



VICTORIA POLICE

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Our Ref: FF-073979

Ms Georgie Crozier, MP
The Chair
Family and Community Development Committee
Parliament House, Spring Street
East Melbourne VIC 3002

Dear Ms Crozier

Please find attached the Victoria Police submission to the Parliamentary Family and Community Development Committee Inquiry into Handling of Child Abuse by Religious and Other Non-Government Organisations.

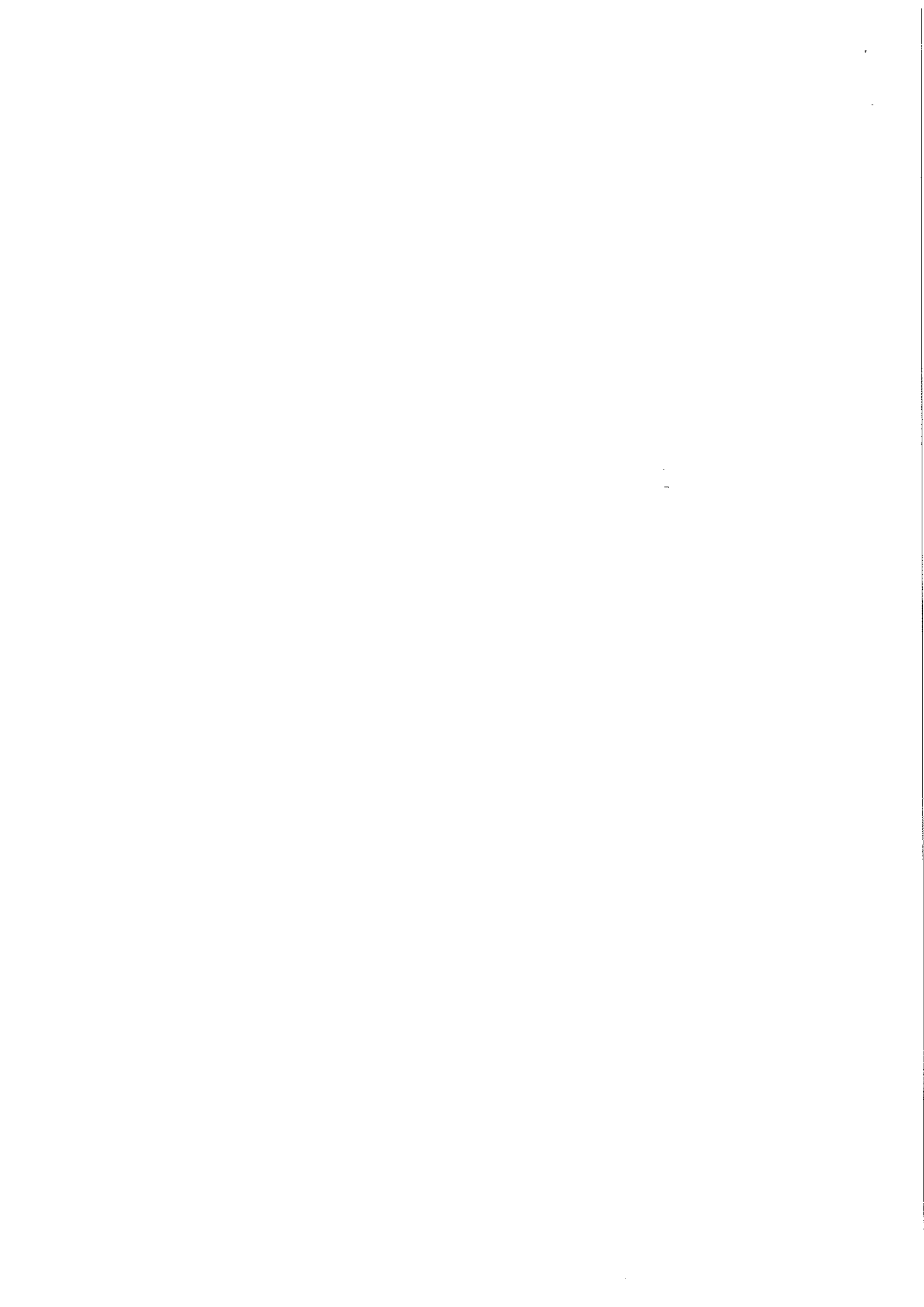
The submission includes a number of case studies to highlight the concerns of Victoria Police regarding the handling of child abuse by the Catholic Church. Some of the information is sensitive and may identify the offenders or victims involved. Accordingly, before this submission is made public, names of offenders and/or victims should be removed first.

If you have any further queries, please do not hesitate to contact Ms Kishani Nadesan, Legal Policy on 9247 6685.

Yours sincerely


Ken D Lay APM
Chief Commissioner

21/9/12.





VICTORIA POLICE

Parliamentary Inquiry On The Handling Of Child Abuse By Religious And Other Non-Government Organisations - Victoria Police Submission

1 Introduction

Victoria Police shares community concerns that, where criminal acts are committed against children, offenders should be brought to justice regardless of their affiliation or role within a religious or other organisation.

This submission is limited to comment regarding religious organisations, in particular the Catholic Church. Victoria Police may provide further input regarding other non-government organisations if the Parliamentary Committee raises concerns with specific organisations.

The reporting methods for child sexual assault preclude an exact determination of the number of offences by occupation of offender; however in the last 15 years over thirty religious leaders have been convicted of child sexual offences within Victoria.

Allegations of child abuse perpetrated by persons from religious organisations are a relatively small percent of Victoria Police's child sexual assault investigations. While it is generally accepted that incidents of sexual assault are grossly under-reported, there appears to be even greater reluctance for victims to report when it involves offending within the religious community.

2 Scope of the submission

Police investigation of child sexual assault complaints against members of religious organisations has frequently indicated evidence of prior reporting of the offence to the religious organisation itself. This submission has been prepared based on the interactions of Victoria Police members with members of religious organisations, primarily the Catholic Church. Preliminary consideration of these interactions has identified a number of common themes, which are explored further below.

Recurring issues identified by police include;

- appearing to dissuade victims of sexual crime from reporting to the police;
- the inquiry process undertaken by the Melbourne Archdiocese is believed to be detrimental to police investigative process and the prosecution of those suspected of criminal sexual crimes against children;
- alerting suspects of allegations which may have resulted in loss of evidence;
- a lack of engagement with police;

- a perceived conflict of interest for the Independent Commissioner;
- movement or protection of offenders who were known or suspected of committing sexual offending against children; and
- a failure to make offenders accountable to the law.

2.1 Offences considered by Victoria Police

Internal research by Victoria Police investigated the reporting and handling of child sexual assault by the Catholic Church and a number of other religious organisations including the Anglican Church, Salvation Army and the Jewish faith from the 1950s to the current day. Reported offences for this time period predominantly relate to the Catholic Church. There may be a number of reasons for this, including its size and establishment in the Australian community together with its involvement in the Victorian education system in the last 50 years.

Reports to police indicate that offending within the Catholic Church was more prevalent in 1960s, 1970s and 1980s with the majority of offences reported relating to the 1970s. Reporting of sex offences within this scope has seen fewer complaints relating to later years. This could be attributed to under reporting, more robust control measures and societal shifts which may be removing drivers for this type of crime. However, it appears more likely to be attributable to the significant delays in reporting with this type of offending. Victoria Police anticipates that offences from the 1990s and early 2000s are likely to be reported in the coming years.

A smaller number of offences have also been reported for the Anglican Church, Salvation Army and Jewish faith respectively. For example, there are a number of investigations currently being conducted in the Jewish education system around Melbourne which have been widely reported in the media.

Allegations of child sexual assault and the handling of these complaints by these other religious organisations have been excluded from this submission due to the small number of complaints. Consultation within Victoria Police has identified a relatively small number of offences in the past 50 years. Work is ongoing within Victoria Police to identify trends; however it would be premature to suggest any systemic mishandling of child abuse allegations in these other organisations at this time.

A number of these investigations are ongoing and/or before the courts. Victoria Police will not comment in any way which may be detrimental to a current investigation or court hearing. The numbers of offences reported are even smaller once current investigations are excluded. The relatively small size of these communities combined with the smaller number of investigations may also lead to identification of victims or investigations.

Victoria Police has conducted further analysis in relation to the nature and extent of child sexual assault within religious organisations. Victoria Police will be pleased to provide further comment in a supplementary submission and through oral evidence to the Parliamentary Committee.

3 Recurring issues identified by police

In 1996 the Catholic Church set up two schemes in Victoria to deal with complaints of sexual assault (the 'inquiry process').

The Catholic Church introduced the *Melbourne Response* to assist people who have been abused, sexually, physically or emotionally by priests and others under the control of the Catholic Archbishop of Melbourne. An Independent Commissioner was appointed under Canon Law to inquire into claims of sexual assault. Under the terms of appointment the Commissioner:

- is required to inform the victim of their unfettered right to take the complaint to the police;
- may report criminal conduct to the police;
- is not to prevent police action; and
- shall not disclose information, unless with the consent of the victims.

Geographically, the Melbourne Response addressed complaints within the Archdiocese of Melbourne, as well as adults working within the Catholic Education System.

The national Towards Healing protocol was also set up in 1996 and establishes a separate process for dealing with complaints. The Towards Healing protocol is used to assess complaints from other Victorian dioceses including Ballarat, Sale and Sandhurst as well as nationally.

The Archdiocese of Melbourne procedures are of similar intention to those set out in the Towards Healing protocol. Therefore, the procedures of Part 3 do not apply to the Archdiocese of Melbourne.

Many recently reported allegations of child sexual assault have been considered through the Inquiry process. This notion is supported by the Melbourne Response website which states:

"In the past 14 years, about 300 people have been compensated as victims of sexual abuse within the Archdiocese. Most of the complaints relate to incidents from thirty and up to eighty years ago. We receive few complaints of abuse that has taken place since the 1970s. ... Eighty-six offenders have been identified over an eighty year period, of whom sixty were priests of the Archdiocese."

Outcomes vary and can include the provision of an apology on behalf of the Church, counseling services or the payment of counseling costs. Each process provides for compensation to be made in the form of ex gratia financial payments. Some of the offenders may be laicized, however this is rare. In many cases offenders are moved to other positions within the church which have a limited opportunity for offending or provided with counseling.

3.1 The Inquiry process as a substitute to criminal investigation

Victoria Police has serious concerns regarding the terms of this inquiry process and its appearance as a de facto substitute for criminal justice. As noted on its website, the Melbourne Response has made a number of ex gratia payments to victims. In spite of this, it has not referred a single complaint to Victoria Police.

This inquiry process is not a replacement for a criminal investigation undertaken by a law enforcement agency.

Whilst it is accepted that some victims may not wish to report the 'matter' to police, these allegations relate to serious criminal conduct against children by a person in a position of authority. Victims and offenders have the right to due process, to have allegations properly investigated by a law enforcement agency and put to a court.

Victoria Police refers to, and supports the position of Justice Cummins in his report, '*Protecting Victoria's Vulnerable Children*' which states 'The investigation and prosecution of crimes is properly a matter for the state' and 'A private system of investigation and compensation, no matter how faithfully conducted, cannot fulfil the responsibility of the state to investigate and prosecute crime'.¹ It is evident in the mandate of Towards Healing, as well as the Melbourne Responses that their focus is not on bringing offenders to justice.

3.2 Flaws in the inquiry process - Interviews

Neither the Independent Commissioner, nor Towards Healings assessors are trained or resourced to conduct criminal investigations regarding the allegations put to them. There is no transparency or external right of review. Whilst an alleged offender may have a legal advisor,² victims not seeking pastoral support from the church are not able to have legal representation.³

Victoria Police is concerned that church employees that attempt to deal with victims of sexual assault do not have contemporaneous skills in this now highly technical area. Over recent years numerous reforms have taken place in the field of interviewing sexual assault victims. These reforms are designed to reduce victim trauma and are proving effective in that regard. For example, the

¹ Section 14.5.3 of volume 2.

² 40.5 Towards Healing Principles and procedures in responding to complaints of abuse against personnel of the Catholic Church in Australia January 2010

³ 36.5 Principles and procedures in responding to complaints of abuse against personnel of the Catholic Church in Australia January 2010

recently established Multi Discipline Centres for victims of sexual assault provide a 'drop in' facility where victims can discuss their individual case circumstances with a qualified case worker prior to any formal report being made. This provides a no obligation opportunity for victims to discuss their own experience in a relaxed setting after which they can then make an informed decision about whether or not to report. Further once a report is made, interviews are done in a non confrontational setting and in a far more comprehensive manner than has been previously the case. This "whole of story" interviewing model is now widely practiced and is also effective in trauma reduction.

Victoria Police believe that none of these modern services are being provided by the church and indeed we are aware of circumstances where victims have been required to confront alleged offenders where they have been required to repeat allegations in the presence of those alleged offenders. Victoria Police has offered to provide this briefing to the Catholic Church on two occasions but these offers have not been accepted to date.

3.3 Flaws in the inquiry process – inappropriate advice to victims

In addition to concerns that this inquiry process is being used as a substitute for criminal investigation, Victoria Police is concerned that the inquiry process may be providing inappropriate and perhaps incorrect advice to complainants.

For example, in one publicised case in 2010, the Independent Commissioner made statements regarding the potential success of a criminal allegation such as 'this kind of conduct you described would be unlikely to be held by a Court as criminal conduct.'⁴ Notwithstanding the fact that members from Victoria Police disagree, it is concerning that an Independent Commissioner, appointed under Canon Law, is providing authoritative advice to persons on the potential success of a criminal allegation against a member of the Church. A copy of this letter is at Appendix A.

As noted above, victims may not be legally represented through the church inquiry process. This adverse advice, by a legally qualified person in a position of authority, may be the only 'legal' advice obtained by the victim. This advice may influence a vulnerable person to conclude that their complaint could not be pursued through the criminal justice system.

Another example of this type of letter is at Appendix B. Comments relating to the age of the complaint and the need for corroboration serve to imply that there is likelihood that the police may take no action. Whilst this letter makes no statement regarding the substance of complaint, it is suggested by Victoria Police that the terms under which letter is drafted could easily influence a vulnerable person.

⁴ <http://www.theage.com.au/victoria/melbourne-priest-charged-with-sexual-assault-20100603-x6y9.html>

It is outside the scope of the Independent Commissioner's appointment to advise a victim that their complaint was insufficient for a criminal case.

3.4 *Flaws in the inquiry process – Dissuading reporting to the police*

Towards Healing and the Melbourne Response appear to be a compelling alternative to litigation for victims. However, an internal inquiry is not a substitute for investigation by the State, nor should it preclude or impede investigation by a law enforcement agency.

Over time, Victoria Police has observed a number of letters from the Independent Commissioner which purport to encourage reporting to the police, while at the same time effectively dissuade reporting by restricting or delaying compensation until litigation is resolved.

The letters at Appendix A and B both contain similar wording regarding this issue:

"I appreciate in explaining to you the situation in respect of the police, that you presently have no intention of doing that. This is entirely understandable because as you no doubt appreciate, the process of reporting to the police and if there are subsequent criminal proceedings, can be a somewhat harrowing experience for the complainant.

Naturally, if you do wish to go to the police, I will take no further part until their investigations are complete and any action emanating there from e.g. committal proceedings, and a trial have been completed."

From these comments, a victim may infer that the inquiry process will be less harrowing and time consuming than the legal system.

Victoria Police is concerned that, while publicly encouraging victims to seek redress through the criminal justice system, The Catholic Church is providing a financial incentive to use its Inquiry processes *instead* of State mechanisms.

To obtain an ex gratia payment for compensation, victims must enter into an agreement discharging the Church from any further liability. Some of these deeds include confidentiality clauses agreeing not to disclose or discuss the circumstances of the complaint.

Despite indicating that there is an unfettered right to complain to police in letters and public statements, the signatories of such deeds enter into a broad confidentiality clause agreeing to not discuss or disclose the facts and circumstances incidental to any of the complaints he/she has or could have made.

The deed represents a legally binding agreement between the church and the victim in respect of the ex gratia payment. A breach of contract gives rise to a liability to be sued. In the context of a criminal investigation, criminal law does not necessarily override the civil law. If a signatory discusses or discloses the

information, even to police, the church retains the option to sue regarding the breach.

Although to date, the Catholic Church has not sued in relation to breach of the confidentiality clause, a number of victims have indicated anxiety regarding this confidentiality clause. In effect, the confidentiality clause intimidates victims, preventing them from reporting their concerns to police and assisting with other investigations.

The Inquiry process restricts the ability of victims to have the offender brought to account through the criminal justice system, and promotes the culture of secrecy which prevents more victims speaking out.

3.5 Movement of the alleged perpetrator to another parish/region

As part of their process of 'handling' allegations of child sexual assault, the Catholic Church has on a number of occasions moved alleged offenders. This has included moving alleged offenders to other positions which were perceived as presenting a lower risk to the community or to other locations to impede police investigation.

In the 1970s, 1980s and 1990s a number of alleged offenders were moved to different parishes after complaints were made to the church. The most obvious example of this being _____ who was moved to a number of locations within the Ballarat Diocese in addition to several short periods in Melbourne and Sydney. It is believed that he had contact with children in a number of these parishes. Much of this movement was prior to _____ coming to the attention of Victoria Police.

In more recent examples, it is apparent that the church has assisted offenders who are known to police in moving overseas. An example of this is the movement of a priest, to Samoa in 1998. At the time of his relocation the priest had been convicted of indecent assault and another police investigation was underway. Samoa does not have an extradition treaty with Australia. In Samoa, the priest worked closely with the church and local schools. Authorities were not made aware of any previous conviction, nor was it declared on his visa application. The Samoan authorities deported the priest to Australia in 2004. Regardless of whether there was any intent to evade criminal proceedings, the reality is that his relocation, without disclosure regarding his criminal history, put that community at risk.

In similar circumstances, other alleged offenders have been relocated to the United States of America, Peru and Papua New Guinea where they are understood to be working with children. A particularly disconcerting element of this relocation is that the offenders are often moved to vulnerable communities which do not have the same regulations regarding contact with children. Seeking extradition can be a lengthy process, and can be adversely affected by a lack of information, lack of extradition treaty or the age or infirmity of the alleged offender which may impact their ability to travel.

3.6 Lack of cooperation during a police investigation

In recent times Victoria Police has noted improved cooperation by Melbourne Response and Towards Healing, however some concerns remain.

Some Victoria Police members have reported that the discussions with the church administration had indicated to the member that there were no previous complaints made against the alleged offender. However, documents obtained under warrant indicated that previous complaints had been made to the administration.

In some circumstances the Church has been reluctant to provide information under warrant to Victoria Police. This has included seeking injunctions to delay or stop the processing of warrants and creating separate files and moving them, making it hard for police members to identify and seek access to appropriate information.

In some circumstances, the Church has alerted the alleged offender to a police investigation. One instance of this occurred as recently as 2009. In this instance it was evident that by the time police had arrived potential evidence was removed or destroyed.

Other members have reported similar issues to varying degrees. These are of concern to Victoria Police, primarily because it is expected that the Melbourne Response and Towards Healing should be held to a higher standard than that of the general population, given their mandate to promote healing.

4 Policies and procedures for dealing with allegations

There are currently no formal or written protocols between Victoria Police and any religious or non-government organisations regarding child abuse. Victoria Police Sexual Offences and Child Abuse Investigation Teams liaise directly with the communities in their regions. Reports of child sexual assault can be referred directly to specialised teams. Victoria Police also maintains a Catholic Church Liaison Officer role to provide a centralised role for reporting of Catholic Church related sexual assault.

In 1996, the Victoria Police Catholic Church Liaison Officer met with members of Catholic Church and their legal advisers to discuss the Church's intended processes to receive complaints of predominantly sexual assault and at the same time provide pastoral care and support to victims. This went on to include the appointment of Mr O'Callaghan as the Independent Commissioner. The Liaison Officer was also asked to comment on the terms of appointment of this Commissioner and in doing so raised a number of points including the need for the victim to be encouraged to report to Police. It was agreed that if there were allegations of criminal conduct these were best referred to the police, due to the investigative experience and resources of the police, and also because criminal conduct should be dealt with by the courts, and it is only through police that

this could be done. Qualifications were considered for concurrent interviewing and the ability of the Independent Commissioner to recommend action to the Archbishop. This agreed process was, at that time, the subject of media release by both the Catholic Church and Victoria Police.

The liaison role continued, in one form or another for quite some years. In 2009 the then Liaison Officer, Detective Inspector Glenn Davies reviewed a number of practices employed by the Melbourne Catholic Archdiocese that were having some impacts on the Victoria Police's Strategic policy direction outcomes. Specifically, given the historical and situational low numbers of victims prepared to report sexual crime, one of the key outcomes of our Prevention of Violence against Women and Children Strategy was to increase the numbers of reports to police. A number of concerns were identified.

In 2010 the Liaison Officer engaged with the Church to develop an agreed protocol that would assist in overcoming some of these particular issues, however no protocol was entered into. Victoria Police was at the time reviewing all protocols with non government organisations and made the organisational decision that no agreement should exist with the Catholic Church given Victoria Police concerns regarding the process. It is believed all organisations had an obligation to assist police in their task of protecting the community. The Melbourne Response was informed of this position in October 2010.

5 Proposals for law reform

The comments listed above primarily relate to the police investigation of alleged offenders where a report has been made to police. However, there are concerns that there remains an underlying culture within the Catholic Church, and other religions, which conceals accusations of abuse rather than exposing offenders.

The processes set up by Towards Healing and the Melbourne Response do not proactively seek out offenders or deal with concealment of offences that have happened as recently as the 2000s. In addition to investigating allegations of child sexual assault, consideration must be given to holding to account those who, while in a position of trust and authority, conceal evidence of this activity.

5.1 Action by persons in religious organisations which obstruct investigations.

In this submission, Victoria Police has highlighted a number of deliberate actions by the Catholic Church which arguably have been taken to impede or conceal investigations. It is the opinion of Victoria Police that such deliberate action should be criminalised.

It may be appropriate to consider an offence similar to the NSW offence of 'concealing a serious indictable offence' (s 316 *Crimes Act 1900* (NSW)):

(1) If a person has committed a serious indictable offence and another person who knows or believes that the offence has been committed and that he or she has information which might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for it fails without reasonable excuse to bring that information to the attention of a member of the Police Force or other appropriate authority, that other person is liable to imprisonment for 2 years."

(4) A prosecution for an offence against subsection (1) is not to be commenced against a person without the approval of the Attorney General if the knowledge or belief that an offence has been committed was formed or the information referred to in the subsection was obtained by the person in the course of practising or following a profession, calling or vocation prescribed by the regulations for the purposes of this subsection.

(5) The regulations may prescribe a profession, calling or vocation as referred to in subsection (4).

This offence has recently been used by NSW police to charge a priest for failing to disclose information relating to alleged child sex offences by laicised priest against two boys in the late 1970s. The clergy is listed in the regulations as a profession, calling or vocation for which the approval of the Attorney General is required before proceedings can be commenced. At this stage it is unclear whether there are any other authorities which may conduct the investigations, but it is envisaged that this would be limited to state authorities.

Consideration should also be given to reviewing the offence of failure to protect in *section 493 of the Crimes Act 1958* (VIC). This offence is restricted to persons who have a duty of care in respect of a child and to date it has primarily been considered in the context of child sexual assault or abuse in domestic situations. Further value may be gained if this or a similar offence was targeted at persons with authority or control over a sex offender who recklessly or intentionally endangers a child. This prevents any disputes regarding the duty of care that a religious organisation may have to a child, and focuses more on the authority and control the organisation has on its workers.

In addition to a positive obligation to report incidents, this offence plays an important role in addressing the actions of specific persons within organisations that conceal offences and impede investigations. Although this offence is wide in scope, there are clear limits on its application to the clergy.

5.2 *Mandatory Reporting*

Victoria Police is supportive of recommendation 47 of the Cummins report which states that:

The *Crimes Act 1958* (Vic) should be amended to create a separate reporting duty where there is a reasonable suspicion a child or young person who is under 18 is being, or has been, physically or sexually abused by an individual within a religious or spiritual organisation. The duty should extend to:

- A minister of religion; and
- A person who holds an office within, is employed by, is a member of, or a volunteer of a religious or spiritual organisation that provides services to, or has regular contact with, children and young people.

In most cases of child sexual assault by members of the clergy which are now being reported to the police, there is evidence that a complaint of some kind had previously been made to Church. Religious leaders are in a position of trust and authority, over members of their community.

The Catholic Church has maintained its reluctance to refer allegations to police on the basis that it is not the wish of the victim. Mandatory reporting creates a public duty to report such suspicions and sends a message to everyone within the organisation who may know of such issues but are reluctant to become involved. This is acknowledgment of the seriousness of the conduct involved and the moral responsibility of the community to care not only for one complainant, but other potential victims.

5.3 *Compliance with existing schema.*

Above all, Victoria Police supports the proposition put forward by the Cummins Report that 'all organisations in Victoria, including churches, must recognise that state law, practice and processes override internal process.'

Like members of the general population, religious leaders come from a range of backgrounds. It is appropriate and necessary that anyone working with children has the appropriate qualifications and scrutiny. It is understood that the Catholic Church has a comprehensive policy on the use of Working with Children Check. All institutions need to make sure that they are compliant with existing legislative schemes such as the working with children check.

As the Committee is aware Victoria Police manage the Sex Offenders Registry in Victoria. Currently over 3093 convicted sex offenders are risk rated and monitored in the active community. Any registrants that breach the provisions of their registration restrictions are liable to being charged with breaching their conditions and dealt with accordingly. The Church practice of keeping known offenders under the care of the church, which is evidenced by them moving individuals to other jurisdiction creates an environment where it could be argued the church is managing its own register. In any event it is attempting to manage

known offenders in an unregulated environment where the community does not have the protections afforded by the current sex offender management program.

It is the position of Victoria Police that all organisations had an obligation to assist police in their task of protecting children. Any person or organisation which conceals or facilitates child sexual assault should be held accountable for their actions.

Victoria Police looks forward to further involvement in this Parliamentary Inquiry.

Independent Commissioner
Peter O'Callaghan Q.C

Owen Dixon Chambers West
18/15
205 William Street
Melbourne 3000

Tel: 9226 7979
Fax: 9226 7114

E-mail pjocallaghan@vicbar.com.au

Private and Confidential

Dear

Re:

I refer to the conference I had with you on [redacted] and as arranged I enclose herewith a transcript of that recorded interview.

I confirm that I am the Independent Commissioner appointed by the Archdiocese of Melbourne to enquire into allegations of sexual abuse by priests, religious and lay persons within the Archdiocese of Melbourne.

You have complained to me that [redacted] engaged in conduct, which might constitute sexual abuse. It is my invariable practice to advise a person who complains of sexual abuse that he or she has a continuing and unfettered right to report that conduct to the police and I encourage the exercise of that right.

Having said that, and without seeking to dissuade you from reporting the matter to the police if you so desire, I must say that the conduct you described would be unlikely to be held by a Court as criminal conduct.

I should add further that if the matter is reported to the police, then I would take no further steps until all proceedings (if any) emanating from a police investigation have been concluded.

If I am satisfied a person has been the victim of sexual abuse by a church person, I can refer that person to Carelink which is an agency set up to provide free counselling and psychological support for victims of sexual abuse. However, in this case I understand via your meeting with [redacted] you are presently being counselled by [redacted]

If I am satisfied that a person is a victim of sexual abuse I can refer that person to a Compensation Panel which has jurisdiction to make binding recommendations of compensation up to a limit of \$75,000.

Pursuant to what was discussed at conference I propose subject to your consent to write to as follows:

Transcript omitted

Commission into Sexual Abuse
Peter O'Callaghan Q.C.

Owen Dixon Chambers West
18/15
205 William Street
Melbourne 3000

Tel: 9608 7979
Fax: 9608 7114
E-mail pjocallaghan@vlobar.com.au

Private and Confidential

Dear

I apologise for the delay in getting back to you and I refer to the conference I had with you and with on:

You will recall that you were not comfortable with my taping the conversation, and because I likewise took no notes, I have not a perfect memory of the details of our discussion.

However, clearly you made complaints against at least three priests of grave sexual abuse,

In addition you stated that your understanding was that senior churchmen were aware of this sexual misconduct.

You did descend to some detail, but doing so obviously distressed you. However, I understand that you have told much more of the details of the complaints.

Most importantly you expressed a great concern at the concept of notifying the complaints to the priest concerned.

I understand that you do not want to report the matter to the police, at least at this stage. What I thought would be most useful is for me to set out what I see as the options open for you to pursue, and I would then be happy to further discuss the matter with you.

Reporting to the Police

If you went to the police, they would necessarily take a detailed as possible statement of your complaints. It would be of considerable significance that

the abuse took place many years ago, and that so far as I am aware you cannot point to any corroboration of your complaints. Corroboration of your complaints is evidence by someone else of facts which would tend to confirm your complaint.

I hasten to add that many sexual abuse complaints are necessarily made by persons who have had no corroborating evidence, and in many many cases the complaints have taken place many years ago. Quite frequently those complaints have been accepted by juries and the persons convicted albeit that it was a case of oath against oath.

I should also add that if the priest concerned denied the allegations relayed by you by the police, and which the police in turn would put to him, there would be the possibility that the police would take no action, if they took the view that in all the circumstances of the case it would be unlikely a jury would convict.

I appreciate in explaining to you the situation in respect of the police, that you presently have no intention of doing that. This is entirely understandable because as you no doubt appreciate, the process of reporting to the police and if there are subsequent criminal proceedings, can be a somewhat harrowing experience for the complainant.

Naturally, if you do wish to go to the police, I will take no further part until their investigations are complete and any action emanating there from e.g. committal proceedings, and a trial have been completed.

My Typical Practice

I now confirm what I told you in conference that when I receive a complaint of sexual abuse, I naturally endeavour to obtain as detailed a statement from the complainant as is possible. If you wish to pursue your complaint to the Commission, I would invite you to provide me with a detailed statement in writing, which perhaps you could compile in company with I would then have you verify that statement.

My suggestion that you set out matters in writing is because I understand you have concerns and distress about discussing these matters face to face. I understand that you have been seeing Carelink and it may be they could assist by providing me with transcript of your discussions with them. This of course would require you to specifically authorise them to do that.

All the above is concerned with getting as detailed a history as possible of the matter.

Normally, if I receive a detailed complaint from a person who is desirous of pursuing same it is a fundamental requirement of natural justice to refer that complaint to the person accused, and to give him or her the opportunity of responding to it. If in a given case a respondent denies the allegations, then typically I conduct a hearing which is confidential and at which there are present the complainant and his or her representatives, the respondent and likewise his representative, and usually counsel assisting the Commission. I

stress that it is not necessary for a complainant or a respondent to have a representative, but this is often the case.

In the context of conducting a hearing I note that you were exploring the possibility of not being in the same room as the priest, and in particular circumstances this can be arranged by means of a video hook up. However if you were to pursue the complaint, it would be necessary to reveal your identity to the respondent, in order to give him an adequate opportunity (if desired) to respond to the charges.

If I am satisfied that a person has been the victim of sexual abuse, I can refer that person to Carelink, and also to the Compensation Panel pursuant to an application for Compensation. The Panel would accept my findings that sexual abuse has occurred and it is accordingly unnecessary for them to go to the details of that abuse save for the purpose of assessing the impact that it has had upon the person concerned.

I stress that I have made no decision at this stage. I await your reply as to what you require me to do.

Yours sincerely,


Peter J. Gallagher
Independent Commissioner

