



Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse: Issues Paper 8

Experiences of Police and Prosecution Responses

Care Leavers Australia Network (CLAN) is a support, advocacy, research and training organisation for people who grew up in Australia's orphanages, Children's Homes, foster care and other institutions. CLAN's objective is to raise community awareness of our issues, and to campaign for government assistance to redress them. Being raised without your family has lifelong implications that require lifelong support services. CLAN can provide information, understanding and emotional support and are campaigning for a national redress scheme.

CLAN would like to take this opportunity to comment on Issues Paper 8: Experiences of Police and Prosecution Responses. We have mentioned many experiences of Care Leavers in prior responses to issues papers such as civil litigation and the redress consultation paper. As such, we will be making a number of recommendations based on our experiences and involvement with both police and prosecution processes over the fifteen years we have been operating, as well as our experiences with our members and the multitude of anecdotal evidence we hear on a daily basis.

CLAN's recommendations for Police and Prosecution Processes:

- Firstly, CLAN would like to highlight the lack of trust that Care Leavers have in the police due to the role that they played in the treatment of Care Leavers. Many children were placed in 'care' either through police charging children with offences or the police being tasked with returning children who had absconded from various Orphanages and Children's Homes. Many Care Leavers recall telling the police that they were abused and mistreated and why they were running away, however the police either did not believe them or simply did not care, and returned them back to their abusers. Many Care Leavers also speak about the brutality inflicted on them by the police themselves. CLAN have approached both the State Ministers of Police and the Police Commissioners in all States of Australia to apologise to Care Leavers for their role in the trauma that many endured (Please see Appendix A for a copy of this letter). At this stage all responses we have received indicate that the States have declined to consider the matter until the conclusion of the Royal Commission. In fact whilst we wrote in January we only just heard back from South Australia in June, exemplifying how little of a priority Care Leavers are. We find this response appalling and another reflection of why Care Leavers find it hard to trust the authorities such as the police force. CLAN and our members are very disappointed and we don't understand why Care Leavers have to wait another two years when many are elderly, frail, and dying. All Care Leavers deserve the opportunity to see the police force in all States take responsibility for their role in the treatment of Care Leavers. CLAN urge the Royal Commission to make the recommendation that \ Police Commissioners in all States apologise for the police role in Care Leaver treatment – without delay.
- CLAN urges the implementation of historical abuse units within the police force in all States. Units similar to Victoria's Taskforce SANO which specialise in historical abuse and who understand the complexities of historical child abuse cases, is the best way of ensuring that Care Leavers and other victims of historical child abuse complaints are dealt with in the most appropriate manner. CLAN have only had contact with a NSW sex crimes unit based in Parramatta as well as a taskforce in the Hunter region of NSW. CLAN do not know the extent of other established historical abuse units around Australia, as there has been no contact or communication from these other States with CLAN or our members.
- CLAN recommend that a National Database of offenders and victims statements/complaints be kept which can be accessed by all Historical Abuse units around Australia. We now know that many Care Leavers were abused by the same perpetrator in a different state. Offenders were often moved around, from one Children's Home to another and at times interstate. It is vital that there is easy access to information that may otherwise be localised to one State, let alone one police station.

- All those dealing with Care Leavers in both the police force and prosecutions should receive mandatory specialised training. This would go some way to ensuring Care Leavers are treated with understanding and that their needs are met. For example, the police force should receive training regarding the history of Care Leavers and the involvement of the police in the removal and institutionalisation of children in 'care'. The police need to understand the experiences of Care Leavers with the police and how it has contributed to Care Leavers' hesitation and mistrust in dealing with police. For instance, one of our members was raped by another prisoner being held in a cell at [REDACTED] Police Station. It would also help to prevent further trauma to Care Leavers and would assist in progressing Care Leavers cases if those working with Care Leavers understand them. In reference to the prosecution, it must be understood that Care Leavers experience high levels of trauma when they are questioned and cross examined. Specialised training for those involved can assist to get the most out of Care Leavers with minimal re-traumatisation. Furthermore, as part of the training both police and prosecution teams receive, information regarding support services such as CLAN should be passed on, so that Care Leavers can be referred to the most appropriate service to receive advocacy and support. [REDACTED] was not told or given information about CLAN or support services either by the police [REDACTED], or the OPP [REDACTED]
- All Care Leavers who make a statement to the police should do so only with the support of an advocate or in the company of a support person. Many Care Leavers are elderly, frail, suffer with both physical and mental health issues, and in general are suffering with the trauma of recalling past abuse. Many other Care Leavers have literacy issues, or in a highly emotional state may become easily overwhelmed and confused with the situation. It is of the utmost importance that all Care Leavers must have a support person present so that a Care Leaver's best interests are represented, and adequate advocacy and support is provided.
- Police and prosecutors should not ask Care Leavers to make a formal statement until and unless they have full access to their records/files. The Police and prosecutors should do everything possible to gain access to a Care Leavers records if they haven't already been able to access them. Care Leavers records have proved invaluable in assisting Care Leavers to make a statement and in providing evidence for their cases. In the case of [REDACTED] [REDACTED], DHS told the police they did not have his file and therefore the police could not access his file, yet CLAN gained access to it a short time later. If access to [REDACTED]'s files was provided before he made a statement he would have been able to provide a more accurate account regarding dates and times. Whilst the abuse that Care Leavers speak of can be very fresh in their minds, sometimes dates and times can get mixed up, not only because of the historical nature of the crimes but also because of the trauma that Care Leavers endured at the time, and the lack of information routinely provided to them. Having access to records can help prevent the inaccuracies that stop Care Leavers' cases from progressing any further.

- Past providers and current agencies representing past providers should be prosecuted if they fail to hand over all records and any pertinent information regarding a Care Leaver to the authorities to assist in an investigation and or prosecution.
- CLAN has heard a lot of anecdotal evidence from our members about the lack of communication by the police and prosecution. In [REDACTED] case he received a call from the OPP advising him that his case was being withdrawn, and he was given no reason as to why. CLAN feel that this behaviour by the OPP is utterly shameful. Any major communication, especially where bad news is being conveyed to Care Leavers and other victims should only be done with a support person present. The health of the Care Leaver or other victim needs to be paramount, and this involves ensuring that the mental and emotional health of Care Leavers is seen to via a support person.
- Similarly, another CLAN member [REDACTED], had her case dropped by the Victorian office of the DPP even after the magistrate found enough evidence to commit the perpetrator to trial. An adequate explanation was never given to [REDACTED]. Upon writing to the Attorney General's Department CLAN were told that the case was dropped due to the DPP's belief that there was 'no reasonable prospect of conviction', in direct contradiction to the magistrate's ruling and the committal hearing outcome. Care Leavers deserve a thorough explanation regarding their cases by both the police and prosecution. Furthermore, if a discontinuation occurs CLAN believes that victims should be given a copy of the accused's lawyer's correspondence which may provide an additional explanation to the victim. CLAN also believe that the DPP should provide all decisions to victims in writing, which will give Care Leavers a thorough understanding of what is happening with their case.
- Many other CLAN members have told us that after they have given their statement to the police they don't hear anything for months and even in some cases years. One CLAN member, [REDACTED], received no contact or action from the police until he wrote to the Victorian Police Commissioner. The police told [REDACTED] that the name he had given as the perpetrator matched similar offences committed in WA, but that it was too common a name and therefore too hard to track down. This is completely unacceptable – regular progress reports should be provided on a monthly basis. Similarly, CLAN feel that there should be guidelines for police regarding the time it takes to attend to cases or follow up after a Care Leaver has made a statement. Care Leavers do not unrealistically expect that everything will be finalised within a couple of months, but they do expect the courtesy of the police following up with them and letting them know what is happening with their case. After giving her statement to the police, one CLAN member had her case passed to three different officers before anything was done. Every time she found something out regarding her case, she was the one that had to initiate contact.
- Some Care Leavers are very reluctant to attend their local police station due to shame and embarrassment, especially those living in small towns or rural communities where word of mouth can be rampant. Other Care Leavers tell CLAN that when they have attended their local police station to make a statement they have been turned away because it is not where

the crime occurred. Some Care Leavers have also been told by Police that it is pointless and there is no chance of charges being brought against the perpetrator as they are most likely dead or it is just their word against the perpetrators. This indifference to a Care Leaver's trauma, and the lack of acknowledgement of the courage it would have taken for the Care Leaver to attend the police station is astounding. This sort of behaviour only discourages Care Leavers to make a statement and sees many Care Leavers not go back again to follow up. Therefore CLAN recommends that all police stations be required to take a statement if a Care Leaver is willing to make it. It should be the job of the police to redirect the statement where it needs to go without re-traumatising Care Leavers.

- In regards to prosecution of cases, CLAN recommend that if there is more than one Care Leaver (or other victim) laying charges, each person should be informed of the totality of court outcomes.
- CLAN would also like to draw attention to the fact that many cases are never prosecuted, such as [REDACTED]. There are many reasons for this, and some reasons are valid, while others are not valid. For example, refusing to prosecute cases because of the offender's age or health status, or the historical nature of the crime is unacceptable. Offenders did not care about the age of a child when they abused them, why then should it matter how old an abuser is when they are prosecuted? CLAN recommend that this be reviewed so the ultimate deciding factor is obtaining justice for Care Leavers and other victims.

CLAN sincerely hope that the Royal Commission is able to use our recommendations to improve both police and prosecution processes. Ultimately, Care Leavers deserve justice and should be able to access this through the criminal justice system. We would also like to take this opportunity to commend taskforce SANO and their work, which is going a long way to establishing some trust in the police by Care Leavers. Many Care Leavers were failed by the criminal justice system as children, in many cases the criminal justice system was responsible for placing children in 'care' and creating the opportunity for Care Leavers to be abused. We hope that the necessary changes can be made to right the wrongs of the past and to give Care Leavers a reason to trust the authorities once again.

Appendix A

Dear Commissioner,

I am writing to you to introduce you to CLAN, Care Leavers Australasia Network. We are a national independent peak membership body which supports and advocates for people who were emotionally, physically and sexually used in Australia's 900+ Orphanages, Children's Homes and Foster Care. CLAN has been operating since 2000. Our oldest member is 98, and our youngest is 30.

For many Care Leavers, their time in Orphanages and Children's Homes included severe violations of their dignity and basic human rights, including daily beatings, beltings for bed wetting, cruelty and neglect, the loss of their family, sexual usage, isolation, humiliation and lack of food, clothing and an education. These Australian children were mistreated by our own governments, churches and charities, and lived in constant fear and trauma.

We are writing to you on two important issues.

1. Access to Police Gazettes

As a result of this treatment, many children ran away or absconded from the Homes to flee the sexual, physical, emotional abuse and neglect. We understand that in every state and territory the Police would be notified by the Orphanage, Home or authorities and these children's names were recorded in every state and territory police gazettes. Children were beaten and flogged upon capture, adding to the beatings that they were initially trying to escape from. Many children tried to tell the police of their plight but they were not believed and were returned to the hands of the abusers, no questions asked.

Since CLAN was founded in 2000, we have provided Care Leavers with assistance in obtaining records from their time in 'Care'. It is often that records were either not kept, were destroyed or are unobtainable. Police gazettes contain a section of weekly absconders from Orphanages, and this scant information can assist people in forming their identities and personal history. In the case of Care Leavers records that have been destroyed, it can be the necessary information to prove they were in Care, which they need in order to access the limited services available.

Currently, CLAN is conducting a research project, commencing with the Victorian Police gazettes. These gazettes contain information on a weekly basis about children who ran away or absconded. A simple absconding date, name and age of a child kept in police records can be very meaningful to Care Leavers. To this date our research includes a collation of 51 years of absconding records. In this research, it is evident that 3505 Victorian children absconded from 86 different church and charity run Homes, and 4015 Victorian children absconded from 31 Government Homes. These high numbers are from ONLY the State of Victoria.

CLAN's access to these gazettes have proven to be very valuable and important to our members, and have only been accessible due to the Victorian Police gazette's being on open access to the public at the Public Records Office in North Melbourne.

Queensland's Police Gazettes are only accessible from the late 1800's to 1945 from the State Library and the Queensland Police Museum. Police Gazettes cannot be accessed unless they are over 75 years old due to privacy reasons. Should we get permission to view those records the curator of Queensland Police museum would facilitate this.

New South Wales Police Gazettes can be viewed only up to 1938 in the Police Museum and the State Library.

South Australian Gazettes are accessible up to 1952.

Tasmanian Police Gazettes however, are on open access from 1861 through to 1993.

For Otherwise for most states jurisdictions, Police Gazettes can only be accessed if they are older than a minimum 60 years. A large portion of Children's Homes, Orphanages and Foster Care were still operating until the 1980's, therefore, access to these later police gazettes is an important issue for many Care Leavers. Only that part of the Police Gazette relating to reported child absconders is sought in terms of access.

CLAN is hopeful that all states will allow public access to Police gazettes, so we can continue to assist and support this vulnerable and marginalized group in our society.

2. Apology

Care Leavers Australasia Network is calling on all State Police Commissioners to issue an apology to Care Leavers who tried to report the crimes, the cruelty and sexual abuse that was occurring in Australia's Children's Homes. Many children were disbelieved, humiliated, put in to prison cells, assaulted by the police and returned straight in to the hands of the perpetrators and abusers with no investigations conducted. Most Care Leavers have a lack of trust in the Police authorities due to their treatment as children who were fleeing abusive situations in institutions. In 2014 The Victorian Police issued an apology to the public who were attending the gay and lesbian nightclub 'Toasties'.

As the personal stories of Care Leavers are being heard around the country at the Royal Commission into Sexual Abuse, it is evident that the Police in every state failed in their duty of care to take these children's allegations seriously and investigate them.

In moving forward, CLAN hopes that you as the Police Commissioner for your State, will initiate a public apology to Care Leavers who as children, had no one to turn to for help.

We also request that this matter be placed on the agenda for the Police Commissioner's Conferences in 2015 in the hope that there is a unanimous and supportive response to both issues.

We look forward to hearing from you,

Yours Sincerely,

Leonie Sheedy OAM JP