care, we would
5 make sure that they were safe. Someone would speak to them
6 in a way that would allow them to disclose if there was
7 something to disclose.

8
9 Surprisingly, in some cases children have disclosed
10 and then we find out that there are a number of previous
11 victims that have just never disclosed over a long period
12 of time.

13
14 THE CHAIR: Yes, I can understand that.

15
16 MS CRAIG: So, yes, we follow that, we track that
17 placement.

18
19 THE CHAIR: Victoria?

20
21 DSS GYE: We do a joint investigation with DHHS.

22
23 THE CHAIR: So it's part of your response?

24
25 DSS GYE: Part of our role.

26
27 MS MILLER: We have additional internal processes, called
28 the quality of care process, which is largely an internal
29 investigation. If there's an allegation of sexual abuse or
30 physical abuse, that then triggers what's called
31 a section 81 or 82 within our Act, referral for an
32 independent investigation, which could result in a referral
33 to the suitability panel, which has implications for
34 largely removing the person's suitability as a caregiver
35 within Australia, affecting their Working With Children
36 Check.

37
38 So even if it might not meet a criminal threshold in
39 terms of burden of proof, through this process this is an
40 additional mechanism which can have the implications for
41 ensuring that they largely have their Working With Children
42 Check removed and are not entitled to apply for that again
43 if they're struck off the caregiver register.

44
45 THE CHAIR: Queensland?

46
47 MR LUPI: Yes, similar to Victoria, it would trigger an

1 investigation from both the child protection authority in
2 relation to a standard of care or abuse in care situation,
3 as well as, if it meets a test, we have an obligation, once
4 we become aware of something that might result in
5 a criminal charge, to report to police.
6

7 We would, again, allow police to gather evidence
8 around the primacy, and during that phase of their
9 investigation the child protection authority would turn its
10 mind to the wellbeing and the care supports. We would take
11 on a parent role with the children around therapeutics. It
12 would go to SCAN to consider coordinating a holistic
13 assessment for the children who are victims, but also
14 secondary victims. And we would, again, start to look for
15 patterns or information of other possible victims.
16

17 If police determine, through their investigations,
18 that it doesn't meet a certain threshold for criminal, we
19 still would follow through a process of a suitability
20 assessment of the carer, and the standard is on a different
21 probability to the criminal kind of matter.
22

23 THE CHAIR: WA?

24
25 DI TWAMLEY: The simple answer is, yes, within our charter
26 we have responsibility to investigate the physical or
27 sexual abuse of all children within the care of the CEO of
28 the Department of Child Protection and Family Services or
29 where the offender is directly associated or linked to
30 CPFS, so that would cover foster parents and carers,
31 et cetera, et cetera.
32

33 Like in any matter that's reported to us, our strategy
34 meeting with our colleagues at CPFS would then establish
35 whether the child needed to be removed from that
36 environment, and then the criminal investigation would
37 continue concurrently with the investigation by CPFS into
38 the welfare requirements of the child and the suitability
39 of the carers and the home that they're in, et cetera.
40

41 THE CHAIR: Before I leave and move in a slightly
42 different direction, Beth, I didn't ask you about the
43 position as the head of schools, the part of your umbrella.
44 We heard from Trisha. Do you have any different
45 perspective as to how the school should respond, what the
46 protocols in the schools are when an allegation comes
47 forward, how you manage information to parents and so on?

1
2 MS BLACKWOOD: I don't think I have anything further to
3 add other than that it's incredibly complex.
4
5 THE CHAIR: Do you have any protocols? Do you have any
6 guidance for people?
7
8 MS BLACKWOOD: Yes, most schools do have protocols and
9 policies that are there that they can call on at times such
10 as that, but every situation is unique in its own way and
11 so whilst those protocols may provide general guidelines,
12 they may not necessarily have all the answers. We've
13 talked about whether it falls into the hands of media prior
14 to getting to the school. There are so many different
15 configurations that need to be considered by a principal.
16
17 I think principals are generally guided by what they
18 believe is in the best interests of the students in the
19 school.
20
21 THE CHAIR: And, again, the parent who comes knocking on
22 the principal's door, saying, "I've heard this terrible
23 rumour. I'm terrified my child might have been abused" -
24 do you know what guidance the principals have to respond to
25 that person?
26
27 MS BLACKWOOD: I think that principals will be guided by
28 the desire to allay those parents' concerns, whether that
29 be through bringing parents together for an information
30 session - there are a range of ways in which they will
31 manage it, but I think a principal will acknowledge and
32 recognise the right of parents to have that concern and
33 will work with whatever agencies or services there are to
34 meet the concerns that are there, because they will
35 recognise them as very real.
36
37 THE CHAIR: Obviously in this space there will be very
38 often a need, or a demand, for some sort of joint parent
39 meeting, with information provided to the parents from the
40 relevant authorities. Let's just call you "authorities".
41 Will the police in each State participate in such
42 a meeting?
43
44 DSS GYE: We would.
45
46 THE CHAIR: New South Wales?
47

1 D SUPT NEWBERY: Yes, we have, yes.
2
3 THE CHAIR: But will you?
4
5 D SUPT NEWBERY: Sorry?
6
7 THE CHAIR: As a matter of course, will you?
8
9 D SUPT NEWBERY: It depends. But, yes, we generally will.
10
11 THE CHAIR: It depends on what?
12
13 D SUPT NEWBERY: It would depend on what the allegations
14 were, what the meeting was about and whether - one thing
15 that you need to be mindful of is what information they
16 wanted to know. If they wanted to know information about
17 the investigation, you would certainly have to have someone
18 from the police there to provide some level of information
19 as we could at an information meeting, but they would need
20 to be fairly tight in what could and couldn't be said.
21
22 THE CHAIR: You would obviously need to manage it, but
23 would you accept that one of the things that parents would
24 find difficult to accept is if the police weren't there?
25
26 D SUPT NEWBERY: Yes. We generally would be, yes.
27
28 THE CHAIR: "I know that there's an allegation that has
29 gone to the police that they're investigating, but the
30 police didn't arrive to even tell me that, yes, there is an
31 investigation taking place." What about Queensland?
32
33 A/D SUPT WATTS: Yes, I think we would. Again, it depends
34 on what information was requested, on what we can provide.
35
36 THE CHAIR: Sure, but you would go?
37
38 A/D SUPT WATTS: I think we would go, yes.
39
40 DI TWAMLEY: Again, sometimes we would go and provide some
41 limited information. I think, Basil, you might have some
42 further comment?
43
44 MR HANNA: I think in Western Australia the child
45 protection and family services tend to dominate this
46 procedure. Where it's a serious child sexual abuse, then
47 the police most certainly would be involved. But for

1 physical, they tend to dominate it and essentially control
2 that process.

3
4 THE CHAIR: But would the police go to that meeting to
5 provide a level of assurance that the police would --

6
7 MR HANNA: For physical assault, not always.

8
9 THE CHAIR: No, no.

10
11 MR HANNA: For child sexual abuse?

12
13 THE CHAIR: Yes.

14
15 MR HANNA: My experience is that most times they would.

16
17 MS LADOGNA: Could I just clarify, from an education
18 perspective, we would expect that that information to
19 parents is coming from the statutory body, whether that's
20 family and community services or the police, in relation to
21 that.

22
23 If a parent or a child comes forward with a complaint
24 about a particular allegation, they get the outcome of that
25 from education, for our investigation as well. It's the
26 parents who are on the outside of that that you are talking
27 about, the concerns that may get very grey. But if there
28 is an absolute complaint from that parent and that child,
29 we provide those outcomes. Parents have the right to know
30 what's happening with their children.

31
32 It just becomes a bit grey when it's the parents that
33 maybe are not specifically involved, and we need to take
34 the advice --

35
36 THE CHAIR: It's the parent who says, "Was my child abused
37 too?"

38
39 MS LADOGNA: "I'm concerned."

40
41 THE CHAIR: Yes.

42
43 MR O'CONNELL: I can't speak for the police in South
44 Australia, but under the Victims of Crime Act in South
45 Australia, a "victim" is defined as any person who suffers
46 harm as a result of an offence, except for the offender, so
47 it's very, very broad. If a person who fits that

1 definition of "victim" asks, then there's an obligation on
2 any public official, whether it's the police, et cetera -
3 primarily the police - to provide information about the
4 progress of an investigation, except to the extent that it
5 may jeopardise that investigation.

6
7 There wouldn't, in our State, be a law prohibiting the
8 police from participating in those types of meetings,
9 because arguably if it was a school, there is that
10 potential that among that group of people there will be
11 those who have suffered harm, and that's described as
12 emotional or psychological as well as physical.

13
14 THE CHAIR: It sounds like there's a presumption that the
15 police would be there but confine the information they
16 give?

17
18 MR O'CONNELL: Well, the Education Department, as in the
19 Government Education Department, now has a series of
20 letters that I mentioned before that it utilises and has
21 a consultative committee to deal with, but the police could
22 participate at that level if they chose to do so.

23
24 The general inhibitor that I see on most of the
25 victims' rights instruments in Australia is the clause
26 "if they ask". There's no requirement to tell victims that
27 they have those rights, so there's always an escape clause
28 for most public officials, at least, to just simply say,
29 "Well, no-one asked me." I think that's a major thing that
30 needs to be rectified in the laws nationally.

31
32 THE CHAIR: Okay. Another area of great concern for us is
33 people with disability. Now, I can only assume that that
34 gives rise to particular problems for police when
35 investigating. Is that correct?

36
37 D SUPT NEWBERY: Yes.

38
39 THE CHAIR: But, again, if it's an allegation of abuse
40 involving a child victim, I take it that each of your units
41 would respond. Would that be right?

42
43 D SUPT NEWBERY: Yes.

44
45 THE CHAIR: Or is some special arrangement in place?

46
47 D SUPT NEWBERY: No, we would respond.

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A/D SUPT WATTS: Yes.

THE CHAIR: Does it raise different issues in terms of information you give out? Very often the only capacity to communicate in that space will be with parents. It might be very hard to communicate, depending on the nature of the disability, with other children.

MS MILLER: Generally we would, depending on the level of disability, engage a support person through that process for the child. Yes, we would give consideration to how to communicate with that child as part of the planning process but as part of the ongoing process as well.

THE CHAIR: What do you do about - as we know, we've looked at it publicly; you know that - the circumstance where there's an allegation and the likelihood would be that there would be other children who have been abused, but the disability may be an impediment to that child themselves reporting? What steps are taken, if at all, to determine whether or not there are other children who may have been abused? And, in that space, what communication do you make with other parents?

MS MILLER: I think it depends on the context of the abuse. The same processes would occur if it was in the school community, including that communication to parents. If it was for children in care, if they had a disability worker, we would engage them as part of the planning process and the care team around the ongoing abuse if it was in relation to either child-on-child abuse in care or by a carer within that capacity. Some of the children in care have appointed guardians, and we would engage those guardians, guardian advocates, in the process as well.

THE CHAIR: One case we looked at was the bus driver of the kids. Now, obviously that's one driver, one bus and a bunch of children. If the person is minded to abuse, that's a high-risk situation.

MS MILLER: Absolutely.

THE CHAIR: You get an allegation from one child in that circumstance. What do you do about communicating to other parents of children who travel on the same bus with the same driver day after day? How do you manage that?

1
2 MS MILLER: I would say that we would defer to police in
3 terms of the extent to which information about that risk
4 could be communicated. In this scenario, is this children
5 from the same school on the same bus?
6
7 THE CHAIR: Yes. It's the school bus that does the
8 regular round.
9
10 MS MILLER: Yes, so I would say that the same protocol
11 with education applies for special schools as well, but
12 ultimately we do defer to police in terms of the extent to
13 which information can be shared in relation to an
14 investigation on foot.
15
16 THE CHAIR: Well, then, going to the police, you could
17 imagine, as much as there's an anxious parent when the
18 child is readily capable of communicating, but when the
19 child has a disability that makes it difficult to
20 communicate, the level of concern for the parent may be
21 even greater. How do police manage information to those
22 parents in the course of investigations?
23
24 DSS GYE: In much the same way as we manage it with any
25 other, depending on the level of disability and how much
26 the child can communicate to us to give us the information
27 we need to progress the investigation.
28
29 THE CHAIR: But that's the child victim. What about the
30 other children who travel on the same bus every day with
31 the same driver?
32
33 A/D SUPT WATTS: We would approach them as potential
34 witnesses. Again, the difficulty you face is eliciting
35 information, but we would explain to the parents, explain
36 to them as best we can, the nature of the investigation
37 we're conducting but also elicit as best we could the
38 response from the child to assess are they witnesses or are
39 they potential victims as well.
40
41 THE CHAIR: So you would in fact, in those circumstances,
42 I gather, effectively tell the parents of other children
43 what it was you were investigating?
44
45 A/D SUPT WATTS: Not in strict terms. It would be
46 a roundabout sort of way.
47

1 THE CHAIR: Let's test it a little, though. Your child
2 travels on the bus from school, and it's the bus driver.
3 Do you tell them that you're investigating the bus driver?
4

5 A/D SUPT WATTS: Not an individual, and this is where it
6 becomes grey and --
7

8 THE CHAIR: So I want to talk to your child, who can only
9 effectively communicate through you, the parent. What do
10 you tell the parent?
11

12 A/D SUPT WATTS: As little as possible, but obviously
13 getting through that this is the situation we're
14 investigating, because the end result that I want, as an
15 investigator, is to satisfy myself that that child is not
16 a witness or a victim. So that would be the paramount
17 intent of the discussion. I'd have to get the confidence
18 of the parents and explain the nature of it, but again
19 bearing in mind the limitations that I'm also acting under.
20

21 DI TWAMLEY: I think the first thing to remember is that
22 the bus driver is not turning up for work tomorrow. So
23 you've had a disclosure, and part of the strategy meeting
24 would be, whoever the employer of that bus driver is, that
25 bus driver would be taken out of the care of the children,
26 to start with.
27

28 THE CHAIR: Sure.
29

30 DI TWAMLEY: So, for a start, you have to communicate with
31 the parents to make them understand why there's another bus
32 driver that's picking their kids up the next morning.
33

34 Certainly from an investigator's perspective, our
35 child interviewers are trained to interview not only
36 children but other vulnerable persons as well, which
37 includes those with disabilities, so it would then be an
38 assessment of the other potential victims or witnesses that
39 are on that bus as to whether they're capable of undergoing
40 a forensic interview by our interviewers. That may get you
41 further disclosures.
42

43 THE CHAIR: It may do, but you're going to have to involve
44 the parents, aren't you?
45

46 DI TWAMLEY: You certainly are.
47

1 THE CHAIR: What do you tell the parents in that
2 situation?
3
4 DI TWAMLEY: Again, your communication strategy would be
5 around that you have a different bus driver because there
6 has been an incident that police are investigating. If
7 there was an inference or information available to you that
8 suggests there may have been other victims, then certainly
9 you would disclose that to the parents and say, "We wish to
10 assess your child for the possibility of a forensic
11 interview."
12
13 Are there other investigative actions that are open to
14 you? For instance, are there medical forensic procedures
15 that could be performed that may give you evidence of
16 offences that have been committed? Was the allegation made
17 from a trip from that very morning, in which case there may
18 be medical examinations of other children that could be
19 undertaken.
20
21 THE CHAIR: Queensland would say every child on that bus
22 is a potential either victim or witness.
23
24 DI TWAMLEY: That's right.
25
26 THE CHAIR: They would want to talk to all of them, if
27 they could. Would you be the same?
28
29 DI TWAMLEY: I think so.
30
31 THE CHAIR: But when you have a child with a disability,
32 you are going to have to tell the parent what you're
33 looking at, aren't you?
34
35 DI TWAMLEY: Absolutely.
36
37 THE CHAIR: So what do you tell them - an allegation of
38 sexual abuse?
39
40 DI TWAMLEY: I think if all the circumstances suggested
41 that other victims were possible, there may be other
42 forensic examinations possible that you would want to
43 explore and you may want to interview that child. Then,
44 yes, you have to explain to them the nature of the
45 allegations.
46
47 THE CHAIR: The same in New South Wales?

1
2 D SUPT NEWBERY: Yes, we use the Local Contact Point
3 Protocol. We would say that there has been an allegation
4 of indecent assault, or whatever, sexual abuse, of the
5 child.
6
7 THE CHAIR: Could I turn the tables on you all, then.
8 What's the difference between the circumstance where the
9 bus is a bus for disabled children compared with a school
10 bus for any ordinary school?
11
12 D SUPT NEWBERY: None.
13
14 THE CHAIR: So do you tell the parents of the children on
15 the school bus from the ordinary school that you have
16 allegations of sexual assault or indecent assault that you
17 are investigating?
18
19 D SUPT NEWBERY: Yes. We do that now.
20
21 THE CHAIR: So you do that. Is that true of everywhere?
22
23 (General assent)
24
25 THE CHAIR: Then why is it any different in relation to
26 the classroom, a teacher in a classroom?
27
28 MS MILLER: I think it is the same, it is really around
29 the specific wording that you use. I think that is the
30 only difference, around the extent to which you can
31 identify someone through the information that is conveyed.
32 But I think the principle of trying to be clear about what
33 is the potential risk is an important principle to operate
34 from.
35
36 A/D SUPT WATTS: From our perspective, it depends on the
37 circumstances of the case. If the offence has happened
38 because he was a bus driver in a bus, that's your pool of
39 victims or witnesses. In a classroom, again, it depends on
40 the circumstances of how many people have been or could
41 have been affected by this person.
42
43 THE CHAIR: In the daycare centre, it is every child,
44 potentially, in the daycare centre.
45
46 A/D SUPT WATTS: That's correct.
47

1 D SUPT NEWBERY: It depends on how you phrase it, I have
2 one here where we have phrased it as "inappropriate
3 touching of a child". It depends on the information that
4 you have at the time.
5

6 But talking about parents with disabled children,
7 having met with a group of parents of victims of sexual
8 assault in New South Wales to the one offender, one of
9 those groups of parents has a disabled child that had
10 access to that person, but they have never been able to
11 know - the child has never been able to disclose. They
12 have always had it in the back of their mind that their
13 child has been sexually abused by that person. Bear in
14 mind that the person was charged with a number of child
15 sexual assaults on children in the neighbourhood. That is
16 the big issue for them. Because their child is disabled
17 they feel that there is not the ability for them to be able
18 to find out, and their child is not able to get justice -
19 or for them, really, I think, to know what has happened to
20 their child.
21

22 In that circumstance we are looking to see what we can
23 do in utilising the intermediary program in New South Wales
24 to try to assist with that as well. That may or may not
25 provide any information to them, but at least I think they
26 will have some comfort in that someone is trying.
27

28 THE CHAIR: Yes. It's difficult, obviously, but it does
29 seem inevitable that when you are dealing with children
30 with a disability and you are seeking out witnesses or
31 other victims, you are going to have to tell parents enough
32 for them to understand why it is that their child is being
33 spoken to by the police. It is difficult, then, to see why
34 it would be different if the children are children without
35 a disability.
36

37 MR O'CONNELL: If I may, I would argue that for the sake
38 of other school staff there is an imperative as well to
39 provide neutral and trustworthy information. I am just
40 mindful, in my office, I have had a grievance raised with
41 me in regard to a teacher who simply went to rescue a child
42 who had fallen on bitumen and bent down and picked the
43 child up, and because of allegations fomenting around that
44 there was a possibility of a sexual assault involving
45 a teacher in that school, that teacher was reported
46 immediately and identified with it.
47

1 I think we have to be fair to some of the other staff
2 when we are having this discussion as well, that
3 information we are providing is neutral, trustworthy and
4 helps dispel some of those concerns that people have. If
5 we remain silent we leave a cloud over even innocent people
6 who are trying to do their job properly.

7
8 THE CHAIR: Vacuums get filled.

9
10 MR O'CONNELL: Yes. And we can't overcome the fact that
11 there may be, as happened with one of the incidents in
12 South Australia, one parent who decided to make it her
13 vendetta to go about publicising what had happened, having
14 T-shirts printed and all sorts of things, whereas the other
15 five parents took a completely different perspective.

16
17 There's not going to be one right answer and there
18 will be risks associated, but I think honest, neutral,
19 trustworthy information is an imperative.

20
21 THE CHAIR: We have provided you with a copy of the
22 NSW Police Standard Operating Procedures and the Local
23 Contact Point Protocol, which I think you all have amongst
24 your papers. Does each State have a similar written
25 procedure or not?

26
27 A/D SUPT WATTS: We have a SCAN manual that we adopt for
28 SCAN referrals.

29
30 THE CHAIR: Is it similar to the New South Wales one?

31
32 Victoria, I gather you have one?

33
34 MS MILLER: We have a protocol, but I think this is a good
35 one in relation to its specific focus on institutional
36 sexual abuse responses. I think we could further refine
37 our protocol to be more attuned to coordinated responses to
38 this.

39
40 THE CHAIR: This, as Greig acknowledges, came out of or
41 responded to the YMCA case study. Let me say, we are the
42 first to understand that this space probably wasn't the
43 largest space in contemporary police work, but,
44 nevertheless, it became very clear that there was a space
45 that needed something in it.

46
47 Western Australia, do you have anything like this?

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DI TWAMLEY: We don't have a specific one for child abuse matters. We have an investigation manual for child abuse and that does cover off, in broad aspects, communication. We also read that in conjunction with our investigative doctrine that talks about part of your investigation process being a consideration of communication to victims, secondary victims, the broader public and the media, so a very broad framework to operate in.

Certainly from what we have learnt today we will be having a look at what New South Wales has done and taking that into consideration.

THE CHAIR: Greig, you might just tell us, so that everyone does understand, what you have done and how it relates specifically to the YMCA issue.

D SUPT NEWBERY: As part of case study number 2, the Jonathan Lord matter, there was evidence given at the hearing and it was found that there was a void of information that was being provided. It wasn't being provided in a consistent manner, and I think certainly the parents from that childcare centre weren't given the information that they really needed at that time.

I think the protocol was developed on the background of that matter, looking at providing consistent information to parents but to the institution as well, to allow the institution to provide a response to those families where there was some thought that they may have been involved.

The protocol wasn't just developed by the police, it was developed by Family and Community Services and Department of Health.

THE CHAIR: Everyone should understand, I think, that Lord was not only one of the workers in the centre but out of the centre he was babysitting in homes of children who went to the centre. So the potential for a significant number of children to have been abused was real.

D SUPT NEWBERY: Yes. So this protocol then provides for the relevant information to be provided to the parents and victims and gives them access to a local contact point where consistent information can be provided to each of them in relation to whether they have fears of further

1 behaviour there.

2

3 When they hear of something happening and they wonder
4 about why their child was doing this or that, they may be
5 thinking that that may be behaviour that is out of the norm
6 and they can speak to someone who has information on the
7 matter and is a professional in that area and can give them
8 further information.

9

10 Certainly if that information relates to having
11 a conversation with their child about what may have
12 happened to them, it will give them information on that.
13 And, flowing from that, if the child discloses and there
14 are further criminal offences or further victims
15 identified, they can be then referred through for
16 investigation by police and JIRT.

17

18 THE CHAIR: So it is a hotline, effectively, that is set
19 up and the process requires relevant people to be told that
20 there is the hotline?

21

22 D SUPT NEWBERY: Yes.

23

24 THE CHAIR: In that case there was a significant request
25 for some sort of meeting where the parents could be
26 informed about what was going on and the police at that
27 stage didn't want that meeting to take place. Does this
28 protocol address that issue at all?

29

30 D SUPT NEWBERY: I think we have learnt from that. This
31 protocol does provide the information. It gives them
32 access to the information that they would get at that
33 meeting anyway.

34

35 THE CHAIR: So the hotline is designed to achieve what
36 a meeting would do as a group; is that the idea?

37

38 D SUPT NEWBERY: Yes, and to get it consistent and to get
39 it to people who need it. Also, they can be provided with
40 further information and other aids that may assist, because
41 there are a number of documents and publications that Lorna
42 could probably expand upon that are designed to help
43 families in these situations.

44

45 THE CHAIR: So you ring the hotline and the hotline person
46 will then tell you that you can access written information
47 online, I assume?

1
2 MS McNAMARA: That's right. We have a folder called
3 "Helping to Make it Better" specifically for parents. It
4 goes through sheets, it's covers child on child sexual
5 assault, sexual assault in Aboriginal communities and if
6 parents have concerns that their child might have been
7 sexually assaulted. There are also things about validating
8 their concerns, letting their child know that they are safe
9 and that the parent is there if they ever want to talk,
10 without actually having to lead.

11
12 The person on the phone, of course, will take them
13 through some of that. But we have found that written
14 resources really support parents who can find it quite
15 difficult, if they are very traumatised or distressed, to
16 take all that information in at one time.

17
18 Then we can further back that up with supports, both
19 through health - so we have 55 sexual assault services
20 across the State that we can link in with, and of course we
21 link in with education around those issues.

22
23 THE CHAIR: And are you satisfied now that what you have
24 developed is working satisfactorily?

25
26 MS CRAIG: Mostly it has worked really well. We have used
27 the local protocol 16 times since its inception after case
28 study 2, and I think we have kind of kept learning as we
29 go. There are still things that we think we can improve,
30 but overall we think it has been a really good thing it and
31 allows us to provide information in a much more timely and
32 consistent way.

33
34 THE CHAIR: Can I test you all, then: Steve?

35
36 MR KINMOND: Look, I think Greig has previously referred
37 to the areas that we could look at - the under-18s. The
38 Royal Commission of course has flagged today the issue of
39 children who are under the age of criminal responsibility.

40
41 The other broad observation that I would make is that
42 the entity that is left exposed is the non-government
43 sector. Under the current arrangement the documentation is
44 settled with the JIRT representatives but is sent out by
45 the involved institution. If it is a non-government
46 institution that leaves it quite exposed in terms of
47 privacy legislation.

1
2 So my recommendation - and we have had a chat about
3 this and I think this might be accepted - is that the
4 document is settled by police where it involves a criminal
5 matter, so in fact it is the police document which is being
6 sent out. That I think serves to protect - you know, the
7 police have coverage in terms of exercising a law
8 enforcement function. That will serve to better protect
9 the non-government agencies, and if you protect them in
10 terms of privacy you are also strengthening their hand
11 against any defamation as well. So I think that would be
12 a good move. Then obviously if it is a matter of whether
13 the child is under the age of criminal responsibility, it
14 may well be information that is disseminated by FACS,
15 consistent with its investigative function under the
16 privacy legislation, and if it is pursuant to its
17 investigative function, that may serve to comply with the
18 privacy legislation and provide the necessary protections.

19
20 THE CHAIR: Victoria, you have indicated that you will
21 have a look at this space. We commend you to do that. Is
22 there anything else that you want to say in relation to
23 this issue, though, as to the form of the protocol?
24

25 MS MILLER: I think really, as I said earlier, building on
26 the child safe standards consistently is where we really
27 need to embed these processes, so that it's not really at
28 the point that we are collectively coming up against these
29 sorts of issues, but that we can be as prepared and
30 informed and as resourced as we can, knowing that these
31 sorts of things unfortunately are a part of reality, and
32 that will then enable us to be able to respond to these in
33 a much more timely and consistent way, having thought about
34 these issues before we are arriving in circumstances in
35 which we are challenged by them. So I think it is a great
36 document.
37

38 I think that the protocol with education is very sound
39 but, once again, that applies to one Government department
40 and I think the opportunity is to look at how we can embed
41 it so that it is by design and not default that we are able
42 to work through these in the best interests of children and
43 their families and their long-term recovery.
44

45 DI TWAMLEY: I think there is certainly value in
46 considering this in the broader context of what we do.
47 Of course, the challenge in regional and remote

1 Western Australia is on how this may be done in those
2 areas, and we would need to go back and have a good think
3 about how we would implement something similar in those
4 types of environments.
5
6 THE CHAIR: Yes. Of course, the problems will emerge,
7 though, in institutions in those environments.
8
9 DI TWAMLEY: Correct.
10
11 THE CHAIR: Probably, in some respects, maybe more acutely
12 than some others because of the small nature of the
13 communities.
14
15 DI TWAMLEY: Absolutely. And because of the smaller
16 nature of the communities you would hope that the
17 relationships between the Government services and those
18 communities are also a lot closer than they might be in a
19 metropolitan setting.
20
21 THE CHAIR: Mmm. So am I reading that as saying you will
22 work towards introducing a protocol?
23
24 DI TWAMLEY: I think, if I refer to my line manager
25 sitting behind me, who is nodding her head vigorously, I'm
26 sure it will happen.
27
28 THE CHAIR: So we will put in our report that you are
29 going to do it?
30
31 DI TWAMLEY: Absolutely.
32
33 THE CHAIR: We will, don't worry.
34
35 Queensland?
36
37 A/D SUPT WATTS: We have the CPIUs embedded across
38 Queensland working with the local arrangements now, so they
39 are guided in relation to the information release by our
40 management support manual and APMs regarding the
41 investigation, so --
42
43 THE CHAIR: Does it cover the issues that New South Wales
44 has covered as a response to the case study we did?
45
46 A/D SUPT WATTS: Not as descriptive as that, but I think
47 in the broader terms it would.

1
2 THE CHAIR: Do you put in place an information source that
3 everyone who is interested can go to, which gives them
4 a reliable and consistent amount of information?
5
6 A/D SUPT WATTS: Depending on the circumstances I think we
7 certainly can look at that, yes.
8
9 THE CHAIR: Well, are you going to do it?
10
11 A/D SUPT WATTS: Look at it? Yes. Am I going to do it?
12
13 THE CHAIR: Why would you not do it?
14
15 A/D SUPT WATTS: As I've explained today, I think every
16 case is different, so I have that flexibility of engaging
17 and disengaging with other agencies in accordance with that
18 special policing response we have.
19
20 THE CHAIR: You see, when we looked at the YMCA it was
21 crystal clear that when you have an organisation or an
22 institution like that, where children are being cared for
23 daily by a limited group of workers, and an allegation
24 surfaces that one of those children has been abused, it's
25 just the inevitable that for the rest of the parents in
26 that group it will be a crisis, and the plain need that
27 New South Wales has responded to is that that crisis needs
28 to have information which is reliable and consistent and
29 which does something to provide the parents with
30 a reassurance that appropriate steps are being taken. That
31 can only come, can't it, from a source, a single source, of
32 information which is reliable.
33
34 A/D SUPT WATTS: And in those circumstances, that would be
35 the police, yes, from our perspective.
36
37 THE CHAIR: Do you think you might put it into a manual?
38
39 A/D SUPT WATTS: Yes.
40
41 THE CHAIR: We will put that down as a "yes", too?
42
43 MR LUPI: Commissioner, if I could also add, there is an
44 interagency protocol that exists that was formed
45 in June 2014 outlining the roles and responsibilities of
46 State agencies when it comes to responding to sexual
47 assault and the victims of sexual assault, both children

1 and adults, so that clarifies health and forensic
2 investigations and various roles. It probably doesn't go
3 as far as the JIRT does in terms of its reach to the NGO
4 sector.

5
6 The other document that exists in Queensland is that
7 obviously under our Working With Children Check scheme we
8 require institutions to have a series of risk management
9 policies and other strategies, and we give them great
10 guidance through the scheme administered currently under
11 the Police Public Sector Business Agency - great guidance
12 on how to develop those policies to respond and report and
13 how to have risk management and create child safe
14 environments. They do fall short of what role the
15 institutions might play in responding to a matter when it
16 does happen.

17
18 So, as Garry said, those documents really try to deal
19 with a pre-crisis; they probably don't go as far as giving
20 the institutions the guidance and the comfort they are
21 looking for around partnering with us when it happens.

22
23 THE CHAIR: This protocol is really aimed at informing
24 more than the institution; it is aimed at informing the
25 parents, and that was the need identified in that study.
26 I take it from what you have told us so far that that
27 hasn't been addressed in a formal way in any document in
28 Queensland?

29
30 MR LUPI: Not that I have available to me, no.

31
32 THE CHAIR: We will put you down as a "yes".

33
34 Judy Cashmore, do you have anything to contribute to
35 this discussion from your broad experience in this area?

36
37 PROF CASHMORE: Just reflecting on the Lord matter, it was
38 interesting in that case that in fact it was the
39 discussions with the children and their parents that led to
40 the further disclosures. In fact, I think there was only
41 one child in that case who was reticent about disclosing
42 what had happened.

43
44 So I guess the issue is about not shutting down
45 children's disclosures and making sure - because I think if
46 you shut children down in these circumstances you may not
47 open them up again easily.

1
2 So I think that, you know, the pendulum has swung
3 quite a long way. We had a period where contamination was
4 all that anyone was talking about in the 1990s, and that
5 was the gist, the whole thrust of the research and the
6 concerns of professionals, that you can't have children
7 talked to by anyone else because they are so manipulated,
8 and we get the same thing out of our research in family
9 law, that that has been some of the suspicion around the
10 attitude to children.

11
12 I think, hopefully, we are moving and the pendulum is
13 swinging back a bit and recognising that we can have a
14 little more trust as long as we actually treat that trust
15 and treat children with respect, and their parents.

16
17 THE CHAIR: That requires information to parents, though,
18 doesn't it?

19
20 PROF CASHMORE: Yes.

21
22 THE CHAIR: Do we think the pendulum is moving back,
23 police?

24
25 MS MILLER: I think one of the things that can assist
26 that, and I've thought about this in the context of family
27 violence, is some of the legislation that New South Wales
28 has passed in relation to information sharing, much more
29 around concepts of safety and wellbeing trumping that of
30 individuals' rights to privacy and what you can convey to
31 people. Because I know that is one of the things that
32 really can be quite crippling in terms of weighing up these
33 sorts of dilemmas as we are presented with them. So I am
34 really pleased that most of the jurisdictions are reviewing
35 the privacy and information sharing legislation, because
36 I think that that will be very helpful in pushing that
37 pendulum a bit further.

38
39 DR COOMBS: Could I interject at this point? I'm not sure
40 what legislation you were referring to, because the Data
41 Analytics Centre - that sharing completely adopted the
42 New South Wales privacy legislation as a framework with
43 which it would work. I am not sure if there was anything
44 else --

45
46 MS MILLER: 16A.
47

1 MS McNAMARA: And also, for domestic violence, 13A.
2
3 DR COOMBS: I think it is very important to understand
4 that in terms of open data, that is not a reference to
5 protected information; that is about non-protected
6 information, which is not personal or health.
7
8 D SUPT NEWBERY: So far as what Judy was saying before,
9 I think the pendulum, as she said, is coming back. I can
10 only speak from the New South Wales perspective, certainly
11 talking about what we were discussing before with a child -
12 I think it is totally unrealistic to say to a parent, you
13 know, "If a child says this you must stop there and don't
14 say any more". That's not going to happen. What I think
15 would be natural then is that that parent may become the
16 witness of first complaint and become a witness in the
17 matter, but, in any case, that is going to happen and that
18 disclosure is going to occur, and then later on the
19 interview which would form the evidence-in-chief for the
20 later prosecution that may flow from that would then take
21 into account those things. Certainly I think there is
22 provision for that to occur.
23
24 DI TWAMLEY: I think there is a note of caution that in
25 matters of child abuse in a court setting, it is the
26 forensic interview of the child versus any defence
27 statement of the accused, and a strategy in court is always
28 to diminish the credibility of that interview with the
29 child by trying to introduce information that the child may
30 have been led or pre-interviewed or influenced by to make
31 the claims they have made in the forensic interview.
32 Really, that is defence counsel 101 in child abuse matters.
33
34 THE CHAIR: I understand that. That's a particular issue
35 in domestic or familial situations. Do you think it's such
36 an issue, though, in an institutional context?
37
38 DI TWAMLEY: I would still say it is, yes.
39
40 A/D SUPT WATTS: The daycare centre for that matter.
41
42 THE CHAIR: I have seen it myself, you have seen it many
43 more times than me, the parent who uses the child against
44 the other parent or the step-parent or whoever. It is
45 harder to imagine a parent deliberately contaminating
46 a child's evidence in the context of the daycare centre or
47 the school.

1
2 A/D SUPT WATTS: It is just that the questions that they
3 would naturally ask could have - or the allegation is that
4 it had - an effect on the forensic interview that is to
5 come. That's the issue for investigators.
6
7 THE CHAIR: Yes.
8
9 DI TWAMLEY: It is not just about introducing false
10 information by the child influenced by the parent - that's
11 not what we are saying at all. It's merely how many times
12 the child has told this story prior to it being
13 forensically recorded is an issue that defence counsel love
14 to explore.
15
16 THE CHAIR: Yes. Well, it depends where you sit,
17 I suppose. Jane, do you have any perspective on that
18 issue?
19
20 PROF GOODMAN-DELAHUNTY: I think the concern is about the
21 suggestibility of questioning by people who don't have
22 skills and training on how to avoid the contamination that
23 can occur innocently - that it is not deliberate but that
24 it might somehow impact later reporting, just by virtue of
25 those questions being asked. You know, I think it depends
26 on the age of the children and obviously the circumstances,
27 and so forth, and I understand that is a sensitivity here.
28
29 THE CHAIR: Yes. Greig may well be right, though: it's
30 almost impossible not to ask, once the child starts.
31
32 D SUPT NEWBERY: You certainly have to be mindful. There
33 are significant concerns, but I think in those
34 circumstances it's very difficult to stop. What you have
35 to do, I think, in the earlier part of the process, when
36 that information is going out, is ensure that people have
37 enough information about what they should and shouldn't do
38 in those circumstances to allow them to be properly
39 informed and not start - and particularly when you get
40 circumstances where you get a number of people who have
41 information and they start talking and then the child
42 becomes questioned on the information that can be provided
43 by others. So there is certainly a degree of management
44 that needs to be done, but I think in real terms, you are
45 not going to get that to happen with the, "Stop, don't tell
46 me any more."
47

1 THE CHAIR: Can I then turn to the last matter that
2 I wanted to raise with you today. There of course will be
3 many occasions where allegations come forward that don't
4 result in a criminal outcome, for a variety of reasons, but
5 the substance of the allegation is pretty good. Maybe the
6 parent doesn't want the child to give evidence - you know
7 of all the multiple scenarios that can occur.

8
9 Do we have in each State - and, Steve, I'm going to
10 ask you to address this first of all because you cross all
11 these boundaries - do we have in New South Wales, in your
12 case, adequate arrangements in place so that when an
13 allegation comes forward which doesn't result in criminal
14 outcomes, we nevertheless have an appropriate, can I call
15 it, regulatory response to ensure the protection of
16 children?

17
18 MR KINMOND: Well, in an institutional setting, we would
19 argue that with bodies under our jurisdiction you do, and
20 that is supported by the standard operating procedures
21 which we drafted and the Commissioner very kindly signed.

22
23 In that regard, it specifically refers to when an
24 investigation is continued prior to the laying of charges,
25 the investigating officer or his or her nominee is to
26 inform the employing agency within 48 hours of making the
27 decision that they've decided to discontinue the
28 investigation. They have to then provide to the entity any
29 information relating to the safety, welfare or wellbeing of
30 kids that they have that is relevant to them making any
31 decision or assessment or plan or, indeed, managing any
32 risks.

33
34 So that transfer of information which should take
35 place then puts the agency in a position to look at what
36 they need to consider in the context of their employment
37 setting. Of course, the matters that they consider are
38 much broader than simply whether there's a criminal brief.
39 They ought to be considering, in New South Wales, whether
40 there is sexual misconduct, whether there is ill treatment,
41 but, in addition to that, whether there is any other
42 professional conduct or, more importantly, misconduct, of
43 a type that needs to be addressed.

44
45 And even if in those circumstances they're not able to
46 determine that such a matter is sustained - and I think the
47 sustained rate roughly for sexual misconduct, sexual

1 offence findings in New South Wales with reportable conduct
2 is around 23 per cent, or thereabouts - even if they
3 determine it's not sustained, that's not the end of the
4 matter. If they're not in a position to determine that the
5 matter is false, then one would expect appropriate risk
6 management strategies to be in place.

7
8 Now, all of that decision making is not just made in
9 the context of the individual case; it ought to be made in
10 the context of whatever else is known by the agency, and
11 that will include information that will have been provided
12 to us and by police and potentially by FACS that is
13 relevant to that agency's determination. Whether that's
14 adequate in every case is a moot point, but at least that
15 provides certain safeguards.

16
17 THE CHAIR: Do each of the other States have a similar
18 arrangement or not?

19
20 MS MILLER: Victoria is committed to introducing
21 a reportable conduct scheme, which we hope to do commencing
22 next year. We're in the consultation and design phase of
23 that at the moment, with the regulator being the
24 Commissioner for Children and Young People. We recognise,
25 through the Betrayal of Trust inquiry, that this is a gap
26 that we've had in Victoria and are looking to address that.

27
28 THE CHAIR: So you see yourselves following down the same
29 model that Steve is talking about?

30
31 MS MILLER: Yes. My understanding is that the model
32 that's being explored is very similar to that which has
33 been working in New South Wales, but I think that there are
34 broader consultations occurring to look at some of the
35 other jurisdictions that are looking to set in place
36 a similar scheme to look at compatibility across the
37 jurisdictions as well.

38
39 THE CHAIR: Michael, do you know what the situation is in
40 South Australia?

41
42 MR O'CONNELL: No, I'm sorry. The South Australia Police
43 told me before I came here that they rely on the evidence
44 that they have already given before the Commission and
45 I shouldn't comment any further.

46
47 THE CHAIR: That sounds like closing down an inquiry, to

1 me.
2
3 MR O'CONNELL: No, no, I did actually ask, because
4 I thought I might be able to make some other useful comment
5 other than as a commissioner who looks after these things,
6 but that's the --
7
8 THE CHAIR: Okay, all right. What about the west? The
9 circumstance where we're talking about an allegation,
10 police can't proceed for whatever reason - what happens to
11 the allegation in terms of the safety of the children?
12
13 DI TWAMLEY: Obviously our friends at CPFS look after the
14 welfare of the child. If the alleged perpetrator is from
15 an institution, for instance the Education Department, they
16 have their own investigators and professional standards
17 unit that deals with whether that person may have breached
18 conditions of their employment or not, and suchlike.
19
20 THE CHAIR: Can you give the department the information
21 that you have, as police?
22
23 DI TWAMLEY: I believe we do have information sharing
24 arrangements in place, yes.
25
26 THE CHAIR: Now, what about if it's not the department but
27 a private school?
28
29 DI TWAMLEY: I couldn't comment on that, sir. I don't
30 know.
31
32 THE CHAIR: It should be the same, shouldn't it?
33
34 DI TWAMLEY: I would expect so, but I --
35
36 THE CHAIR: Well, if it's not, it should be.
37
38 DI TWAMLEY: Mmm.
39
40 THE CHAIR: We'll put that down as a query.
41
42 DI TWAMLEY: I'll write that down as a note.
43
44 THE CHAIR: Queensland?
45
46 A/D SUPT WATTS: We do, your Honour. If it doesn't meet
47 the threshold for charging and we've exhausted our

1 investigation, we're able to supply information to the
2 professional standards units within Government departments
3 on request. Additionally --

4

5 THE CHAIR: Sorry, on request?

6

7 A/D SUPT WATTS: On request.

8

9 THE CHAIR: Why don't you just do it as a matter of
10 course?

11

12 A/D SUPT WATTS: It's a written application to us and it
13 comes through, and it comes under I think section 10.2 of
14 the Police Service Administration Act.

15

16 THE CHAIR: Why wouldn't you have a legislative provision
17 that required you to send it across?

18

19 A/D SUPT WATTS: Again, I can't comment on that other than
20 when we get to a certain point, it has already triggered -
21 when a Government employee is a suspect for an offence, it
22 triggers a notice in our system that goes to the Government
23 department, so they hold their request pending our
24 investigation. Similarly with the Queensland College of
25 Teachers, again on request --

26

27 THE CHAIR: Is that a Government body?

28

29 A/D SUPT WATTS: I don't know if it's a Government body,
30 but it might be a statutory body. They cover all teachers
31 registered in Queensland, so that's private and State.
32 They can make a request to us, and we are duty bound to
33 provide information to them at the termination of an
34 investigation.

35

36 THE CHAIR: Would that extend to daycare facilities and so
37 on?

38

39 A/D SUPT WATTS: That then relates to the Blue Card issue,
40 where again there's a trigger. Blue Card Services are
41 notified, and once we've satisfied or finalised our
42 criminal investigation and we can't take it further,
43 Blue Card Services then look at the suitability of that
44 person holding the Blue Card.

45

46 THE CHAIR: Do you send them your information?

47

1 A/D SUPT WATTS: Yes, yes.
2
3 THE CHAIR: As a matter of course?
4
5 A/D SUPT WATTS: Yes.
6
7 THE CHAIR: Right. Does that happen in Western Australia?
8
9 DI TWAMLEY: Our working with children unit, which is
10 managed by CPFS, yes, in a very similar manner.
11
12 THE CHAIR: So as a matter of course?
13
14 DI TWAMLEY: Yes.
15
16 THE CHAIR: Right.
17
18 MR GEARY: Your Honour, just on that protocol, could
19 I flag one point for the non-government sector,
20 particularly faith-based organisations. I think the
21 protocol obviously for employee-related allegations is
22 outstanding.
23
24 The gap for churches that I can see, though, is for
25 members, so where the allegations relate to a member who is
26 neither an employee nor a volunteer. You may have within
27 a church congregation or within a club a member of a club
28 or an association, perhaps, where this would not fall
29 squarely within the protocol, but the same need to manage
30 that individual within the community is there.
31
32 The other point, which I think I raised with Steve
33 before, is with regard to historical matters where JIRT
34 wouldn't typically be engaged because the child is no
35 longer a child. I just flag that while people are
36 considering this.
37
38 THE CHAIR: What you're saying is that there is a need to
39 consider whether or not what is presently in place in each
40 State is adequate to pick up people in positions of trust
41 both inside and outside Government institutions?
42
43 MR GEARY: Yes. And I would say at least from the
44 Salvation Army's experience that there is a significant
45 number of people who would fall within that gap, even when
46 compared with the people who would be caught within the
47 typical employee or volunteer body of individuals. So it's

1 not insignificant from our concern.
2
3 THE CHAIR: Paul, it's an issue that visits itself upon
4 all churches, really, isn't it?
5
6 MR DAVIS: It is indeed. I think that for members of
7 religious congregations that hold a role that's child
8 related, that group would be captured within the reportable
9 conduct scheme in some circumstances but not all. There is
10 some work being done at the moment to bridge that gap so
11 that all that would be in child-related roles would fall
12 within the reportable conduct scheme. So that's one area
13 that's being addressed at the moment.
14
15 THE CHAIR: Whether they be in --
16
17 MR DAVIS: Whether they be in a designated agency or --
18
19 THE CHAIR: -- a public agency or whether they be in
20 a church arrangement?
21
22 MR DAVIS: Correct. So if they're engaged in ministry on
23 behalf of the church, that would be captured.
24
25 The other issue, though, is around participants or --
26
27 MR GEARY: Members, yes, people who turn up and sit in the
28 pews on a Sunday, perhaps.
29
30 MR DAVIS: Parishioners.
31
32 MR GEARY: Parishioners, yes. Anyone. I guess my point
33 really is addressed to the fact that churches are typically
34 open environments, and anyone can come in.
35
36 THE CHAIR: What you're saying, Luke, is that the church
37 is an attraction which will bring children together with
38 adults?
39
40 MR GEARY: Yes.
41
42 THE CHAIR: And the risk is greater than it might
43 otherwise be in the general community - that's what you're
44 saying?
45
46 MR GEARY: Yes, and they're places where typically people
47 place trust in the safety of the community there.

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THE CHAIR: You send your child to Sunday school, for example.

MR GEARY: Absolutely.

MR DAVIS: I think one of the challenges, though, is to be clearer about those that are in relationships of trust, those that have actually been given roles, rather than it being a free-for-all where people can just be allocated a job or not. It's an area of significant training for those responsible for ministry within church organisations to actually appoint people to voluntary roles so that they know that they are actually working with children and that there's a code of conduct and that there would be consequences for breach.

MR GEARY: My experience is that those people would be covered under the protocol because they would be volunteers, which is caught within the definition of "employee", but it's the broader category who are not in any specific child-related role but are only five steps away from children.

MR DAVIS: Yes.

THE CHAIR: You can go on extending the problem. You can have spectators at the kids' sport.

MR KINMOND: Can I make the point, though - and this depends on whether the church is a prescribed body, which we won't go into, because it depends on the nature of the activities, but if the church is a prescribed body, then that church can seek information from other prescribed bodies, which includes police and includes ourselves, and if they have concerns about an individual, regardless of whether that individual is involved in child-related work for that church, that information can be provided under 16A, so there is some scope there. We probably need to have a chat.

THE CHAIR: You do.

MR GEARY: Yes, it's more regarding the fact of the matter that it happens under the protocol proactively, and that I think is leading to great benefits for helping organisations manage that, the person of interest

1 management process, so the information flows much more
2 freely. I think that's kind of where the gap is. I just
3 think the broader application of the process would be
4 beneficial.

5
6 THE CHAIR: The general principle that seems to emerge
7 from that discussion is that everyone should have an
8 effective reportable conduct arrangement which is
9 sufficiently wide, when police don't take action, to allow
10 the holder of the relevant information to communicate it to
11 those in a position to act to protect the safety of
12 children in the institution. Is that right? I haven't put
13 only Government in that frame; I've put everyone in that
14 frame, but am I right in doing so?

15
16 MR O'CONNELL: I can say that --

17
18 THE CHAIR: Michael, you've been allowed, have you?

19
20 MR O'CONNELL: -- in 2013 - it just suddenly occurred to
21 me what you actually said. Yes, I can say this. In 2013,
22 the South Australian Cabinet directed that its information
23 sharing guidelines be expanded to cover child safety and
24 wellbeing, and also they now integrate both Government and
25 non-government organisations involved in services that
26 apply to children, so there is scope to share information
27 for those health and wellbeing purposes, including in the
28 context in which you asked before.

29
30 THE CHAIR: Yes. I mean, it's an entirely artificial
31 distinction to discriminate between Government and
32 non-government in this space, isn't it?

33
34 MR GEARY: Your Honour, could I just re-raise the point
35 that I think the Privacy Commissioners touched upon, which
36 is the ability to share information between institutions.
37 This is one of the matters I raised where perhaps someone
38 is the subject of one of these investigations and it
39 becomes known that they're going to move to another
40 institution. That may not of itself trigger the exception
41 to the privacy principles because the threat may not be
42 imminent or serious enough, depending on how the person is
43 being managed.

44
45 For example, if the Salvation Army knows that a person
46 it has been managing under a formal agreement for their
47 behaviour, and there are accountabilities there, is going

1 to move to a Uniting Church congregation, the threat may
2 not be at the level which triggers the exception, but it's
3 obviously a matter of some seriousness. So there's a gap
4 there as well, which a number of faith-based organisations
5 I've spoken to have identified as a struggle, because if
6 they give the information for abundant caution, they place
7 themselves at risk.

8
9 THE CHAIR: Well, that brings us to the end of time, for
10 today, anyway. Is there any person, though, sitting at the
11 table with something that they have wanted to say all day
12 and haven't had the chance to say it?

13
14 MR O'CONNELL: I'm sorry, I have to. The
15 Attorneys-General are about to receive the final version of
16 the National Framework on Victims' Rights and Victim
17 Assistance, which all the States have subscribed to.
18 I mentioned last time it has a section on complaints. It
19 has a section on information sharing, with a nominated
20 information sharing officer in each jurisdiction. In
21 Queensland it's the victims of crime coordinator, it's the
22 victims rights commissioner here in New South Wales, and so
23 on around Australia, as the central point. There's
24 a protocol about how we will obtain approval for the
25 exchange of that information, et cetera, which I can share
26 later.

27
28 THE CHAIR: Thank you, Michael.

29
30 Can I thank everyone, then, for their participation.
31 Some of you have heard me say this before, but it's amazing
32 when we have these roundtables, we start off maybe knowing
33 some people in the room, but by the end of the day it feels
34 like we're just a group of friends that are trying to solve
35 some serious problems, and it speaks to the spirit with
36 which everyone contributes to these occasions, for which we
37 are immensely grateful.

38
39 We have a very large remit. We have a huge task.
40 Without the help of people with your expertise and
41 experience, we wouldn't be able to achieve anything of
42 great significance. But with your help, hopefully we can
43 all work together to make it safer for children. So can
44 I thank you again and, for those who are travelling, wish
45 you safe travels.

46
47 AT 4PM THE ROUNDTABLE WAS ADJOURNED ACCORDINGLY